

COMMENTS RECEIVED ON MITIGATED NEGATIVE DECLARATION

<u>Commentor</u>	<u>Date of Comment(s)</u>
Joe Rominger	July 28, 2016; (also see April 7, 2016)
Dan Cohen	July 28, 2016
Bob Schneider, Tuleyome	July 28, 2016 (also see April 8, 2016)
Soluri Meserve	July 28, 2016
Brian and Deirdre Cross	July 28, 2016
Chad Roberts	July 28, 2016; April 4, 2016
Bruce and Robyn Rominger	July 28, 2016; (also see April 8, 2016)
John and Marsha Anderson	July 28, 2016
Scott and Kenneth Stone	July 28, 2016
Sheri Rominger	July 28, 2016; (also see April 8, 2016)
Barbara Dieter	July 28, 2016; (also see April 8, 2016)
Sarah Rominger	July 27, 2016; (also see March 26, 2016)
Mike Vaughn	July 27, 2016
Wendy Walker and William B Davis	July 27, 2016; (also see April 11, 2016)
William A. Chapman	July 27, 2016; (also see April 8, 2016)
Richard E Rominger	July 27, 2016; April 7, 2016; February 18, 2016
Department of Conservation	July 27, 2016; March 19, 2016; August 18, 2015
California Farm Bureau	July 26, 2016
Rick and Patty Rominger	July 26, 2016; (also see April 4, 2016)
Mike Lowrie	July 26, 2016
Neil and Peg Rutger	July 11, 2016; (also see April 3, 2016)
William Chapman	June 27, 2016

July 28, 2016

Mr. Eric Parfrey
Yolo County Planning Department
292 West Beamer Street
Woodland, CA 95695

Dear Mr. Parfrey,

As one of the local farmers on County Road 29, my comments with respect to the Revised Initial Study/Mitigated Negative Declaration will focus on the substantial negative impacts on agriculture that the IS/MND fails to address or mitigate.

To begin with, the project does not meet the County's own purpose stated in Sec. 8-2.301 stating "the Agricultural zones are to provide for land uses that support or enhance agriculture as the predominant land use in the unincorporated area of the County." The project does not support or enhance agriculture as the predominant land use since it will have severe negative effects on the surrounding agricultural operations (see below.) What's more, the project itself counts on events and a B&B as its predominant use. Agriculture at the site will be purely incidental to the project. Moreover, Sec 8-2.303 c) states that the Agricultural Use type of Agricultural Commercial "includes uses incidental to the agricultural or horticultural operations that preserve the rural lifestyle and stimulate the agricultural economy." The project cannot purport to meet this definition as the commercial use is actually the primary use. A large event center and large B&B does not preserve the "rural lifestyle" but rather impairs it, as has been testified to in hearings and letters to the Commission. The project does not stimulate the agricultural economy and will retard ongoing agricultural operations of the surrounding farms and ranches. Moreover, if agriculture was truly the aim of this project the property would have retained its Williamson Act contract. Further, the project does not meet the County's own definition of Agritourism as it is not a working farm or ranch, nor was it a working farm or ranch at the time of application. It is irrelevant that applicants "intend" or "hope" to restore agriculture to the site. Amorphous hopes cannot be the basis for finding that the project meets the zoning code definitions. As such the project is incompatible with the County's zoning codes. This cannot be mitigated and therefore a significant impact is present.

To show the negative and substantial impacts of the Project on current nearby working farms what follows is a partial synopsis of the farm related operations that will be affected by the Project's proposed increase in traffic onto Road 29. My fields along Road 29 are all certified organic. Work continues year round, even in the winter as the fields are repeatedly tilled whenever weather permits in order to keep weeds under control. This requires various tractors and other farm equipment to enter and exit from my sole entrance onto Road 29. Starting approximately February 15 field work begins at a vastly accelerated pace. The work now goes on seven days a week. There are harrows, chisels, alloways, mulchers, bed shapers, planting tractors, workers with propane tanks burning weeds and various other operations too numerous to mention in and out of the entry point from sun-up to sun-down. Planting season follows immediately and requires approximately 20 truck loads of transplants coming in and out of the exit. There are trucks moving transplants field to field. Depending on which field is being

planted, there can be hundreds of water truck trips in and out of the same exit. There are 5 planter tractors with 10 people per machine. There are approximately 100 total workers involved who also enter and exit the same point daily during this time. Following planting, fields are watered, cultivated, vine-trained etc. with the accompanying necessary workers. Some of the work is now 24 hours per day. There is a hoeing crew of approximately 50 people working every day in these organic fields. Because these fields are organic the sprays used are very ineffective so aerial spraying is sometimes done repeatedly during this time. Even though the sprays are considered organic many have the same restrictions as conventional sprays with respect to human contact.

From approximately July 1 to October 15, harvest takes place. There are two harvesters each running 24 hours a day with approximately 8 people working on each machine. There are 2 tractors per each harvester pulling the large tomato tubs being filled. From my fields on Road 29 there are approximately 1,400 tomato trucks carrying the filled loads out and the empty re-fills back from the cannery. There are also up to 100 trips moving empty trailers from field to field. Sometimes in a 24 hour period there might be 150 tomato loads in and out, sometimes only 10. However, I have no control over the amount of loads being sent to the cannery. The amount is set at the sole discretion of the canner. They are often changed hour to hour. Cannery often decide which field or which variety they want picked, and often change their decisions hour to hour. To keep your contract a grower is constantly working to keep the cannery happy.

Following harvest, the organic fertilizer must be delivered and applied. There are up to 400 large semi-truck trips in and out of the entry point, delivering thousands of tons of fertilizer, working 24 hours a day. This work occurs in September and October. Next, tillage work begins for the following year. This is when the large tractors start working pulling discs, chisels, land planes etc. They are then followed by the tractors shaping the beds for next year.

As shown above, the pace of running my tomato operation is frenetic from February through November. It is not possible to procrastinate or reschedule work for another day. There is a constant peril of weather changes and pest threats. During harvest there is the continual 24 hour demand of cannery to deliver loads when and from where they want them. As I testified before the Supervisors, when I asked cannery for relief from harvesting on Project event days I was bluntly denied that accommodation. The canner clearly stated that after 30 years of tomato growing I should be well aware of how tomato harvest works on a 24 hour schedule, and that if I cannot meet that schedule my contract would be terminated. Furthermore, the canner voiced that the trucking companies hauling my fruit had similar concerns with event center traffic on an already narrow and dead-end road.

All the above moving of equipment, people, and commodities would be substantially and negatively affected by the increased traffic from the Project's event center. Spraying of our fields will be negatively impacted. We will no longer be able to carry on the customary and well-established farming practices that my business has operated under for decades. Event center traffic will impede and prevent the movement of our tractors, harvesters and people as we have historically done. Concerns from cannery and truckers regarding timely fruit delivery threatens the continuation of my operation. Losing these contracts would be devastating to my business and the hard-working employees who would have to be let go should I lose my tomato contracts.

Because of all stated above, the Project would have a clear and negative impact on my agricultural operation.

Project applicants knowingly chose to come to an area with entrenched farming practices and a well-established Right-to-Farm ordinance. Any mitigation must accommodate these deep rooted farming practices. Because these established farm practices are time, weather and pest sensitive, with no real ability to plan when or where problems will occur, the only fair and effective mitigation is to require the project to accommodate these well-established and customary farming practices. The mitigations set out in the IS/MND approach the problem from the opposite angle as it requires the established businesses in the area to change in order to accommodate the Project and these mitigations are not feasible. The above testimony shows how a two week notification of a coming event is a meaningless mitigation considering the nature of the 24 hours a day, 7 days a week intensive agriculture taking place along Road 29.

Furthermore, the IS/MND fails to address the negative impacts on the already depleted water resources in the area. The County continues to allow applicants to offer unsupported and clearly insufficient water usage estimates. Two quick telephone calls to the University of California, Davis Cooperative Extension Office in Woodland, Ca., resulted in statements from their experts that a mature fruit or nut orchard in our area of the Sacramento Valley will use a minimum of 3 acre feet per acre and a maximum of 4.33 acre feet per acre. At 326,000 gallons per acre foot the projects' 5 acres of orchard will require between 4,890,000 gallons at a minimum and 7,057,900 gallons maximum. This is in addition to the project's woefully underestimated domestic water usage estimates. For the County to continue to rely upon the water estimates given by applicants who have no agricultural experience and have admitted that they are not farmers while ignoring the testimony of local expert farmers and scientists at UCD Cooperative Extension office clearly does not meet the requirements of CEQA. This amount of water use will have a severe impact on local, neighboring farming operations.

Because a fair argument has been presented that, based on substantial evidence, the project will have a significant, unmitigated negative impact on the environment, an environmental impact report must be prepared.

Thank you for the opportunity to comment on the proposed project. Should you have any questions, please do not hesitate to contact me.

Sincerely,
Joe Rominger
D.A. Rominger & Sons

Thursday July 27, 2016

Dear Planning Staff, Commissioners and Supervisors,

Here are some brief comments for your upcoming hearings on the Field and Pond Bed & Breakfast and Special Event Facility.

Personal background

I have worked in Yolo County on field crops, plant breeding, conventional, organic and sustainable cropping systems and market and rural development issues for 40 years. I remember when Chamberlain had hair -- it was dark -- and still am surprised to see John Young at the Ag Commissioners Office instead of Perkins. I am working with the second and occasionally third generations of farm families from when I started; originally at UC Davis and then, from 1985 on, with my own company, Maccabee Seed Company.

I also have worked for ten years, since the spinach crisis, on food safety issues, for farmers; and for 18 months helped advise Sierra Leone on ebola issues. I am currently working on a farming and zika paper. Many years ago I worked at MIT in bacteriology and at Salk Institute in bacteriology and immunology.

Comments

It seems to me that the revised negative declaration document has improved analysis and mitigations. So I thank the planning staff for their hard work on this.

Nevertheless:

I oppose issuing this use permit for the duration of the property being in the Williamson Act.

I expect the Board of Supervisors to have come up with more appropriate regulations under land use and zoning before that time expires; so this comment does not endorse a similar Project use permit after 2024 either.

I expect Farm Bureau, neighboring farmers and the Agricultural Commissioner's comments will be similar to past comments, and support and endorse them. Here I only want to add some new issues or issues others may not bring up in the same way.

1. I can't imagine a more thorough way of facilitating the introduction of zika virus into a rural area than this project.

The current epidemiology depends on introductions from travellers to zika infected areas returning; supplemented by sexual transmission.

Florida is just now experiencing its first mosquito-endemic cases. The extent and range of the two commonly accepted zika-transmitting Aedes mosquito species includes parts of northern California. Unfortunately Culex species in other countries have also been shown to carry viable, transmissible virus.

At this stage the prevention of transmission of virus to local mosquito populations in -- hopefully -- marginal regions for transmission, like ours, is key to preventing intermittent endemic mosquito transmission.

By allowing a constant stream of hundreds of guests, party goers, and students, week after week, and blood meal after blood meal, you have an unfortunate experiment favoring the creation of an endemic, permanent, transmission region for mosquito-borne zika virus.

Maybe we should watch what happens with zika in Kern County, for example, first.

2. Farm family inter-generational transfers are difficult enough as it is.

Adding this kind of impact to rural life and farming operational ability is another unnecessary burden. It may also be the last straw for some. Yet preservation of farming and farm families is a key to Yolo County's uniqueness and survival.

3. Yolo County's competitive advantage depends on production agriculture that is economically and socially viable.

This project is a conversion from land zoned and protected as production agriculture (including ranching, with apologies to ranchers for lumping them together) into a different primary economic activity which is consumptive, consumer and tourism based. Under the Project it is clear that agricultural use would itself be ancillary.

The applicants have it backwards.

If they wish to restore the memory of a historic farm they should develop an economically viable working farm and ranch operation. If they develop such an operation ancillary uses would actually be ancillary -- if they are permitted -- not primary.

They would also face the same operational issues as their farming neighbors and might have a better understanding of the impacts.

4. I come from that older background of "it's your land you can do what you want with it".

I have accepted the trade-offs necessary to preserve farming such as the Williamson Act, land use planning and zoning, as necessary. But make no mistake about it, I and other taxpayers are paying for this, either through local taxes or state and federal taxes that subsidize ag uses by lowering ag costs and subsidizing rural services.

I have no interest in subsidizing a primarily non-farming use of agricultural land.

5. The costs and liabilities of the road access to this project will fall on the county and its taxpayers in addition to the farming-based subsidies. So will all other aspects of delivery of services.

Sticking with road access: It's a tough road for greatly increased two-way traffic; worse at night; and probably even more problematic after a party that ends at midnight.

I suggest an experiment where the planning commissioners and their staff start driving from West of the project in a dozen or so cars vans and trucks, while the supervisors and their staff start driving from East of the project in a dozen or so cars vans and trucks.

First during the daytime; second time at night.

Add ag equipment if you want more realism.

6. The world expert on tourism, one of the developers of the sociology of tourism ("tourism studies") is a retired professor at UC Davis -- Dean McCannell.

He has written and spoken quite a bit about ecological tourism and agro-tourism. The balance between people seeking a genuine experience and the convenience of a Disneyland-like experience are in constant tension.

Sometimes what people really like is a fake "genuine" experience. It sells -- or is at least a high-end market segment.

There's an analogous situation in politics. Consultants of a certain type say: " Nothing works like sincerity. Once your candidate learns to fake that, you've got it made."

Dean thought that there was a way to balance this, so genuine production (or ecological preservation) could support some consumer uses, and some types of tourism, with valid benefits for all

You might want to consult with him or others on this, because that would be a viable direction for future County planning and guidance policies.

7. It's a beautiful property and I can imagine much lower intensity ancillary uses of an actual farming and ranching operation that are considerably more compatible with neighbors.

The applicants could withdraw the application and think this through differently.

Otherwise: I think the Planning Commission should reject the project. Similarly, the Board of Supervisors should reject the project if it comes before them on appeal from any of the parties involved.

Thank you for considering these comments

Dan Cohen*
Maccabee Seed Company
Davis, CA

*2315 Shenandoah Place
Davis, CA 95616



July 28, 2016

Stephanie Cormier, Senior Planner
Yolo County Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95695

Re: Comments, Revised/Reissued Negative Declaration, Field and Pond Project, ZF2015-0018

Dear Ms. Cormier,

Tuleyome offers the following comments to the Planning Department regarding Revised/Reissued Negative Declaration, Field and Pond Project, ZF2015-0018 for the proposed Field and Pond Event Center Project on Road 29 in western Yolo County. Thank you for noticing us with respect to this environmental compliance document.

With this letter Tuleyome fully incorporates comments submitted on July 28, 2016 by Chad Roberts.

Tuleyome owns property at the west end of Road 29. At the end of Road 29, a 4x4 dirt road leads through the Scott Ranch to Tuleyome's 640-acre Ireland Ranch located abutting Bureau of Land Management lands at Rocky Ridge. We lease the property for grazing and large cattle trucks are used in the fall and winter to transport cows to and from summer pastures.

Tuleyome did meet on-site with the applicants and in light of the county's "by right" policies offered some suggestions on mitigate of impacts produced by impacts from that level of activity.

In summary, we call to your attention specifically Roberts comments on environmental compliance:

"Further, if there is a public disagreement, supported by substantial evidence, about the significance of the project's impacts, then the local agency is required to prepare an EIR."

And,

"The most appropriate and timely response is for the county to require the preparation of a legally adequate Environmental Impact Report."

Sincerely,

A handwritten signature in black ink, appearing to read "Bb SL".

Bob Schneider
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July 28, 2015

SENT VIA EMAIL (eric.parfrey@yolocounty.org)

Eric Parfrey, Principal Planner
Yolo County Community Services Department
292 W. Beamer Street
Woodland, CA 95695

RE: Comments on the Initial Study/Mitigated Negative Declaration for the Field & Pond Bed and Breakfast and Special Event Facility Project

Dear Mr. Parfrey:

This letter is submitted on behalf of the Farmland Protection Alliance, a coalition of farmers and concerned residents who are working to ensure the long term viability of agriculture. This letter provides comments on the Field & Pond Bed and Breakfast and Special Event Facility Project (“Project”), and its associated approvals and environmental review. We understand the Project is scheduled for consideration by the Planning Commission on August 11, 2016.

As explained below, the Project violates both the County Zoning Code and the Williamson Act contract that still is in effect for the property. In addition, the Recirculated Initial Study/Mitigated Negative Declaration (“MND”) fails to comply with the basic mandates of the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq. [“CEQA”]). In particular, several potentially significant impacts are associated with the Project, necessitating preparation of an Environmental Impact Report (“EIR”). Thus, the Alliance respectfully requests that should the Project application process continue, a full EIR be prepared and circulated for public review prior to any further proceedings by the County regarding the Project.

I. THE PROJECT VIOLATES THE COUNTY ZONING CODE

As explained in the July 22, 2016, letter from Patrick Soluri to Phillip J. Pogdelich, which is attached as Exhibit A, the current operations of Field & Pond violate the County Code. In addition, the proposed Project violates the Zoning Code, in part because it does not meet the definition of agri-tourism. Moreover, the Project is unlikely to meet the definition in the future as the area actually available for agricultural uses does not allow for the later development of such uses that would meet the definition of agri-

tourism, consistent with County Code provisions relied upon for issuance of the requested Conditional Use Permit (“CUP”). (See Yolo County Code, §§ 8-2.304, 8-2.306, subd. (k).) These zoning and land use issues are discussed below in the context of comments on the MND’s deficient analysis of Land Use impacts.

The proposed Project is noncompliant with applicable County Code provisions, which allow for Event Center and B & B uses in the Agricultural Extensive (“A-X”) zone under specified circumstances. According to the MND:

The County’s zoning code defines agri-tourism as an income-generating activity conducted on a working farm or ranch, or other agricultural operation or agricultural facility, for the enjoyment and education of visitors, guests, or clients. Thus, agricultural tourism refers to the act of visiting a working farm or ranch for the purpose of enjoyment, education, or active involvement in the activities of the farm or ranch that also adds to the economic viability of the agricultural operation. Although the proposed large B&B and large event facility are conditionally permitted agricultural commercial uses in the A-X Zone, through the issuance of a Use Permit, the initial phase of the project cannot be characterized as meeting the County’s definition of agri-tourism, even though later phases may meet the definition.

(MND, p. 50.) As the Project is not agri-tourism, the Code provisions upon which the Project relies for issuance of a CUP do not apply. A future promise of development of agriculture does not change the character of the Project, especially where as here, there are significant barriers to ever developing the allegedly planned agricultural uses. As a result, the necessary findings cannot be made and a CUP should not be issued. (See *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515 [lead agency must “bridge the analytical gap between the raw evidence and ultimate decision or order”].)

II. THE PROJECT VIOLATES THE WILLIAMSON ACT

The Williamson Act is intended to protect agricultural resources, preserve open space lands, and also promote efficient urban growth patterns.¹ As a property that is restricted to agricultural use under a Williamson Act contract, the property’s current

¹ See

http://www.conservation.ca.gov/dlrp/lca/basic_contract_provisions/Pages/wa_overview.aspx.

Event Center and B & B uses, as well as the proposal to expanded non-agricultural uses violates Government Code section 51242. Lands under Williamson Act contracts must be “devoted to agricultural use.” Moreover, non-agricultural uses are excluded unless they are compatible with agricultural uses as long as a contract is in place. (Gov. Code, §§ 51243; 51238.1.) These uses must be associated with agricultural operations on the property. A compatible use “is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve.” (Gov. Code, § 52138.1, subd. (b)(3).)

Here, a proposed Event Center and B & B does not support and promote an agricultural commodity grown on the premises. As the MND recognizes, no agricultural commodities are currently grown on the premises. Although some fruit trees were recently planted (MND, p. 27), it appears even these trees will be displaced by the parking lot and/or an expanded septic system needed to serve the project. Moreover, the plan for planting a five-acre orchard has been abandoned. (MND, p. 2.) While an urban youth program that includes agricultural activities (“Fresh Start”) is discussed, it is unclear how any agricultural operation can occur on the portion of the property to the south of the event site, given current access restraints. (MND, p. 5.)

The proposed Event Center and B & B facility is moreover not related to any agricultural use on the subject property, making it inconsistent with the principles of compatibility established in the Williamson Act. Additionally, the proposed uses could and should take place on non-contracted lands. (See Gov. Code, § 51282, subd. (c).)

In addition, the proposed use will hinder agricultural production on adjacent and nearby parcels under Williamson Act contract. While the Department of Conservation has in the past found tasting rooms to be similar in nature to stands selling produce grown on-site, and therefore compatible, event centers and other facilities that increase the population of the area are inconsistent with the purposes of the Williamson Act (Gov. Code, § 51220.5) and the Principles of Compatibility (Gov. Code, § 51238.1).

As explained by many commentators, and discussed more fully below in the context of the MND, the existing and proposed Event Center and B & B uses are not compatible with surrounding agricultural uses. While a nonrenewal notice has been filed, a Williamson Act contract is currently in place. Approval of the Project would lead to the further exacerbation of the ongoing inconsistencies of current activities on the Project site with the Williamson Act contract. Under Government Code section 51238.1, the County cannot approve an inconsistent use on contracted lands. Even if the contract on

the Project site will not be renewed, it is inappropriate for the County to approve a use that will impair surrounding agricultural lands that will continue to be subject to Williamson Act contracts.

III. THE RECIRCULATED MITIGATED NEGATIVE DECLARATION IS INADEQUATE

A. The Re-Circulated MND Fails to Address Comments on the March 2016 MND

The June 2016 recirculated MND fails to address the issues raised by comments on the original MND, which was circulated in March 2016. The County correctly determined that the March 2016 MND did not satisfy CEQA, and had to be revised to address comments and recirculated. The revision, however, ignored a number of comments, which remain unaddressed. These unaddressed problems are summarized below.

1. Project Description

Comments noted that though the MND proposed implementing an urban youth program, Fresh Start, the MND omitted critical details about it. The recirculated MND similarly provides no information about the frequency or duration of this program, its anticipated size, transportation requirements, or how the Project application intends to ensure the safety of participants.

Comments also noted that the Project description is unclear in stating how many total events the property will host. This problem still exists in the recirculated MND. Although the Project Description claims that the Project proposes to hold 35 events the first year, with the applicant intending to hold “at least 45” events annually in subsequent years (MND, p. 5), elsewhere the MND states that the Project will only host 20 events per year without explaining whether the applicant will try to increase that number of events after the first year of operation. (See, e.g., MND, p. 4, 5, 18, 19.)

2. Aesthetics

Comments stated that allowing thousands of people to visit a rarely visited area would likely degrade the visual characteristics of the site. Comments noted that although the Project proposed to require outdoor low-intensity outdoor lighting to minimize glare, most events at Project site would likely use third party vendors to provide lighting equipment. Comments proposed requiring a lighting plan to avoid significant

environmental impacts due to lighting. The recirculated MND does not adequately disclose lighting impacts or otherwise address the comments.

3. Agricultural Resources

Comments observed that even with the mitigation proposed in the MND, the Project would be likely to interrupt or otherwise interfere with adjacent farming activities because it is impossible to coordinate harvests around events like weddings. The recirculated MND does not address this issue at all and continues to rely on ineffective and inadequate mitigation in violation of CEQA. Comments also raised the issue of enforcing Mitigation Measure AG-2, purporting to require shuttle use for events with more than 150 attendees. The recirculated MND does not explain how the measure will be implemented in a way to alleviate any of these concerns, and to avoid or mitigate the environmental impacts.

4. Air Quality

Comments noted that the MND did not mention how many tons per year of emissions the Project is expected to emit or identify *what* the nearby sensitive receptors are. Nor did the MND explain whether it had accounted for farm workers who work daily in the area. The recirculated MND has not cured these issues.

5. Biological Impacts

Comments pointed out that the site plan includes a parking area to accommodate 75 vehicles, but does not address impacts of this parking on the nearby creek, nor does it indicate whether the parking area could be built in compliance with the requirement to be more than 100 feet from waterways, as the County requires. The recirculated MND does not address *any* of these issues.

The recirculated MND also does not address whether the noise and light associated with a large event center may affect resident or migratory wildlife species in the area. Though the recirculated MND provides some limited mitigation for species of concern, it does not address how these measures will mitigate any potential harm to roosting, feeding or migration patterns.

The MND also ignores a comment that a California Department of Fish and Wildlife (“CDFW”) scientists that observed red-tailed hawk, northern harrier and great horned owl within the Project area. The re-circulated MND does not disclose the presence of these species, nor mitigate potential impacts to them.

6. Noise

Comments noted that the MND assumed there would be no impacts to adjacent properties without performing an adequate noise contour or any other technical analysis in support of its findings. No noise analysis is included in the recirculated MND. In addition, comments also suggested that amplified music be used only indoors to ensure noise does not interfere with the tranquil nature of the surrounding area. The recirculated MND neither incorporates this suggestion nor explains why it is unnecessary.

7. Public Services

Comments pointed out that the MND did not clearly address whether fire truck access would be affected by attendee vehicles, especially as related to whether the road is wide enough to accommodate all expected vehicles. The recirculated MND has not addressed this at all. Nor has it identified if the interior road geometry has the appropriate turning radius and load capacity for fire trucks and other emergency vehicles.

8. Transportation and Traffic

The MND declined to use a level of service (“LOS”) analysis, relying instead upon 2003 traffic counts, which comments explained were outdated. The recirculated MND relies upon these same outdated counts.

B. The Recirculated Mitigated Negative Declaration’s Analysis is Defective and an Environmental Impact Report Must Be Prepared

Numerous flaws with the Project’s MND make it defective as an informational document. An EIR is required for the Project. As described above, many important public comments on the prior draft MND have still not been addressed. Those earlier comments would be included in an administrative record should the adequacy of this MND be litigated. (Pub. Resources Code, 21167.6, subd. (e).)

Under CEQA, an EIR is required whenever substantial evidence supports a “fair argument” that a proposed project may have a significant effect on the environment, even when other evidence supports a contrary conclusion. (See, e.g., *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 74 (*No Oil I*)). This “fair argument” standard creates a “low threshold” for requiring the preparation of an EIR. (*Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.) Thus, a project need not have an “important or momentous effect of semi-permanent duration” to require an EIR. (*No Oil I, supra*, 13 Cal.3d at 87.) Rather, an agency must prepare an EIR “whenever it perceives some substantial evidence that a project may have a significant effect environmentally.”

(*Id.* at p. 85.) An EIR is required *even if* a different conclusion may also be supported by evidence.

Furthermore, an agency will not be allowed to hide behind its own failure to gather relevant data. Specifically, “deficiencies in the record [such as a deficient initial study] may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences.” (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311 (*Sundstrom*)). For example, in *Sundstrom* the court held that the absence of information explaining why no alternative sludge disposal site is available “permits the reasonable inference that sludge disposal presents a material environmental impact.” (*Ibid.*; see also *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1200 [Where a lead agency “failed to consider the whole of the project in its initial study,” the agency “failed to proceed in ‘a manner required by law’ and . . . therefore abused its discretion.”].)

To lawfully carry out a project based on a MND, a CEQA lead agency must approve mitigation measures sufficient to reduce potentially significant impacts “to a point where *clearly* no significant effects would occur.” (Cal. Code. Regs, tit. 14, (“CEQA Guidelines”), § 15071.) CEQA Guidelines, § 15070, subd. (b)(1), emphasis added.) A lead agency may satisfy its CEQA obligations by preparing a MND instead of an EIR if: (1) revisions in the project would mitigate the effects of the proposed project to a point “where clearly no significant effects on the environment will occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” (Pub. Resources Code, § 21064.5.) The lead agency must also adopt a legally adequate mitigation monitoring and reporting program in compliance with CEQA. (CEQA Guidelines, § 15074, subd. (d).) To comply with CEQA “[t]he reporting or monitoring program shall be designed to ensure compliance during project implementation.” (Pub. Resources Code, § 21081.6, subd. (a)(1); CEQA Guidelines, §§ 15074, subd. (d), 15097, subd. (a).) DWR may not simply rely on a “summary” that merely relists the various mitigation measures in the absence of a discussion of implementation or evidence that the measures will be enforced.

An EIR is necessary in order to adequately analyze and disclose the Project’s potentially significant environmental impacts.

1. Inadequate Project Description

The Project description is insufficient. Although the Project description that CEQA requires of an MND is less thorough than that of an EIR, the MND must include a

complete, accurate description of the Project. (CEQA Guidelines, § 15071.) This MND fails to describe all elements of the Project. In particular, the Project includes numerous construction activities at the site (e.g., new driveway, parking lot, septic system), however, no analysis and mitigation is provided to address the associated impacts from construction of these Project components. Specifically air impacts, erosion and changed hydrology as a result of construction are not properly identified. This theme of partial or incomplete analysis and failure to mitigate occurs throughout the analysis.

Though the MND states that the Project will include an “urban youth program called Fresh Start that would provide career mentorship in agriculture to urban youth,” (MND, p. 7) it provides no further description of Fresh Start. The Project description does not describe the frequency or duration of this program, its size, its transportation requirements, drinking or wastewater requirements, or how the Project applicant intends to ensure the safety of Fresh Start participants or the surrounding rural community.

In addition to the proposed youth program, more information is necessary to describe the duration of proposed events. The MND describes the time frame of events, suggesting that events will occur on a single day. (MND, p. 5.) This is inconsistent with representations that the Project site has been hosting multi-day events.² The Project Description must clarify whether an “event” will be limited to a single day, or whether it may be multiple days. Treating a multi-day event as a single “event” could double or triple the total number of event days, and associated environmental impacts.

The Project description also fails to contain a new impact identified in the Traffic Section for a new access road. (MND, p. 58 [“A separate dedicated driveway for maintenance and emergency vehicles is proposed east of the B & B and an event parking driveways].) This necessary feature is not identified in the Project description (MND, p. 4) or master plan (MND, p. 7). No details are provided regarding the location, access, and turning radius of this new access. As a result, the Project description is incomplete.

For those events using shuttles, pick-up and drop-off locations would be established through event coordination. (MND, p. 6.) These locations, however, are not disclosed and environmental impacts associated with those locations are not identified.

² See <https://www.theknot.com/marketplace/field-and-pond-winters-ca-870978> (review of Project event center stating that customer had rented it for “the entire weekend”).

2. MND Fails to Provide Necessary Information Regarding the Project Setting

Before the impacts of a project can be assessed and mitigation measures considered, an initial study must describe the existing environment. (CEQA Guidelines, § 15063, subd. (d)(2).) It is only against this baseline that any significant environmental effects can be determined. (CEQA Guidelines, §§ 15125, 15126.2, subd. (a); see also *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 952.) According to CEQA Guidelines section 15125, subdivision (a): “An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published.” This same requirement applies to a Negative Declaration. (*Communities for a Better Environment v. SCAQMD* (2010) 48 Cal.4th 310, 319 (*CBE v. SCAQMD*).) As the Supreme Court has explained, a comparison must be made between “existing physical conditions without the [project] and the conditions expected to be produced by the project. Without such a comparison, the EIR will not inform decision makers and the public of the project’s significant environmental impacts, as CEQA mandates.” (*Id.* at p. 328.)

The MND inexplicably provides no setting information whatsoever for several impacts, including Agriculture and Forest Resources, Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Public Services, and Utilities and Service Systems. The omission of this critical setting information renders the MND deficient as an informational document.

Additionally, the MND is unclear about how the site’s current unpermitted activities are accounted for with respect to analyzing the impacts of the proposed Project. It appears that at least for some impacts, such as traffic, current operations are considered to be part of baseline conditions. (See, e.g., MND, pp. 61-62 [“peak road usage will not increase from the current uses at the project site...”].) The current operation of an Event Center is in violation of the County Code, as described in Exhibit A. Though the baseline is normally the existing setting (Guidelines, § 15125), an illegal operation should not be part of the baseline for purposes of analysis.

3. Aesthetic Impacts

According to the threshold in the MND, a project that create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area would have a potentially significant aesthetic impact.

The Project would introduce new sources of temporary and permanent lighting to the project area during night-time operations and/or occasional lighting associated with vehicle traffic headlights. These impacts should be analyzed by a lighting expert. Mitigation should be required so that proposed outdoor lighting includes light fixtures that are low-intensity, shielded and/or directed away from adjacent properties in order to minimize glare and overspill on adjacent parcels, the night sky, and the public right-of-way.

4. Agricultural Resources

The Project is incompatible with surrounding agricultural uses and will lead to potentially significant impacts for which inadequate mitigation is provided to reduce the impacts to less than significant levels. These conflicts are exacerbated and difficult to avoid because the applicants' busiest hospitality season is also the busy season for the farmers and ranchers in the area. As a result, conflicts will inevitably arise, and the Project will negatively impact the surrounding agricultural operations. Among other impacts, the Project directly interferes with agricultural land management practices and access to agricultural operations by cultivation equipment and trucks.

The MND admits that the Project will cause potentially significant conflict with surrounding Williamson Act lands:

The expansion of the event center may be incompatible with agricultural uses adjacent to the property and surrounding Williamson Act lands. Hosting up to five events per month for nine months out of the year at 300 people per event could conceivably bring up to 10,500 additional visitors per year to the remote rural area which may, at times, hinder or impair adjacent agricultural operations, particularly since harvest, planting, and wedding seasons may overlap.

(MND, p. 18.)

The MND also makes clear that the applicants wish to continue to expand the operation beyond what would be permitted by the CUP and the MND:

The project proposal includes use of the property grounds with existing structures as a large B&B and large event center...with up to 35 events for the first year of operation. If the first year of events is successful, the applicant may seek to increase the number of yearly events March through November

(MND, p. 4.) Moreover, the applicants have “the intent of seeking to increase the number of annual events to at least 45 after the first year of operations...” (MND, p. 5.)

The Project, and its future planned expansion would cause potentially significant Transportation-related impacts due to conflicts with existing agricultural traffic. These impacts are discussed below, in section III.B.14 Transportation.

The Project would also interfere with ongoing agricultural operations by further limiting the ability to use aerial spraying as needed to grow and maintain crops. Due to these and other problems, the “Yolo County Agricultural Commissioner’s Office has expressed concern over the project’s potential conflicts with the agricultural activities in the area and strongly recommends maintaining a 500-foot buffer from adjacent agricultural operations.” (MND, p. 20.) Local spray permits require a buffer zone of between 300 and 500 feet; while rural residents can often get permission from adjacent property owners to decrease the buffer zone (MND, p. 20), the Project applicant is unlikely to give this permission due to the presence of customers and guests at the site. The existing homestead, including the three residences, barn, pond, and outbuildings on the Project site are within 300 feet of the closest actively farmed parcel. (MND, p. 20.) This is within the recommended buffer zone, and could interfere with neighboring farming operations if the County declines to issue spray permits because of the Project’s proximity. The mitigation measures proposed would not mitigate this impact to agricultural operations. MM AG-3 only applies to new buildings, and would not mitigate impacts related to existing structures within the recommended buffer zone. The measures do not give neighboring farmers any assurances that the Project applicant will provide permission where the farmers’ activities might otherwise be restricted due to the change in land use at the Project site.

The MND concludes that agricultural impacts due to the Project’s conflicts with existing zoning for agricultural use and/or the Williamson Act contract require mitigation to be less than significant. (MND, p. 15.) These measures, however, are insufficient. Mitigation Measure AG-2 (“MM AG-2”) purports to limit operations to 20 total events per calendar year, up to half of which may have more than 150 attendees. It “requires” events with more than 150 attendees to use a van or shuttle, and sets an upper limit on associated vehicle trips with 100 total round trips. It also requires a “notification process” to alert Project customers of agricultural practices and adjacent landowners of scheduled events.

MM AG-2 (20-event limit) is both unenforceable and otherwise inadequate to mitigate the Project’s conflict with agricultural land use. The MND presents no

reasoning for why arbitrarily reducing the total number of events from 35 per year to 20 will mitigate the Project's conflicts with surrounding agricultural uses. Moreover, MM AG-2's limitations "do not apply to personal events." (MND, p. 19.) According to the MND, the Project may host an unlimited number of events with no upper limit on the guest list if the site categorizes them as "personal," a term left undefined. Given that the applicants are already holding business events without a CUP, there must be a clear definition of event, a fixed limitation for the life of the Project, and an enforceable limitation on the total number of events.

The MND assumes that Field & Pond applicants will not exceed 300 people per event, but various wedding websites advertise that the site *can already* accommodate over 300³ or even up to 1,000⁴ people per event, and the Field & Pond website states it is "perfect for entertaining groups of any size." Moreover, as a complaint-based system, the County puts the burden back on the neighbors to enforce its rules. Additional enforcement would be needed to uphold any Project conditions or mitigation measures.

Next, the "notification process" under Mitigation Measure AG-2(b) (MND, p. 19; see also MND, p. 62) would be ineffective in reducing the conflicts with ongoing agricultural uses surrounding the Project site. Notifying potential customers and adjacent landowners of the existence of one another does *nothing* to mitigate the actual conflict between the two land uses. The schedule of farming practices is dictated by many factors, and the intended schedule can change with little notice in response to meteorological or environmental developments. Farmers cannot change this schedule to accommodate a wedding or other event, just as a long-planned wedding cannot easily move to another date. Alerting a potential customer of this fact does nothing to reduce the conflict between these two uses.

The claim that the use of vans or shuttles to reduce transportation conflicts "shall be required" for events with more than 150 attendees is unenforceable and likely ineffective. The MND claims that this arrangement is typical for weddings, with shuttles being used between ceremony and reception locations. (MND, p. 6.) This does not account for weddings that the Project hosts where both ceremony and reception occur at one location,⁵ or other types of events that occur only in one location. Nor does Mitigation Measure AG-2(a) describe any measures to be implemented that will prevent

³ See <https://www.theknot.com/marketplace/field-and-pond-winters-ca-870978>.

⁴ See <https://www.weddingwire.com/biz/field-pond-winters/faq/9deab8d9ebe306d3.html>.

⁵ See <https://www.theknot.com/marketplace/field-and-pond-winters-ca-870978>.

guests from driving to and parking at the Project site. Without more detail, this mitigation measure cannot be enforced and is thus illusory and ineffective.

Mitigation Measure AG-3 (“MM AG-3”) claims to address the Project’s changes to the environment that could result in conversion of farmland to non-agricultural use. (MND, p. 20.) It requires a 500-foot buffer from adjacent agricultural operations for any newly constructed buildings. (MND, p. 21.) This does nothing to mitigate issues related to existing structures, like three existing residences, barns, ponds, and other buildings that are within 300 feet of actively farmed land. The farmers of these adjacent plots will still face *all* of the same increased restrictions of classifying the space as an “event center” as if this mitigation were not adopted. MM AG-3 will only prevent additional restrictions in the future; it will not provide any actual mitigation in the present. MM AG-3’s requirement to provide screening “where guests are likely to congregate” does nothing to change this. The MND does not suggest that adding this requirement will remove restrictions on farmers of adjacent properties. It is a measure designed to protect Project site guests: it will “ensure that areas adjacent to agricultural operations are not affected by spray or drift.” (MND, p. 21.) Taking measures to protect the Project site does not mitigate the impacts to adjacent agriculture. MM AG-3 is insufficient to mitigate the Project’s impacts to adjacent farmland.

The agricultural impacts of the Project are significant, and are inadequately mitigated to allow for a MND. An EIR must be prepared.

5. Air Quality

The Project’s construction and operational air pollution impacts are inadequately analyzed in the MND. There is no analysis of the relationship to the project to the generalized thresholds from the Yolo-Solano Air Quality Management District. In particular, there is no modeling provided whatsoever or related analysis as to why modeling would not be required. (MND, p. 23: see <http://www.ysaqmd.org/documents/CEQAHandbook2007.pdf>.) The MND also fails to include any analysis of air emissions/impacts from construction for the various serial construction projects proposed at the location.

While MND includes citations to a host of *potential* mitigation measures, it fails to apply any of them as specific measures to the Project. To address the potential for short-term impacts related to any future grading or construction activities, standard dust and emissions control measures will be attached as Conditions of Approval to the CUP, which will include listed best environmental practices. The measures in the MND do not

meet CEQA standards for effectiveness and enforceability and should be Mitigation Measures.

6. Biological Resources

Breeding pairs of Tricolored Blackbirds have been found at the Project's pond within the past two years. (MND, p. 31.) The MND indicates that there is a potentially significant environmental impact on Tricolored Blackbirds from operation of the Project, including noise and maintenance of cattail growth.

Mitigation Measure BIO-1 ("MM BIO-1") contains a loophole that makes its promise of mitigation illusory. MM BIO-1 claims to provide protection to elderberry shrubs that may serve as habitat to the special status species Valley Elderberry Longhorn Beetle ("VELB"). (MND, p. 30.) MM BIO-1 prescribes measures for complete avoidance of the shrub, and requires a 100 foot setback under certain conditions. (MND, p. 30.) In addition, the 100 foot buffer identified in the project mitigation from the creek (MND, pp. 5, 21 and 22), does not meet the distances provided in the Project description for the pool and cabana (MND, p. 10 [figure with no scale]).

MM BIO-1 also provides, however, that in instances where avoidance is not possible, consultation with the U.S. Fish and Wildlife Service "may" be required. The MND does not define when avoidance might not be possible, or who gets to make this determination. In reality, MM BIO-1 gives the Project applicant complete discretion to decide whether or not it can avoid these shrubs, and if it decides it cannot, there are *no* mandatory mitigation requirements. This measure is inadequate to protect the VELB habitat.

Mitigation Measure BIO-3 ("MM BIO-3") is also insufficient to mitigate potential impacts to the Tricolored Blackbird. MM BIO-3(b) requires a 100 foot buffer around the north and west portion of the pond during events, but does not explain why this buffer is sufficient to mitigate impacts from noise and light to the Blackbird. Moreover, a new dock was just built adjacent to the cattails and is used for wedding photos currently. Many events at the Project site are likely to use amplified sound; the MND is silent as to why and whether 100 feet is an adequate distance from the Blackbird to prevent noise and light impacts. This measure also requires that if evidence of breeding is confirmed in a given year, a 500 foot buffer will be required. (MND, p. 32.) The MND again fails to explain why 500 feet would be adequate. Additionally, it does not state whether it is feasible to create a 500 foot buffer if breeding is detected; the MND claims that the event areas are 500 feet from the pond. It is unclear how the walking paths or roads could be reconfigured to fall outside of the buffer range.

MM BIO-3(d) would “Reduce the number of events per year by implementing Mitigation Measure AG-2.” (MND, p. 32.) No explanation is provided as to how having this number of events would somehow reduce impacts on the Tricolored Blackbird to less than significant levels.

Additionally, MM BIO-3(c) requires that “Maintenance of cattail growth in the 2-acre pond should not occur during the breeding season (approximately March through August). (MND, p. 32.) The potential to remove the vegetation that an emergency listed species is likely to be using in *one of the last documented breeding sites in the County* is a potentially significant environmental impact. The type and extent of maintenance is not identified, nor is the logical loss of breeding habitat from the modifications identified. Furthermore the assertion that the following mitigation measure is somehow effective is never supported by any analysis as to how or why or to what extent it provides mitigation.

According to the MND, “Implementation of Mitigation Measures BIO-1, BIO-2, and BIO-3, as well as the project’s adopted Conditions of Approval, would protect the Valley elderberry longhorn beetle, Tricolored blackbird, Western pond turtle Impacts to species of concern would be considered less than significant.” (MND, p. 32.) There is no support, however, for the assertion that (North)Western pond turtles would be protected by implementation of monitoring for birds and a buffer for plants instead of specific mitigation for that species.

Impacts on Biological Resources must be fully disclosed and mitigated in an EIR.

7. Greenhouse Gas Emissions/Climate Changes

The MND concludes that Greenhouse Gas (“GHG”) emissions are less than significant without providing any explanation of how it has complied with applicable CEQA requirements. Even if the Project is consistent with the County’s Climate Action Plan (“CAP”), the MND, an agency must make a good faith effort to quantify GHG emissions. (See *CBD v. Dept. of Fish & Wildlife* (2015) 62 Cal.4th 204, 217.) Agencies may rely on geographically specific GHG emission reduction plans to simplify the evaluation of a project’s contribution to cumulative GHG emissions if the plans are both “sufficiently detailed and adequately supported.” (*Id.* at 230.) Here the MND makes no effort to disclose the GHG emissions of the Project or to show how compliance with the CAP would result in a less than significant GHG impact. This approach renders the MND deficient as an informational document.

8. Hazards and Hazardous Materials

Fire hazards are another potentially significant impact for which inadequate mitigation is imposed in the MND. This area is very fire prone. There have been two recent grass fires on property next to the Field & Pond property:

- On May 5, 2016, there was a grass fire across the road from Field & Pond that burned about 4 acres of green grass. A dozen fire/emergency response vehicles including a Cal-Fire helicopter responded to that fire.
- On August 9, 2014, a farm employee's car went off a dirt road and ignited a fire south of the neighboring Rominger property, which burned a total of 300 acres. Local residents and Cal-Fire prison-crews helped put out that fire.

About 12 years ago, there was also a fire directly across the road from the Field & Pond property that started when a farm employee was mowing dry grass. Cal-Fire helicopters responded to that fire.

None of the proposed conditions of approval will ensure fire hazards are less than significant. For instance, the applicant must “develop a site-specific Field & Pond emergency plan that identifies, among other things . . . gathering or refuge locations” (MND, p. 44.) Insufficient detail is set forth in this condition to ensure the effectiveness of this condition to actually reduce the impact to less than significant levels. In particular, any emergency plan must take into account the fact that patrons of the Project may panic if there is a fire and ignore whatever plan is in place. It may not be possible to mitigate the risks associated with establishing a large event center with hundreds of people in location with only one way in and one way out.

The MND also concludes that the Project would have less than significant impacts with respect to “expose[ing] people or structures to a significant risk of loss, injury or death involving wildland fires.” (MND, p. 45.) Yet measures such as compliance with the Fire Code, managing parking along the very narrow road, and having a parking circulation plan will be inadequate to reduce this potentially significant impact to less than significant levels. The risk of fire-related injuries and death is high due to the Project site's limited access. This risk is very significant to the Field & Pond guests, employees, farmworkers, neighbors and especially those who live at the west end of County Road 29, beyond the Project site.

An additional hazard that is not addressed in the MND is the PG&E/SMUD natural-gas facility on Road 29. A Field & Pond guest unfamiliar with the area who has

been drinking alcohol and/or is tired after an event may crash into the *regional* natural-gas facility, which has above-ground pipes and is located right next to the road that has an uneven road surface and potentially cause a huge explosion. This impact must be analyzed and properly mitigated.

With respect to hazards from exposure to existing agricultural activities, the Yolo County Agricultural Commissioner's Office has expressed concern over the project's potential conflicts with the agricultural activities in the area and strongly recommends maintaining a 500-foot buffer from adjacent agricultural operations. (MND, p. 20.) Existing structures on the site, including three residences, barn, pond, and outbuildings, are within 300 feet of the closest actively farmed parcel. (MND, p. 20.) Existing mitigation measures would only create a 500-foot buffer zone for buildings constructed in the future, and would not address the proximity of existing structures to adjacent farmland. Because Yolo County is a "right to farm" county, adjacent farmers would have the right to continue with their operations, including spraying their land with registered herbicides and pesticides, despite the proximity of the Project. This could result in a potential human health hazard at the Project site. This is a potentially significant impact which the MND has neither disclosed nor mitigated.

Last, the MND fails to analyze the potential of the Project to increase the exposure of people to the risk of West Nile Virus. CEQA Guidelines section 15065, subdivision (a)(4) requires a finding of significance and preparation of an EIR where the "environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." However, the MND does not identify any issues arising from the exposure of visitors to mosquitos, and ignores the County's BMPs for vector control.⁶ West Nile virus is common and directly associated with ponds, which was confirmed as recently as this week.⁷ This hazard constitutes a potentially significant impact, which is not even mentioned in the MND. Moreover, feasible mitigation, including Best Management Practices for Mosquito Control in California must be required. (See Exhibit B.)

Given the site history as an agricultural operation and the site's proposed agricultural uses, the analysis has failed to provide any analysis of the potential presence of agricultural and other hazardous chemicals, despite the County's own information

⁶ See <http://www.yolocounty.org/health-human-services/community-health/communicable-disease-investigation-and-control/west-nile-virus>

⁷ See <http://www.sacbee.com/news/local/health-and-medicine/article91711247.html>
CDPH 2012.

from the LEA.⁸ The County is aware of these potential hazardous chemicals and associated environmental impacts and describes them in the General Plan:

Action HS-A47 New development and redevelopment in areas previously used for agricultural, commercial, or industrial uses shall ensure that soils, groundwater, and buildings affected by hazardous material releases from prior land uses, as well as lead paint and/or asbestos potentially present in building materials, will not have the potential to affect the environment or health and safety of future property owners or users, and any affected areas shall be properly abated. A Phase I Environmental Site Assessment (ESA) to American Society for Testing and Materials (ASTM) standards shall be required where appropriate and a Phase II ESA may be required in certain circumstances based on the recommendations/results of the Phase I. Where the Phase I report has identified agricultural cultivation prior to the 1980s, a shallow soil investigation shall be performed at the property in accordance with DTSC guidance for sampling agricultural properties. (DEIR MM HAZ-1) (Policy HS-4.1) Responsibility: Planning and Public Works Department.

(2030 Countywide General Plan, p. HS-30, available at:
<http://www.yolocounty.org/home/showdocument?id=14463>.)

Additionally, the Draft 2030 Plan explains:

The use of agricultural chemicals can leave residues in soils that can harm people and the environment. Chemicals used today are less-persistent, organic compounds; agricultural chemicals used prior to the 1970s often included highly persistent compounds such as DDT. Inorganic compounds containing heavy metals such as arsenic, lead, and mercury were commonly used prior to the 1950s. Chemicals commonly used in the past have the potential to leave residual inorganic or organic components in shallow soils that could persist for many decades. If present in elevated concentrations, these residues could pose a potential health risk to future construction workers, residents, and other persons who may come in direct contact with surface soils.

⁸ See Exhibit C, Yolo County: Hazardous Materials Business Plan and Inventory Program.

(Available at: <http://cityofdavis.org/home/showdocument?id=4469>, pp. 712-3.) The failure to adequately identify these risks and to follow its own requirements is a significant error in analysis.

The MND also fails to discuss hazards associated with ongoing chemical use during Project operation. Field & Pond will use potentially hazardous materials on a regular basis including pesticides and industrial cleaning chemicals. These chemicals will be used, stored and disposed. The MND fails to analyze or provide mitigation to ensure the proper use, storage and disposal of these hazardous materials.

9. Hydrology and Water Quality

Without providing any details regarding how the number was derived, the MND states that the project would require approximately 179,000 gallons/year of water. This total is derived from estimated domestic use, including employees and transient lodging at 149,000 gallons, plus an anticipated 30,000 gallons for crops. (MND, p. 47.) This estimate assumes that food vendors will “supply bottled water for drinking during events and temporary portable restroom/washroom facilities will be brought to the site for each event, as necessary.” (MND, p. 47.) No explanation of how this will be carried out during Project operations is provided.

According to estimates by a registered professional engineer, the water demand for the Project (including permanent and transient residents only) would actually require approximately 500,000-650,000 gallons/year. Total landscaping water use would be about 90,000 gallons/year. (See Exhibit D, July 28, 2016, McCord Environmental, Inc. Memo (“Engineer Report”), pp. 2, 4.) The Engineer Report concludes that the total estimated water demand is on the order of 700,000 gallons/year. The bases for these estimates are set forth in the Memo and assume only permanent and transient residents would use well water and a 25 percent increase in water use over the wastewater discharge volumes. Thus, the MND underestimates the likely water use by about 75 percent.

As a result of the failure to provide an accurate estimate of water use, the MND is fatally defective. In particular, conclusions regarding the adequacy of water supplies from groundwater sources are unsubstantiated. Thus, it is impossible to determine the consistency of the Project with the Sustainable Groundwater Management Act, which requires that a basin be managed within its sustainable yield. (Wat. Code, §§ 10720 et seq.)

Additionally, the MND indicates that the applicant would like to increase the number of events in the future. (MND, pp. 5, 6, 18, 19.) Yet, likely future water demands if the number of permitted events increases are not disclosed.

The MND also does not include any consideration of stormwater pollution from stormwater runoff from hundreds of vehicles in the new parking lot, which could ultimately enter Chickahominy Slough. Moreover, possible impacts to the Slough from construction activities are not disclosed.

10. Land Use and Planning

The Project is ineligible to receive a use permit to hold events as an “agri-tourism” site. Yolo County code defines agri-tourism as “income-generating activating conducted on a working farm or ranch, or other agricultural operation or agricultural facility”. (MND, p. 50; Yolo County Code, § 8-2.307.) The MND admits that the Project, lacking any present agricultural component, does not satisfy this requirement. (MND, p. 50.) As such, the Project is currently in violation of County code because it continually holds events without a permit. (See Exhibit A, July 22, 2016 Letter of Patrick Soluri to Phillip J. Pogdelich.)

Though the MND suggests that later phases *may* satisfy the agri-tourism requirement, that does not cure the present flaw. There is no provision of the County code that allows sites that *may* satisfy the definition of “agri-tourism” in the future to qualify for this designation now. Allowing the Project applicant’s intentions to operate an event center in order fund agricultural operations to qualify the business as “agri-tourism” would turn the code provision on its head. (MND, p. 49.) Agricultural operations are a mandatory precursor to a site qualifying as “agri-tourism,” not an optional feature that a business owner may decide to add at a later date.

Moreover, it is highly speculative that the Project will ever be able to satisfy this definition because of the Project site itself. The present Project site is bounded by the Chickahominy Slough, which separates the Project site from the 69 acres over which the Wildlife Heritage Foundation has a conservation easement. (MND, p. 5.) There is no existing road access across the Slough to the easement area. (MND, p. 9.) It appears that the only access to this area is via an easement the Project applicant has obtained over the adjacent parcel to the west. (MND, p. 5.) This is the means by which the Project applicant would have to enter the southern part of the land to initiate any agricultural operations. This easement, however, is for pedestrian use only. (MND, p. 5.) It would not allow the use of farm equipment or trucks necessary to conduct agricultural operations. Without access to the southern 69 acres, Project applicant will be unable to

carry out activities that would allow the Project to comply with the County's definition of agri-tourism. The Project plans indicate that the parcel's 11 remaining acres will be crowded by cottages, the event center, and parking lot, leaving little room for agricultural operations. (MND, p. 10.) Indeed, the trees that have been planted on this portion of the property will likely have to be removed to make way for a parking lot, septic system expansion, and other changes necessary to construct and operate the Project. Because the Project does not satisfy the County's "agri-tourism" definition presently, and will remain unable to do so in the future, the Project conflicts with zoning regulations.

As described above in sections I and II, the Project violates the County Zoning Code and is incompatible with the Williamson Act contract on the subject property. The Project would cause potentially significant Land Use impacts that cannot be mitigated to less than significant levels.

11. Noise

According to the MND, "[m]ost events...are expected to include amplified music, which, according to the applicant, would not exceed 75dB at the property lines." No analysis or explanation is provided for this conclusion.

The MND claims that "As an adopted Condition of Approval, any associated amplified music, such as a wedding reception, would be required not to exceed 60 dB at any adjacent property line containing a residence. Additionally, amplified music could be required to terminate by 10:00 PM..." (MND, p. 54.) The prior March 2016 version of the MND stated that "amplified music will be required to terminate by 10:00 PM." Thus, even less protection from noise levels that exceed County standards is provided now than in the March 2016 MND.

According to the MND "Additional noise sources during events will be due to amplified music...expected to be in the range of 80 to 90 dBA measured 50 feet in front of the stage and amplifiers...and noise levels at 800 feet would be 66 dBA." (MND, p. 54.) "Thus, the projected Community Noise Equivalent Level noise levels generated by a 90 dBA sound system during the evening hours would be...71 dBA CNEL at 800 feet." (MND, p. 55.) No explanation of the bases of these estimates, apparently furnished by the applicant, are provided. To satisfy CEQA, an agency must exercise independent judgment over the environmental analysis and explanation in the environmental review document. (Pub. Res. Code, § 21082.1, subd. (c)(1); *Gentry v. City of Murrieta*, (1995) 36 Cal. App. 4th 1359, 1397.) There is no evidence that the County performed that independent analysis here, as it appears to repeat information provided by the Project

applicant without any explanation of how the noise levels were determined or how these noise levels would not cause a significant environmental impact.

In addition to the completely unsubstantiated assertions regarding project noise levels in the MND, the lack of code enforcement in the County makes unlikely the music will be required to stay below 90 decibels. According to the Industrial Noise Control website,⁹ 90 decibels is the equivalent of a motorcycle at 25 feet; a quiet, rural area is one-sixteenth as loud as 70 decibels; and the upper 70s are annoyingly loud to some people. Sound carries the farthest in the evening when the temperatures drop, and that is when the nocturnal animals become active. The noise pollution from amplified music (as well as the numerous vehicles) will create an on-going nuisance for surrounding property owners in this rural locale and likely exceed the estimates provided by the applicant.

Noise levels may have a potentially significant impact on wildlife, as well as nearby livestock. These potentially significant impacts are ignored in the MND.

12. Population and Housing

The applicants propose to build four cottages and a pool house, after the Williamson Act contract expires in nine years. The MND does not analyze the potentially significant Population and Housing impacts of this future project. As the Supreme Court explained in *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396 (*Laurel Heights*), an agency must analyze the effects of potential future development in its EIR if such development is: (1) “a reasonably foreseeable consequence of the initial project,” and (2) “will likely change the scope or nature of the initial project or its environmental effects.”

13. Public Services

As described below in section III.B.14 Transportation, the Project would increase demand for fire protection. The MND incorrectly concludes that future compliance with existing codes will reduce fire protection impacts to less than significant levels. (MND, p. 57.)

The Project will also increase the need for police protection and require law enforcement response to traffic incidents. In addition to increased accidents, local residents are concerned about the increased potential for rural crime, due to the large numbers of non-residents who enter this remote area as a result of the Project. Increased

⁹ See <http://www.industrialnoisecontrol.com/comparative-noise-examples.htm>.

trespassing is a reasonably foreseeable consequence of the Project, and will require additional law enforcement. Additionally, the PG&E substation on County Road 89 north of County Road 23 was broken into on March 25, 2016; the PG&E/SMUD natural-gas facility on County Road 29 is a potential crime target as well.

14. Transportation/Traffic

The Project introduces a significant new source of traffic into a remote area and onto a rural dead-end road that according to the MND is not “a General Plan roadway” or a “Local Road. (MND, p. 60.) As such, Road 29 “does not “provide countywide roadway function” and therefore has not been measured for levels of service (MND, p. 61.) Though Road 29 is small, its continued functionality is essential to ongoing agricultural operations as well as existing residences surrounding the Project site.

There are many parts of County Road 29, west of County Road 89, that are dangerous due to blind curves, sharp turns, dips in the road, uneven road surfaces, and portions that are one-lane wide. As a result of the Project, there will be non-residents driving on this road who are unfamiliar with the road conditions. This will be compounded by the presence of large tractors and other agricultural machinery on the roads, coupled with impatient drivers going to and from Field & Pond. There will also be a number of people who drive after consuming alcohol at the event center.

The MND is unclear on the traffic to be generated by the Project, but estimates that event center operations could generate up to 100 roundtrip vehicle trips per event for 75 percent of the year. (MND, p. 61.) If there were eventually 45 events per year (MND, p. 5) with 100 vehicle trips per event, plus 155 deliveries per year, that would be up to 4,655 new vehicle trips per year from the Project. B&B guest traffic may drive back and forth to the B&B year-round does not appear to be estimated. Also, though the MND assumes that events will primarily occur Friday through Sunday (MND, p. 26), that does not appear to take account of the trend toward weekday weddings, or the fact that corporate events typically occur during the business week.

The MND uses a baseline, derived from an outdated 2003 traffic count, of 149 daily average vehicle trips on the stretch of Road 29 adjacent to the Project site. (MND, p. 61.) According to the July 28, 2016, Letter Report by Smith Engineering & Management (“Traffic Report”) attached as Exhibit E, it is “purely speculation whether the 2003 count is still representative of current conditions.” (Traffic Report, p. 5.) Since presumably most of the vehicle trips associated with an event will occur on the day of the event, event days would see a 66 percent increase above Road 29’s daily vehicle trips. The MND admits that operations will increase the number of vehicle trips relative to the

baseline, but does not clarify whether a 66 percent increase is considered a significant impact.

Existing agricultural operations generate heavy truck traffic during harvest in particular. At harvest, each of the two tomato operations may generate up to 100 loaded trucks or more a day. That is 200 truck trips—100 loads out, 100 empties in per day—for each of the two of them. Growers of other crops and other agricultural activities have different peak traffic times can have similar kinds of concentrations of haul traffic. (Traffic Report, p. 5.) In addition, farmers cannot plan in advance when their maximum activity takes place. (Traffic Report, p. 6.) With respect to tomatoes, for instance, the food processing plant dictates the timing of harvest. As a result, the combination of heavy agricultural traffic that cannot be scheduled and unfamiliar urban drivers to events would create potentially significant traffic hazards that may not be mitigatable to less than significant levels. (Traffic Report, p. 6.)

The MND is unreasonably dismissive of the hazards associated with introducing unfamiliar urban drivers in to substandard local roads. (Traffic Report, pp. 1-3.) National statistics show that in 2013, almost 54 percent of fatal traffic crashes occurred on rural roads. (Traffic Report, p. 2.) As recognized in the MND, the roads leading to the Project site do not conform with current standards and also lack proper markings. (MND, p. 62; see also Traffic Report, p. 2.) In particular, Road 29 does not meet California Fire Code width requirements for even a 750-foot long dead end street. (Traffic Report, p. 3.) According to the Mr. Smith, “the fundamental physical characteristics of Road 29 that affect safety and safety hazards are incompatible with a use attracting this type of and extent of traffic.” (Traffic Report, p. 3.)

According to the MND, “The scope of the project will be reduced, through required mitigation in order to address compatibility and safety issues, event size, and shared use of the rural roadway. Thus, the peak road usage will not increase from the current uses at the project site...” (MND, pp. 61-62.) This is inaccurate. This conditional use would allow at least 100 round-trip vehicle trips per event, in addition to vehicle trips generated by the B&B guests—that would significantly increase the peak road usage from the current uses, which include traffic from the residents and agricultural employees. And since there is no county enforcement, that number of round-trip vehicle trips could be much larger.

The MND relies on MM AG-2 to claim that any impacts will be mitigated to less than significant levels (MND, p.62), because MM AG-2 will keep peak usage equivalent with vehicle trips associated with operations under the current County Code. (MND, p. 62.) This ignores, however, the fact that even with MM AG-2 the number of days

experiencing a substantial increase in total vehicle trips will more than double. The MND similarly does not explain how MM PS-1, which requires only a “parking attendant and/or security guard” on-site for certain events, will mitigate the Project’s impacts on traffic systems.

The applicant’s apparent plan to use shuttles is unlikely to reduce transportation-related impacts to less-than significant levels. The MND provides conflicting information on when shuttles would be used. While the Project Description states that shuttles would be used for events regardless of size (MND, p. 4), the MND also states that shuttles would be used for events with over 150 attendees (MND, p. 25). There is no guarantee that shuttles would actually be used for the events. It is a common practice for guests to forego the use of shuttles. Even when shuttles are available, people will drive their own vehicles to and from the site, guests as well as the caterers, bartenders, musicians, photographers and other vendors. The Traffic Report confirms this concern, noting the planned construction of a large parking area. (Traffic Report, pp. 3-4.)

Even if shuttles were used, the rural road, much of which is one-lane wide, was not designed for the amount of shuttle traffic that has been proposed. For instance, in the spring of 2016, a shuttle bus became disabled in front of the Field & Pond property, during an event, and blocked the road for more than an hour. The neighbor who lives at the west end of County Road 29 was blocked in and had to wait for at least 30 minutes before she was able to go around the stalled bus. If there was a fire or other emergency this would have presented a dangerous hazard. This underscores the point that it is dangerous to site a large event center on a dead-end road in a remote area, particularly in an area susceptible to wildfires, including those ignited by vehicles in dry grass.

The MND fails to identify any objective methodology for determining that traffic impacts can be reduced to less than significant with mitigation incorporated. The MND determines that the Project’s conflicts with congestion management programs and established measures of effectiveness for circulation systems must be mitigated to reduce the Project’s impacts to less than significant. (MND, p. 61.) The MND relies upon AG-2 and PS-1, two insufficient mitigation measures, to address these impacts.

The MND also determines that mitigation is necessary to reduce the Project’s impacts due to the increased hazards related to incompatible uses. MM TR-1 claims to mitigate this by requiring Project applicant to pay for “ROAD NARROWS” signs purchased and installed by the County. (MND, p. 63.) The hazard, however, is not merely the width of the road. The presence of existing local agricultural traffic that visitors to the Project will likely be unaccustomed to sharing the road with will not be addressed by such signs. Moreover, there is no way to evaluate the effectiveness of the

planned advance notice to future guests about traffic conditions. (See MND, p. 62; Traffic Report, p. 4.)

The MND also impermissibly defers mitigating impacts to emergency access. Though mitigation is required for impacts to emergency access (MND, p. 63), the MND defers this to MM TR-1, which requires an emergency access and circulation plan, which will be drafted at a later date. This plan “will establish procedures to ensure that emergency access along CR 29 is maintained at all times.” (MND, p. 63.) Mitigation measures may not be deferred until after project approval except when a performance standard is established and it is impracticable to develop specific measures to achieve that standard before approval. (CEQA Guidelines, § 15126.4, subd. (a)(1)(B).) Even then, deferral is not allowed if it is unknown whether mitigation is feasible. (*See CBE v. Richmond* (2010) 184 Cal.App.4th 70, 92-96.) The description of MM TR-2 does not explain how this plan will ensure emergency access along CR 29 at all times. Without more information, it is impossible to know whether the measures proposed by the plan will be feasible. Thus, MM TR-2 impermissibly defers the mitigation measure and is inadequate.

As Transportation impacts of the Project are potentially significant and insufficient mitigation has been provided to reduce these Transportation-related impacts to less than significant levels, an EIR must be prepared.

16. Utilities and Services Systems

According to the MND, the needed increase in capacity of the site’s septic system will be addressed later through the Environmental Health Department permitting process. (MND, p. 64.) The needed size of the septic system is an essential component of the Project and must be disclosed in the MND, not at a later date. (See *Laurel Heights, supra*, 47 Cal.3d at p. 396.)

According to the calculations of McCord Environmental, Inc. an effective infiltration area of 0.4 – 0.8 acres will be required to provide adequate septic service for the Project. (Engineer Report, p. 4.) Especially if 0.8-acre septic area is needed, significant changes “in the layout of orchards, buildings and infrastructure” would be necessary. As noted in the Engineer Report, “the project description is unclear on the siting of the expanded leach field that will be necessary to accommodate the project.” (Engineer Report, p. 4.)

With respect to water supplies to serve the Project discussed in the Utilities and Service Systems section of the MND, please see discussion above in section II.B.9. Hydrology and Water Quality.

15. Mandatory Findings of Significance

An EIR is required if there is a fair argument that a project's impacts are cumulatively considerable. (CEQA Guidelines, § 15063, subd. (b)(1)[EIR must be utilized when an initial study determines that a project may cause a significant impact "either individually or cumulatively"]; see also *Communities for a Better Env't v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114-116.) Further, an initial study must consider whether a cumulative impact is significant in its Mandatory Findings of Significance. (CEQA Guidelines, § 15065, subd. (a)(3).) According to the CEQA Guidelines, "When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable." (CEQA Guidelines, §15064, subd. (h)(1); see also CEQA Guidelines, § 15063, subd. (b)(1).)

The MND's two-paragraph attempt at a cumulative impacts analysis is inadequate. (MND, p. 68.) First, the MND fails to identify the geographic scope for each area of analysis, which can and do vary according to each resource area of consideration. (CEQA Guidelines § 15130, subd. (b)(3).) For example, the proper geographic scope of a cumulative air impact analysis may include an entire air basin, but the scope of a cumulative groundwater impact analysis would relate to the groundwater basin or sub-basin. A cumulative noise analysis would likely include an even smaller area. The MND fails to disclose this information.

A second and related deficiency is the failure to clearly follow either the "list of projects" or a "summary of projects" approach as described in CEQA Guidelines section 15130, subdivision (b). While the MND's cumulative analysis refers in passing to several plans, it does not address every potentially significant cumulative impact in this manner. In particular, the MND does not attempt to discuss the Project in the context of other similar event center projects being developed in Yolo County. There are currently about 16 event centers in the County. Moreover, County Code allows up to eight events per year by right, leading to additional event traffic from other sources on the same road. (See Traffic Report, p. 6.) The MND fails to disclose past, present and probable future projects producing related impacts. This information is critical in order to assess the Project's cumulative impact on Agriculture and Transportation, in particular.

Eric Parfrey
Yolo County Community Services Department
July 28, 2016
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Third, in the absence of any meaningful information about cumulative conditions, the MND's conclusion that the Project's incremental impact is less than considerable appears based almost entirely on the MND's conclusion of less than significant for the individual impacts. The County should consider whether additional mitigation is necessary, in particular, to prevent cumulatively significant impacts on Agriculture, Land Use and Transportation.

Last, the cumulative impacts analysis fails to discuss the implications of the applicant's plans to increase the number of events in the future, as well as to expand the B & B use. (See, e.g., MND, p. 4, 5, 18, 19.) If these plans are not analyzed within the MND, at the very least, these reasonably foreseeable aspects of the Project should be analyzed in the context of reasonably foreseeable future cumulative impacts. (CEQA Guidelines, § 15130.)

The MND's analysis of cumulative impacts fails as an informational document and provides no additional information beyond that contained in the individual impact discussions. The County cannot avoid preparing the required EIR by hiding behind its failure to conduct a meaningful analysis of cumulative impacts.

CONCLUSION

The proposed Project violates County Code provisions pertaining to event centers and B & Bs in the E-X Zone and is incompatible with the existing Williamson Act contract on the site itself, as well as interferes with protected agricultural uses in the surrounding area. Moreover, the MND fails to meet basic standards for adequacy under CEQA. Thus, the Farmland Protection Alliance respectfully requests that the MND not be adopted and that a CUP not be issued for this Project.

Thank you for the opportunity to provide comments on the proposed Project and the associated MND.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

ORM/mre

Eric Parfrey
Yolo County Community Services Department
July 28, 2016
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cc (via email):

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(denise@yolofarmbureau.org)

Exhibits:

- A. July 22, 2016, Letter of Patrick Soluri to Phillip J. Pogdelich re: Comments on County Code Violations
- B. Best Management Practices for Mosquito Control in California
- C. Yolo County: Hazardous Materials Business Plan and Inventory Program
- D. July 28, 2016, McCord Environmental, Inc. Memo re: Field & Pond IS/MND Water Usage Review
- E. July 28, 2016, Smith Engineering & Management Report re: Transportation and Traffic

EXHIBIT A



tel: 916.455.7300 · fax: 916.244.7300
1010 F Street, Suite 100 · Sacramento, CA 95814

July 22, 2016

SENT VIA EMAIL (Philip.pogledich@yolocounty.org)

Philip J. Pogledich
Office of the County Counsel
County of Yolo
625 Court Street, Room 201
Woodland, California 95695

**RE: Field & Pond Event Facility
Request to Enforce County Code Violations**

Dear Mr. Pogledich:

This letter is submitted on behalf of the Farmland Protection Alliance, a coalition of farmers and concerned residents who are working to ensure the long term viability of agriculture. For the reasons described below, we request immediate action by Yolo County ("County") to stop the flagrant ongoing violations of the County Code by the Field & Pond Event Facility ("F&P").

As documented in several County letters, including those dated December 4, 2015, June 9, 2016 and July 6, 2016, the F&P is operating a commercial event center without required land use entitlements. On December 4, 2015, the County notified F&P: "You are required at this time to cease all event operations until further notice." The F&P has not complied with this direction. Instead, the F&P has continued commercial event operations in flagrant disregard of the County Code. We, therefore, respectfully insist that the County take immediate action to cease all further events by F&P.

We understand that a limited number of events are allowed as a matter of "right" pursuant to County Code section County Code section 8-2.306, subdivision (k).¹ It is undisputed that F&P has held more than the maximum of one event per month, plans to

¹ The Code clearly qualifies this "right" to hold up to eight events per year in instances, as here, where "there are any agricultural, residential, vehicle access, traffic, or other compatibility issues, or if any of the development standards are not met." While existing correspondence reveals that all of these issues are triggered by F&P's existing unlawful commercial event center operations, we understand that the County has not exercised its discretion to require either site plan review or a minor use permit for these existing operations. While disappointing, we understand that the County has discretion on this issue and do not challenge it at this time.

hold well more than the maximum of eight events per year, and has further violated the maximum allowed number of attendees and vehicle trips. Accordingly, F&P is in violation of section 8-2.306, subdivision (k). This violation is in addition to other violations identified by the County.

Section 8-2.306, subdivision (k) provides in relevant part:

Special event facilities include farm and residential land and structures that are used for for-profit, paid events such as weddings, tastings, special or seasonal celebrations, rodeos, and other gatherings, and may include tasting rooms.

While conceding that it has already held more than one event per month, and plans to hold more than eight paid events per year, F&P claims that it is not violating section 8-2.306, subdivision (k) because these events are not “for-profit” in the sense that F&P’s costs of these events are greater than the revenue and therefore not operating “for-profit.” This legal interpretation is completely without merit.

Even if the terms “paid” and “unpaid” and “for-profit” are not defined in the Code, the County is not entitled to rely on an interpretation that leads to absurd results. When a statute is susceptible to two constructions, one reasonable, fair, and harmonious with its manifest purpose, and another leading to absurd consequences, a court must adopt the former. (*Western Oil & Gas Assn. v. Monterey Bay Unified Air Pollution Control Dist.* (1989) 49 Cal.3d 408, 425; *Lungren v. Deukmejian* (1988) 45 Cal.3d 727,735; *California Correctional Peace Officers Assn. v. State Personnel Bd.* (1995) 10 Cal.App.4th 1133,1147.) Here, the only reasonable interpretation of the clause “for-profit, paid” is to distinguish that commercial activity (such as the listed “weddings, tastings, special or seasonal celebrations,” etc.) from personal, non-commercial activities such as family gatherings. By contrast, an interpretation that distinguishes between profitable and unprofitable commercial activities is absurd. This is true for several common sense reasons.

First, F&P’s violations are land use violations of the County’s “Land Development and Zoning” title of the County Code. The purpose of these provisions is to prevent the land use conflicts, unmitigated environmental effects, and development pressures on farmland that are now occurring. The resulting harm to the public and the environment *is not determined* by whether the underlying commercial land use is operated at a profit or not, i.e., inconsistent with the ordinance’s “manifest purpose.” We are not aware of any instance in the County’s Land Development and Zoning title wherein the same commercial activity is subject to land use entitlements if the business is profitable and *not*

subject to land use entitlements if carried out at a financial loss. Also, Code enforcement officers are not experts in forensic accounting, which would necessarily be required if Code violations are based on some forensic accounting to determine if individual events are in fact profitable.

Second, under F&P's interpretation, any sophisticated party could easily avoid the requirement for a land use entitlement by establishing that its commercial operations are not profitable by manipulating revenue and expenses for its events. For example, F&P could surreptitiously reduce its revenue number by accepting non-monetary compensation in lieu of cash payment. Similarly, F&P could surreptitiously increase its "cost" number by "paying" the owners a ridiculously high salary. Indeed your July 6, 2016 letter indicates that is the case by stating, "While your clients appear to contend in good faith that the value of their time (at \$150/hour) should be considered in assessing whether an event is 'for profit,' we do not accept that contention."

Third, F&P's own conduct demonstrates its interpretation is absurd and unworkable. By email dated June 17, 2016, F&P's legal counsel explained that it is refusing to provide "cost breakdown" information because doing so would violate "confidentiality of certain information." If F&P truly believed that the profitability of its business operation is relevant to whether it was violating the County Code, then that information is necessarily public information subject to full disclosure. F&P's concern about maintaining "confidentiality" of its profitability information demonstrates that it does not really believe this information is relevant to whether F&P's commercial event center is in compliance with the County Code.

In summary, F&P's "interpretation" of County Code section 8-2.306, subdivision (k) as only applying when F&P actually turns a profit for each individual event is patently absurd, and we believe will be viewed as such by a reviewing court. The only reasonable interpretation of "for-profit, paid events" is to contrast such events² with private, non-commercial events. Accordingly, F&P's ongoing commercial operations are unpermitted special event facilities in violation of violate 8-2.306, subdivision (k), and must be halted immediately.

F&P may assert that the County is without authority to halt F&P's unlawful event center activities because of a vested right to proceed based on the County's conduct. No such vested right exists. A vested right may arise, in certain circumstances, from the substantial liabilities incurred in good faith reliance on a permit issued by a government.

² "Field & Pond, LLC" is a limited liability company that is registered with the California Secretary of State. Its entity number is 201424710192 and its entity address is 26055 County Road 29, in Winters, California.

Philip J. Pogledich
Office of the County Counsel, County of Yolo
July 22, 2016
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(*Avco Community Developers, Inc. v. South Coast Regional Commission* (1976) 17 Cal.3d 785, 791.) Here, by contrast, no permit has been issued by the County. Moreover, F&P has certainly not engaged in any good faith reliance since the “interpretation” that F&P purports to rely on is patently absurd, and which F&P has itself not even followed. This applies to any claim of vested rights based on estoppel also. (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 488-489; *Strong v. County of Santa Cruz* (1975) 15 Cal.3d 720, 725.) Here, the County has a strong public policy to protect the environment as well as the hundreds and even thousands of F&P’s paying clients from potential hazards from unanalyzed and unmitigated land use conflicts. In short, F&P has no claim against the County for properly enforcing its Code.

Respectfully, the County has a clear, present and ministerial duty to enforce the County Code by taking enforcement actions already identified in the County’s letter dated December 4, 2016 and your letter dated July 6, 2016. To the extent that you disagree with the analysis in this letter and decline to allow the necessary code enforcement to proceed, we would ask that you please advise us of any administrative appeals that are required in order to exhaust administrative remedies (it appears there are none).

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

PMS/mre

cc: Farmland Protection Alliance
California Farm Bureau Federation

EXHIBIT B

BEST MANAGEMENT PRACTICES FOR MOSQUITO CONTROL IN CALIFORNIA



An electronic version of this manual and the companion document “Best Management Practices for Mosquito Control on California State Properties” are available from the California West Nile virus website at <http://www.westnile.ca.gov/resources.php>. Please see Table 1, page 22, for a list of California mosquito control agencies or visit <http://mvcac.org>.

For more information, please contact:

Vector-Borne Disease Section
California Department of Public Health

vbds@cdph.ca.gov

(916) 552-9730

<http://www.cdph.ca.gov>

<http://www.westnile.ca.gov>

BEST MANAGEMENT PRACTICES FOR MOSQUITO CONTROL IN CALIFORNIA

This 60-page report is posted at the Yolo County Web site at <http://www.yolocounty.org/community-services/planning-public-works/planning-division/current-projects>.

Hazardous Materials Business Plan and Inventory Program News and Updates

The California Environmental Protection Agency is in the process of changing the California Code of Regulations Title 27 by the addition of Section 15186.1, defining CUPA inventory reporting for facilities which have hazardous materials inventories containing lead-acid batteries.

Yolo County Environmental Health, the CUPA Regulatory Agency for Yolo County, in anticipation of the regulatory change, is now accepting CERS submittals of lead-acid battery inventories based on the "Cal/EPA Unified Program Policy for Lead-Acid Battery Inventory Reporting – Guidance and Template".

The Cal/EPA guidance document, as well as the text of proposed Title 27, Section 15186.1 are included for reference:

[EPA Battery Guidance
Title 27, Sec. 15186.1](#)

Program Information

When hazardous materials are improperly handled or stored they can result in a threat to employees, public health, and/or the contamination of the environment. State and Federal Community Right-to-Know laws were passed in 1984. These laws allow public access to information about the types and amounts of chemicals being used at local businesses. The laws also require businesses to plan and prepare for a chemical emergency through the preparation of a Hazardous Materials Inventory that is certified annually and a Hazardous Materials Business Emergency Response Plan that is certified tri-annually.

The Yolo County Environmental Health Division makes the Inventory and Business Plan available to first responders in case of an emergency and to the public upon request.

Businesses are inspected at least once every three years by a Certified Unified Program Agency inspector to verify compliance with the California Health & Safety Code and California Code of Regulations.

Workload: Approximately 800 Facilities, and 200 Farms
Authority: California Health & Safety Code chapter 6.95, Section 25500 through 25536

Title 19 of the California Code of Regulations

Who Is Subject to the Business Plan Program?

A Business Emergency Response Plan and Inventory is required of any facility which generates any quantity of **hazardous waste** or which handles **hazardous materials** in amounts greater than:

- 55 gallons for liquids
- 500 pounds for solids
- 200 cubic feet for compressed gases

Please note that if extremely hazardous materials or radiological materials are handled, the business may be subject to this program even if the minimum quantities indicated are not met. Businesses handling these materials should consult with the Yolo County Environmental Health Division to check the requirements for materials being handled. Yolo County excludes businesses that only handle hazardous materials packaged for resale for use by the consumer they are sold to.

Requirements for Farm Owner/Operators

The Yolo County Agriculture Department inspects farms for the Hazardous Materials Business Plan program. The California Health and Safety Code, Section 25503.5, makes a special exemption for farmers concerning the Hazardous Materials Business Emergency Response Plan. Farmers may choose either to provide a copy of their current Hazardous Materials Business Emergency Response Plan to Yolo County Environmental Health, or to post warning signs on each building in which hazardous materials are stored. Please note that even if the signs are posted, the farm must have a Hazardous Materials Business Emergency Response Plan, however it doesn't need to be sent in to the Environmental Health office. In either case farms must submit the annual chemical inventory to Environmental Health. If the farm elects to post signs instead of sending in a plan to Yolo County Environmental Health pursuant to The California Health and Safety Code, Section 25503.5, the signs must conform to the following:

1. Be posted on each building in which hazardous materials are stored
2. Specify pesticides, petroleum fuels and oil, and types of fertilizers.
3. Be visible from any direction of probable approach, readable from a distance of 25 feet
4. State the wording, "DANGER HAZARDOUS MATERIAL STORAGE AREA," LIST HAZARDOUS MATERIAL STORED WITHIN, BY CATEGORY (pesticides, petroleum fuels and oil, and types of fertilizers), state, "ALL UNAUTHORIZED PERSONS-KEEP OUT," "IN AN EMERGENCY, CONTACT:" listing name and telephone number of an emergency contact person.

Quick Links

- [Forms & Applications](#)
- [Fee Schedule](#)
- [Who Is Subject to the Business Plan Program?](#)
- [Requirements for Farm Owner/Operators](#)
- [Frequently Asked Questions](#)
- [Contact Us](#)

[Back to Environmental Health](#)

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5. Sign repeated in another language if reasonably anticipated that persons who do not understand English may enter the posted building.

Farm owners/operators may also elect to submit a "Farm Exemption Application". This form can be downloaded [here](#). For more information about the form, requirements, or for assistance in completing it please [contact us](#). Please note, the form only needs to be submitted ONCE, not annually.

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Frequently Asked Questions

What materials are considered to be Hazardous Materials?

A hazardous material is defined by the California Health and Safety Code, Section 25501(o), to be "any material which because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment."

Common hazardous materials include fuels, motor oil, and related petroleum products, and antifreeze. Hazardous wastes, such as used oil and used antifreeze, are also hazardous materials. Used oil filters that have been drained are not hazardous materials (but are subject to hazardous waste regulations).

Clues that the material is hazardous include wording on the label on the container. The material is a hazardous material if the label has wording with such terms as: danger, irritant, warning, flammable, sensitizer, combustible, caution, reactive, corrosive, hazard, carcinogen, poison, toxic, oxidizer, avoid contact (with skin or eyes), do not store or use near heat, use with adequate ventilation, wear protective equipment. Also, if there is a MSDS for the product it is also a likely hazardous material.

Are there any exemptions from filing a Hazardous Materials Business Emergency Response Plan and/or Inventory?

The State of California and Yolo County exempt certain businesses meeting specific requirements from filing portions of the Hazardous Materials Business Plan. For more information on the types of businesses exempted please [Contact Us](#). More information on exemptions is also available at the [Office of Emergency Services website](#) by navigating to the Hazardous Materials section.

What if I only have threshold quantities of Hazardous Materials on-site one day a year?

Your facility would still be subject to the program. Any facility that ever has a threshold quantity of hazardous materials on-site is subject to disclosure.

Who do I contact if I want to know what chemicals the business next-door handles?

You can contact the CUPA, which is Yolo County Environmental Health (See [Contact Us](#)).

Am I required to have a permit to store hazardous materials?

The Yolo County Environmental Health Division does not have a permit requirement for storing hazardous materials. The only requirement is that the facility completes and submits a Hazardous Materials Inventory on an annual basis and a Hazardous Materials Business Emergency Response Plan on a tri-annual basis.

Where can I get the forms required?

The forms required including the Hazardous Materials Business Plan and Inventory forms are available below and at the following link [Forms & Applications](#).

[Top](#)

Contact Us

Yolo County Environmental Health
Hazardous Materials Specialist
137 N. Cottonwood St. Suite 2400
Woodland, CA 95695

Call: (530) 666-8646

Fax: (530) 669-1448

Email: [Environmental Health](#)

[Top](#)

EXHIBIT D

MEMO



To: Osha Meserve, Soluri Meserve
Date: July 28, 2016
Subject: Field & Pond IS/MND Water Usage Review

Stephen McCord, Ph.D., P.E.

759 Bianco Court
Davis, CA 95616
(530) 220-3165
sam@mccenv.com



Overview

The County of Yolo has circulated the draft Initial Study / Mitigated Negative Declaration (IS/MND) for the Field & Pond Bed & Breakfast and Special Event Facility's Use Permit (<http://www.yolocounty.org/home/showdocument?id=35660>). The facility would be located in rural Yolo County (address: 26055 County Rd 29, Winters, CA 95694) near a seasonal creek. One concern among local residents is that the IS/MND does not adequately address water usage impacts from the proposed facility. This memo specifically addresses the following IS/MND conditions:

Section VI. Geology and Soils

Item e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?

Section IX. Hydrology and Water Quality

- a) Violate any water quality standards or waste discharge requirements?
- b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?
- f. Otherwise substantially degrade water quality?

Section XVII. Utilities and Service Systems

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?
- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?

Values and Assumptions

Estimates for the numbers of onsite events and guests are taken from the IS/MND or assumed as follows.

- Approximately nine months out of the year (March through November) up to four to five times per month, for a total of 35 total events per year with the intent of seeking to increase to at least 45 events/year after the first year of operations (i.e., up to two events per week for nine months out of the year) [IS/MND p.5-6]. However, nine months contain 39 weeks. Two events per week for 39 weeks would result in 78 events/year.
- A typical Saturday wedding guest count would be approximately 120 people but no more than 300. Corporate retreats are expected to occur mostly on Fridays with an attendee count of approximately 50 people [IS/MND p.5]. Thus, the numbers of transient guests would be 170 (average) to 350 (maximum).
- The number of employees per guest is not stated, but a reasonable estimate is 1 employee for every 15 guests. Thus, it is assumed that the numbers of employees onsite for each event would be 11 (average) to 23 (max).
- The Bed & Breakfast would be operated throughout the year with no seasonal restrictions. The main house would have 5 bedrooms for an assumed 10 guests total. The four detached one-room cottages would have an assumed 8 guests total. Nationally, B&B occupancy rates are nearly 50%. Thus, it is assumed that the number of overnight guests would be 9 (average) to 18 (maximum).
- The owner's cottage would include an assumed 3 full-time residents and a future resident farmer's include an assumed 3 full-time residents. Thus, it is assumed that each full-time residence would house 3 people.
- The homestead area is 11 acres [IS/MND p.15]. It is assumed that half of that area (5.5 acres) would be landscaped with turf, including the 2-acre pond and unspecified lap pool.
- The project proposes use of licensed food vendors who will supply bottled water for drinking during events; temporary portable restroom/washroom facilities will be brought to the site for each event, as necessary [IS/MND p.47].

Regulatory Limitations and Standards

Groundwater Wells and Withdrawals

There are no statewide or regional laws or statutes directly regulating the volume, rate, or depth of groundwater withdrawn from local aquifers. The Sustainable Groundwater Management Act (SGMA), which became effective January 1, 2015, requires that authorities ensure that the applicable basin is operated within its sustainable yield. (Water Code, §§ 10720 et seq.). At the county level, a long-term process is underway to develop a sustainable groundwater management program at the regional basin scale (roughly the scale of the flatlands of Yolo County).

Well drilling standards are based on State of California Bulletin 74-81 and Supplemental Bulletin 74-90. Well permits are granted by the county per state law, and wells must be constructed by licensed well drillers. There are no size restrictions.

Yolo County Health and Safety Code section 116275 (h) defines a “public water system” as a “system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.” If the use permit allows up to 45 event days, the threshold of 60 days per year would not be exceeded and the water system would be classified as private. If the use permit allows up to 78 event days (2 one-day events per week for 9 months = 78 events), the threshold of 60 days per year would be exceeded and the water system would be classified as public. Bulletin 74-81 requires water quality testing for public water systems or private systems if used to prepare food for large groups. Potable water quality is regulated under Title 22 of the California Administrative Code [Available at http://www.dtsc.ca.gov/LawsRegsPolicies/Title22/Official_Title22.cfm].

The issue of whether the well is designated public or private is important for the septic setback and water quality monitoring requirements. The IS/MND should clearly state the number of annual events analyzed and determine the classification of the new water system.

Septic System Design

Pursuant to requirements imposed by Assembly Bill 885, the State Water Resources Control Board adopted the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems effective May 2013. Locally, Yolo County regulates onsite septic system consistent with its Onsite Wastewater Treatment Systems Manual, adopted by Yolo County Board of Supervisors Resolution 16-28 (April 5, 2016). The Manual’s provisions would apply to the proposed project through issuing a System Installation Permit issued by the county’s Department of Environmental Health.

The system must be located on the same lot as the buildings being served. Minimum setback distances that could apply to the proposed project include (Manual Table 2-1):

Site Feature	Setback (feet)	
	Leach Field	Septic Tank
Well	100	50
Drainage way, Drainage Swale (from edge of flow path) , unlined irrigation ditch, unlined irrigation canals or unlined culverts, or Ephemeral Stream	50	25
Property line	10-50	10-25
Swimming pool, line pond or basin	10	10
Road easement, pavement, driveway, or areas subjected to vehicular traffic	5	5

The IS/MND states “The approximately 11-acre portion of the project site located north of Chickahominy Slough and containing the residences, barns, two-acre pond, and other outbuildings, is designated as Farmland of Local Potential and consists of the Tehama and Zamora loam soils.” Both soil types are classified as slow permeability with USDA Textural Classification silt loam (https://soilseries.sc.egov.usda.gov/OSD_Docs/T/TEHAMA.html and https://soilseries.sc.egov.usda.gov/OSD_Docs/Z/ZAMORA.html) with a percolation rate of >15-60 minutes/inch (Manual Table 3-1), leading to a leach field application rate of 0.32-0.49 gallons/day-ft² (Manual Table 3-2; range depending on soil profile). USDA soil survey maps (<http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>) indicate infiltration rates as

low as 300 min/inch, implying that the lower application rate is more appropriate (and potentially not conservative enough).

The total design wastewater flow is estimated as follows (Manual Tables 3-4 and 3-5):

Category	Rate (gal/person-day)	Count	Total (gal/day)
Residents	450 (gal/house-day)	2	900
B&B guests	50	9-18	450 – 900
Event guests	25	170-350	4250 – 8750
Employees	15	11-23	165 – 345
TOTAL=			5,765 – 10,895

Required trench length (L) for the leach field is calculated as:

$$L = Q / (R * A) = \underline{6,000 - 11,000 \text{ feet}}$$

Where:

Q = Design Wastewater Flow, in gpd

R = Wastewater application rate, in gpd/ft²

A = Total infiltrative area per lineal foot of trench, in ft² (3 feet standard)

The “Effective Infiltrative Area” must be a maximum of 3 ft²/L, which comes to 0.4 – 0.8 acres. Given that the homestead is 11 acres in area, there may be sufficient space to accommodate the leach field on the property. However, accommodating the full 0.8 acre potential area needed could require a significant change in the layout of orchards, buildings, and infrastructure. The minimum setback distances tabulated above could be achievable in that space, although the location of the lap pool is not identified. In any case, the project description is unclear on the siting of the expanded leach field that will be necessary to accommodate the project.

Water Consumption Estimates

The IS/MND [p.47] states that the project would require approximately 179,000 gallons/year of water. This total is derived from estimated domestic use, including employees and transient lodging at 149,000 gallons, plus an anticipated 30,000 gallons for crops.

Local groundwater needs for potable uses account for the IS/MND [p.47] statement that “The project proposes use of licensed food vendors who will supply bottled water for drinking during events; temporary portable restroom/washroom facilities will be brought to the site for each event, as necessary.” Assuming that only permanent and transient residents would use well water and a 25% increase in water use over the wastewater discharge volumes, permanent and transient residents only would require approximately 500,000 – 650,000 gallons/year.

Additional water uses to irrigate or otherwise compensate for evaporative losses from 5.5 acres on the property (including the lap pool, 1-acre pond, and other landscaping) can be estimated as the amount needed to compensate for total annual evapotranspiration losses. According to the California Irrigation Management Information System (<http://www.cimis.water.ca.gov/>) annual evapotranspiration losses in this zone are 57 inches/year. According to the Oregon Climate Service (http://www.wrcc.dri.edu/pcpn/ca_north.gif) the long-term average annual precipitation

for this area is 15 inches/year, resulting in a net loss to be irrigated of 42 inches/year. Over 5.5 acres and assuming a crop coefficient for turf grass of 0.8 (<http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>), the total landscaping water use would be 90,000 gallons/year.

The total from the underlined estimates in this section is on the order of 700,000 gallons/year. Thus, the IS/MND underestimates the likely water use by about 75%. Additionally, likely future water demands if the number of permitted events increased are not disclosed.

STEPHEN A. MCCORD, PH.D., P.E.



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STEPHEN MCCORD is President of McCord Environmental, Inc., based in Davis, CA. With over 20 years of research, teaching, and consulting experience, Dr. McCord serves clients throughout California and internationally in water quality and watershed management. Key areas of expertise include technical project management and stakeholder facilitation, watershed and lake management, NPDES permitting for stormwater and wastewater facilities, discharge and receiving water monitoring, and water quality modeling. A particular area of focus has been mercury – conceptual and mass balance models, TMDLs, water quality trading, abandoned mine site cleanups, strategic planning, and facilitating stakeholder groups.

EDUCATION

Ph.D., Civil and Environmental Engineering, University of California, Davis, CA (1999)

- Major areas of study: water quality, water resources management, numerical methods
- Dissertation topic: Effects of forced mixing on lake water quality

M.S., Civil and Environmental Engineering, University of California, Davis, CA (1995)

- Thesis topic: Modeling redox transformations of iron and manganese in anoxic reservoirs

B.S. (Cum Laude), Civil Engineering, Clemson University, Clemson, SC (1990)

- Area of Emphasis: Environmental

REPRESENTATIVE PROFESSIONAL EXPERIENCES

Watershed Management

- Developed a conceptual model and mass load estimates for mercury in the Sacramento River watershed. Administered and edited the Strategic Plan. Facilitator for the 500-member Delta Tributaries Mercury Council.
- Project manager for an 8-member team of technical and regulatory specialists cleaning up two abandoned mercury mines (landscape and drainage waters) in the Inner Coast Range.
- Project manager for a three-year restoration and community stewardship project for an urban stormwater drainage channel in Davis, CA. Project contributors included resource planners, university researchers, municipal maintenance crews, student groups, community volunteers, and consultants.
- Project manager and facilitator for the 150-member Delta Methylmercury TMDL Nonpoint Sources Workgroup, produced methylmercury control study workplan for wetlands and irrigated agricultural lands in the Sacramento-San Joaquin Delta.
- Water quality technical expert on the strategic development team for the Northern Sacramento Valley Integrated Regional Water Management Plan.
- Technical and policy expert and strategic advisor to municipalities and agencies addressing TMDLs and other pollution control programs throughout California.

- Project manager and technical lead to assess the feasibility of water quality trading of bioaccumulative pollutants (mercury and selenium) for NPDES permittees in the Central Valley and Orange County.

Water Quality Monitoring and Analyses

- Technical Advisory Committee co-chair, mercury subgroup lead, and technical consultant to stakeholders developing a regional water quality monitoring program for the Sacramento-San Joaquin Delta.
- Monitoring Committee facilitator and technical consultant leading stakeholders developing a regional water quality monitoring program and data portal for the Sacramento River Watershed.
- Water quality management and monitoring consultant for drain cleaning project for New Bullards Bar Dam on the North Yuba River, CA.
- Technical consultant to the County of Sacramento monitoring and assessing mercury in Alder Creek in advance of a residential development in the watershed and a statewide reservoirs mercury TMDL.
- Technical and strategic consultant to the Central Valley Clean Water Association's Methylmercury Special Projects Group for conducting control studies consisting of monitoring design, treatment comparative analysis, cost-benefit analysis, Technical Advisory Committee review and exposure reduction program guidance.
- Technical lead for a one-year monitoring program, evaluated data for water column and sediment samples to prioritize pollutants of concern, proposed and interacted with stakeholders to identify feasible control measures, and authored a plan to address pollutants of concern in the Yolo Bypass, a leveed, multi-use, 59,000-acre floodplain.
- Project manager and technical consultant to the Sacramento County Coordinated Monitoring Program, a regional ambient monitoring program coordinated among a joint city and county stormwater program and sanitation district. Wrote annual reports and coordinated with other regional monitoring efforts.
- Task manager for effluent and receiving water monitoring for the City of Sacramento's Combined Sewer System. Managed consultant team, City crews, and contract laboratories to monitor multiple effluents and receiving water stations during intermittent discharge events for a broad suite of constituents.
- Project manager for the City of Elk Grove's new development stormwater monitoring project. Led multi-faceted monitoring project of baseline conditions in water and sediment based on continuous sensors and grab samples.
- Technical lead performing dye tracer studies to confirm analytical mixing solution. Applied numerical models CORMIX and Visual Plumes to delineate effluent mixing zones in rivers and bays. Managed application of two-dimensional hydrodynamic models in tidally-influenced deltas, bays and harbors.
- Project manager for a pioneering investigation of mercury exposure and bioaccumulation associated with Sacramento Regional Wastewater Treatment Plant discharges. Monitored mercury and associated conditions in water, sediment, microseston, resident and transplanted clams, and fish. Facilitated technical review, angler surveys and local community meetings.

- Project manager on multiple projects constructing and deploying custom-made continuous sensors in effluent and in tidally-influenced rivers. Interpreted results to quantify dilution, transport, reaction kinetics, and diurnal patterns.
- Project manager and field leader monitoring mercury conditions in sediments, water, and sportfish in four gravel mining dredge ponds.

Reservoir Water Quality Management

- Research team leader evaluating mercury cycling and bioaccumulation effects of hypolimnetic oxygenation systems in four Guadalupe River watershed reservoirs.
- Project manager for the design, installation, and monitoring success of a hypolimnetic oxygenation system for Bear Lake, a high Sierra drinking water reservoir.
- Lead technical analyst for mercury conditions for environmental review of a project to improve Almaden Lake, among the most mercury-contaminated lakes in the US.
- Technical support to local and international partners in developing a long-term water balance model for Lake Nakuru, Kenya.
- Model development and application lead applying the WQRRS reservoir water quality model to quantify ammonia cycling in two San Francisco drinking water reservoirs.

Regulatory Assistance

- Project manager for renewing NPDES permit for municipal wastewater utilities. Tracked permit compliance and implemented permit requirements for monitoring, special studies, and reporting. Analyzed effluent and receiving water quality data, conducted sampling, managed modeling efforts, and assessed compliance with federal and state policies.
- Technical consultant for commenting on relevant federal and state regulatory and policy initiatives and NPDES permits throughout California for multiple clients.

Storm Water Management

- Project manager for developing stormwater management programs for cities of Davis, West Sacramento, Auburn, and Grass Valley and the county of Yolo under the Phase II Municipal Storm Water General Permit. Assessed existing storm water management program requirements for construction projects, industrial sites, and illegal discharges / illicit connections versus NPDES permit requirements. Initiated program implementation by developing draft legal code, schedules and budgets, and best management practice fact sheets.
- Project manager for developing and managing a baseline stormwater quality monitoring program for a new development area draining to Stone Lakes National Wildlife Refuge. Multi-faceted project included sampling and analyzing storm runoff, deploying continuous sensors, and testing water and sediment toxicity. Organized volunteer monitoring activities and presented at community stakeholder workshops.
- Technical and regulatory consultant to the Sacramento Stormwater Quality Partnership supporting co-permittees within Sacramento County. Led field sampling and reporting on water quality benefits of a storm water detention basin and a grassy swale.

- Technical lead for analyzing stormwater data and simulating stormwater pollutant loads for various annual stormwater management programs.
- Faculty for watershed management technical training workshops and speaker for municipal stormwater management seminars throughout California.
- Technical lead for developing program elements and implementation schedules related to new development guidelines, maintenance of structural controls, and municipal operations.

HONORS AND ACTIVITIES

- Registered Professional Engineer in California (license #C58106)
- Certified Lake Professional, North American Lake Man. Society (Cert. #: 13-08P)
- President, California Lake Management Society
- Chair, Board of Directors, Putah Creek Council
- Research Associate, Tahoe Environmental Research Center
- Civil Exam Committee Member, National Council of Examiners for Engrg. & Surveying
- Fulbright Senior Specialist (Haiti, 2008; Chile 2013) and Peer Reviewer
- Professional Affiliate, US Dept. of State's Humphrey Scholars Program
- External Examiner, University of Malawi Faculty of Engineering Dissertations
- Mentor, UC Davis Guardian Scholars Program
- Member, Yolo Basin Foundation
- Member, Water Environment Federation
- Member, California Water Environment Association
- Member, North American Lake Management Society
- Member, Central Valley Clean Water Association
- Member, CA Water Environment Modeling Forum
- Safety Assessment Program Evaluator, California Emergency Management Agency
- Member, Phi Kappa Phi, Tau Beta Pi, and Pi Tau Sigma honor societies
- Graduate Fellow, Tau Beta Pi
- Court Appointed Special Advocate, Yolo County, CA
- Sierra Crest Award Honoree, The Sierra Fund
- UC Davis Community Service Award recipient
- Parent Council Facilitator, Davis Waldorf School

MAJOR PUBLICATIONS

Kusakabe, M., G.Z. Tanyileke, S.A. McCord and S.G. Schladow (2000). "Recent pH and CO₂ profiles at Lakes Nyos and Monoun, Cameroon: Implications for the degassing strategy and its numerical simulation." *J. Geophys. Res.*, 97/1-4: 241-260.

McCord, S.A. (1997). "Lake and reservoir management." *Water Envir. Res.*, 69(4): 737-749.

McCord, S.A., and W.A. Heim (2015). "Identification and Prioritization of Management Practices to Reduce Methylmercury Exports from Wetlands and Irrigated Agricultural Lands." *Envir. Mans.*, 55(3): 725-740. DOI 10.1007/s00267-014-0425-5

- McCord, S.A., J. Kollar, and T. Huang (1998). "Lake and reservoir management." *Water Envir. Res.*, 70(4): 767-780.
- McCord, S.A., and S.G. Schladow (1998). "Numerical simulations of degassing scenarios for CO₂-rich Lake Nyos, Cameroon." *J. Geophys. Res.*, 103(B6): 12,355-12,364.
- McCord, S. A., and S. G. Schladow (2000). "Design parameters for artificial aeration of ice-covered lakes using surface aerators." *Lake and Reserv. Manage.*, 17(2):121-126.
- McCord, S.A., S.G. Schladow, and T.G. Miller (2000). "Modeling artificial aeration kinetics in ice covered lakes." *J. Environ. Eng.-ASCE*, 126: (1) 21-31.

MAJOR PRESENTATIONS

A list of presentations at over 25 major regional and international professional conferences is available upon request.

EXHIBIT E



July 26, 2016

Ms. Osha Meserve
Soluri Meserve
1010 F Street, Suite 100
Sacramento, CA 95814

**Subject: Field & Pond Bed & Breakfast and Special Event Facility Use
Permit Initial Study/Mitigated Negative Declaration Revised and
Recirculated, Yolo County, CA. SCH # 2016032024 P15113**

Dear Ms. Meserve:

Per your request, I have reviewed the portions of the Revised and Recirculated Initial Study / Mitigated Negative Declaration (the "IS/MND") for the Field & Pond Bed & Breakfast and Special Event Facility (the "Project") on County Road 29 in Yolo County (the "County") with respect to transportation/traffic matters. My qualifications to perform this review include registration as a Civil and Traffic Engineer in California and over 48 years professional consulting engineering practice in the traffic and transportation. I have both prepared and reviewed the transportation and circulation sections of environmental review documents, including studies of similar developments. I am familiar with the surroundings of the proposed Project having been involved with traffic and transportation issues associated with other developments in western Yolo County. My professional resume is attached.

My technical comments on the DEIR follow.

The Fundamental Flaw of the IS/MND Is That It Is Unreasonably Dismissive of the Hazards Inherent in Introducing Large Numbers of Unfamiliar and Mostly Urban Drivers onto Substandard Rural Local Roads Suited Solely for Agricultural and Local Resident Access

Under topic XVI Transportation/Traffic of the CEQA Initial Study Checklist Form Initial Study Checklist Form Item "d" questions:

Would the Project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The IS/MND rates this *less than significant with mitigation incorporated*. This conclusion defies known facts and logic.

Consider known statistics. The National Highway Traffic Safety Administration statistics show that in 2013, almost 54 percent of all fatal traffic crashes occurred on rural roads, despite the fact that only about 19 percent of the US population lived in rural areas. On a per mile driven basis, a person was 2.6 times more likely to be killed on a rural road than on an urban road (1.88 fatal crashes per 100 million miles driven on rural roads versus only .93 on urban roadways)¹. Fundamentally, rural roads are much less safe than urban roads.

There are numerous reasons for this. Many rural roads pre-date and do not come close to conforming to roadway geometric standards, have minimal signs and markings, have little or no street lighting, suffer from minimal maintenance and pose challenges unexpected by unfamiliar urban drivers. In addition, there are driver-psychology considerations. Long straightaways, apparently minimal traffic and expectation of minimal enforcement, leads unfamiliar urban drivers to travel much too fast without respect for speed limits (if posted), to attempt unsafe passes of slow-moving vehicles, and other driving behaviors, which render them less capable of responding to the challenges of the road when those challenges occur (such as encountering an unexpected sharp curve or the sudden emergence of a farm vehicle from a 'blind' driveway).

Road 29 in the Project vicinity typifies the conditions that make rural roads dangerous, especially for unfamiliar drivers. County Road 29 has narrow lanes (at locations close to the Project site less than 10 feet wide), open drainage, no paved shoulders, heavily deteriorated pavement, no edge line markings, no curbs, occasional roadside objects close to the pavement edge, no posted speed limits, unmarked agricultural entries or continuous agricultural access, some entries with sight distance heavily screened by vegetation and no street lighting, even at the major curve points or the intersections with County Roads 89 and 88. At all 3 of the sharper curves, in one direction or the other, a farm road continues more or less straight from the approach alignment, tending to beckon unfamiliar drivers off the roadway instead of following the paved road around the curve. These curves are marked by solitary W1-6 arrows and one closely spaced pair has advanced curve warning signs (W1-3) with advisory speed plates of 15 miles per hour on both approaches. The 15 mile per hour advisory speed does not exaggerate the severity of the hazard, since the sharper of the curves is over 90 degrees, with about a 75 foot interior radius and no apparent superelevation. For about 1.2 miles east of the main Project driveway, Road 29 has no visible centerline markings. This segment without marked centerline includes the two sharpest curves described above.

This is the character of the roadway onto which the Project proposes to attract large numbers of unfamiliar, mostly urban, drivers. Many of the events will conclude after dark. Some may both start and conclude after dark. Many of the

¹ See *Traffic Safety Facts, Urban/Rural Comparison*, Department of Transportation, National Highway Traffic Safety Administration, DOT HS 812 181, July, 2015.

events are of a character such that there will be alcoholic drink consumption. The issue here is not one of volumetric highway capacity. It is simply that the fundamental physical characteristics of Road 29 that affect safety and safety hazards are incompatible with a use attracting this type of and extent of traffic. In my opinion, if the County permits a special event facility that attracts large amounts of unfamiliar visitor traffic on this road, the County's ordinary design immunity that stems from the fact that the road's design predates modern design standards might be subject to penetration.

Safety Issues Extend Beyond Hazardous Road Conditions

The Project site is relatively isolated and can be accessed and egressed solely via Road 29 coming from and departing to the east. Emergency service (ambulance and fire) must come from Main Street in Winters, about 8.5 miles away by the quickest route. Hence, even ordinary emergency response to emergencies that routinely happen with large special event gatherings of people would be slow. If Road 29 is blocked by some incident, emergency service to or, if conditions necessitate, evacuation of the Project would be impaired. We also note that west of County Road 88 for 2.16 miles to the project site and for some distance further west, Road 29 is a dead-end road. California Fire Code, Appendix D, Table D103.4 requires that dead-end fire access roads of less than 750 feet in length have a minimum pavement width of 20 feet and that dead-ends of more than that length have a minimum width of 26 feet. Hence, Road 29 does not even consistently meet the required width of the short dead-end street.

Proposed Mitigation Measures are Ineffective

Event Traffic

The applicant proposes to limit the amount of traffic attracted to the proposed facility by providing shuttle service to off-site locations (mainly in the I-80 corridor in Vacaville or Dixon). However, the site plan shows copious parking—seventy five spaces near the barn and ten or so more near the B&B buildings. Moreover, practically limitless temporary parking could be accommodated on the lawns or between the trees in the orchards. What guests, unless they are already quartered in an event-related hotel, will subject themselves to a half-hour bus ride each way if they believe they can drive and park?

The project sponsor also makes the speculative and facile assumption that guests will depart events like a wedding party in even hourly waves, which will nicely match the hourly cycling of shuttle bus trips to off-site parking and the IS/MND accepts this assumption. However, this assumption is contrary to experience. At a wedding party, although a few guests may trickle away early, most remain to the very end, then leave in a mass departure. Corporate events and marketing events are similar.

To purportedly mitigate safety issues associated with the character of Road 29, the IS/MND proposes that the applicant pay for an as yet undefined set of signs that alerts visitors to the hazardous conditions of the road and a system to provide advance written notification to all guests of those hazardous conditions. The problems with these measures are that there is no way to evaluate the effectiveness of an undefined signage system and the fact that it is undefined makes this a deferral of mitigation that is improper under CEQA. As to the written notification system, this will probably depend on the event host for distribution, so the applicant has no direct control over whether it gets distributed to all attendees. Beyond that, who really reads their junk mail or remembers its content a week or two later when actually going to a party?

Existing Agricultural Traffic

Part of existing conditions on Road 29 and the surrounding roadways includes agricultural truck and equipment traffic. Many of these vehicles are oversized. When mixed with event traffic, this combination could be deadly, especially given the character and condition of the road.



The IS/MND asserts that, based on a 13 year old count, the existing average daily traffic on Road 29 is 149 vehicles per day. It is purely speculation whether this count is still representative of current conditions or is completely stale. It is also unknown whether the count was truly representative even when newly taken. How many days were counted and in what season of the year? What we can deduce though is that more than half the traffic when the 2003 count was taken was agricultural in nature since there are only 7 residences taking access from Road 29. But it is misleading to imagine that Road 29 always serves a low volume like 149 vehicles, give or take a few, day. The tomato growers along Road 29 inform us that at harvest each of their operations can generate 100 loaded trucks or more a day. That is 200 truck trips—100 loads out, 100 empties in per day—for each of the two of them. That is 200 truck trips apiece, or 400 truck trips a day total if they happen to harvest on the same day. Growers of other crops have different harvest peaking times but similar kinds of concentrations of haul traffic.

The mitigation measure in the IS/MND that requires the applicant to notify residents and farmers/ranchers along Road 29 several weeks in advance of large special events is ineffective. The IS/MND does not explain how this notification will somehow mitigate the safety risks that will occur as a result of traffic brought to the area by this project.

In fact, farmers have very little control over when their maximum activity takes place. Crops must be harvested quickly when they reach the right state of ripening—something that varies based on growing conditions from one year to another. In some cases, farmers have no direct control over when their peak harvest activity takes place at all. Contracts with food processing plants often allows the processor to dictate when the harvest must take place. So the purported notification system is ineffective and unlikely to mitigate the situation in any way.

There are Unresolved Baseline and Cumulative Issues

The IS/MND mentions that under County Code every A-X zoned property is allowed by-right to host up to one for-profit event per month or 8 per year involving up to 150 attendees or 100 vehicles. Given that, the analysis should consider what would happen if the owner of every so zoned parcel along Road 29 exercised that by-right option.

The IS/MND asserts that, based on a 13 year old count, the existing average daily traffic on Road 29 is 149 vehicles per day. It is purely speculation whether this count is still representative of current conditions or is completely stale. It is also unknown whether the count was truly representative even when newly taken. How many days were counted and in what season of the year? What we can deduce though is that more than half the traffic when the 2003 count was taken was agricultural in nature since there are only 7 residences taking access from Road 29. But it is misleading to imagine that Road 29 always serves a low volume like 149 vehicles, give or take a few, day. The tomato growers along Road 29 inform us that at harvest each of their operations can generate 100 loaded trucks or more a day. That is 200 truck trips—100 loads out, 100 empties in per day—for each of the two of them. That is 200 truck trips apiece, or 400 truck trips a day total if they happen to harvest on the same day. Growers of other crops have different harvest peaking times but similar kinds of concentrations of haul traffic.

The mitigation measure in the IS/MND that requires the applicant to notify residents and farmers/ranchers along Road 29 several weeks in advance of large special events is ineffective. The IS/MND does not explain how this notification will somehow mitigate the safety risks that will occur as a result of traffic brought to the area by this project.

In fact, farmers have very little control over when their maximum activity takes place. Crops must be harvested quickly when they reach the right state of ripening—something that varies based on growing conditions from one year to another. In some cases, farmers have no direct control over when their peak harvest activity takes place at all. Contracts with food processing plants often allows the processor to dictate when the harvest must take place. So the purported notification system is ineffective and unlikely to mitigate the situation in any way.

There are Unresolved Baseline and Cumulative Issues

The IS/MND mentions that under County Code every A-X zoned property is allowed by-right to host up to one for-profit event per month or 8 per year involving up to 150 attendees or 100 vehicles. Given that, the analysis should consider what would happen if the owner of every so zoned parcel along Road 29 exercised that by-right option.

Conclusion

Given the foregoing, there will be potentially significant transportation impacts. Thus, the IS/MND is inadequate and a full EIR that adequately addresses transportation-related impacts and safety deficiencies and defines discrete and measurably effective mitigation be prepared.

Sincerely,

Smith Engineering & Management
A California Corporation



Daniel T. Smith Jr., P.E.
President



SMITH ENGINEERING & MANAGEMENT

DANIEL T. SMITH, Jr. **President**

EDUCATION

Bachelor of Science, Engineering and Applied Science, Yale University, 1967
Master of Science, Transportation Planning, University of California, Berkeley, 1968

PROFESSIONAL REGISTRATION

California No. 21913 (Civil) Nevada No. 7969 (Civil) Washington No. 29337 (Civil)
California No. 938 (Traffic) Arizona No. 22131 (Civil)

PROFESSIONAL EXPERIENCE

Smith Engineering & Management, 1993 to present. President.
DKS Associates, 1979 to 1993. Founder, Vice President, Principal Transportation Engineer.
De Leuw, Cather & Company, 1968 to 1979. Senior Transportation Planner.
Personal specialties and project experience include:

Litigation Consulting. Provides consultation, investigations and expert witness testimony in highway design, transit design and traffic engineering matters including condemnations involving transportation access issues; traffic accidents involving highway design or traffic engineering factors; land use and development matters involving access and transportation impacts; parking and other traffic and transportation matters.

Urban Corridor Studies/Alternatives Analysis. Principal-in-charge for State Route (SR) 102 Feasibility Study, a 35-mile freeway alignment study north of Sacramento. Consultant on I-280 Interstate Transfer Concept Program, San Francisco, an AA/EIS for completion of I-280, demolition of Embarcadero freeway, substitute light rail and commuter rail projects. Principal-in-charge, SR 238 corridor freeway/expressway design/environmental study, Hayward (Calif.) Project manager, Sacramento Northeast Area multi-modal transportation corridor study. Transportation planner for I-80N West Terminal Study, and Harbor Drive Traffic Study, Portland, Oregon. Project manager for design of surface segment of Woodward Corridor LRT, Detroit, Michigan. Directed staff on I-80 National Strategic Corridor Study (Sacramento-San Francisco), US 101-Sonoma freeway operations study, SR 92 freeway operations study, I-880 freeway operations study, SR 152 alignment studies, Sacramento RTD light rail systems study, Tasman Corridor LRT AA/EIS, Fremont-Warm Springs BART extension plan/EIR, SRs 70/99 freeway alternatives study, and Richmond Parkway (SR 93) design study.

Area Transportation Plans. Principal-in charge for transportation element of City of Los Angeles General Plan Framework, shaping nations largest city two decades into 21st century. Project manager for the transportation element of 300-acre Mission Bay development in downtown San Francisco. Mission Bay involves 7 million gsf office/commercial space, 8,500 dwelling units, and community facilities. Transportation features include relocation of commuter rail station; extension of MUNI-Metro LRT; a multi-modal terminal for LRT, commuter rail and local bus; removal of a quarter mile elevated freeway; replacement by new ramps and a boulevard; an internal roadway network overcoming constraints imposed by an internal tidal basin; freeway structures and rail facilities; and concept plans for 20,000 structured parking spaces. Principal-in-charge for circulation plan to accommodate 9 million gsf of office/commercial growth in downtown Bellevue (Wash.). Principal-in-charge for 64 acre, 2 million gsf multi-use complex for FMC adjacent to San Jose International Airport. Project manager for transportation element of Sacramento Capitol Area Plan for the state governmental complex, and for Downtown Sacramento Redevelopment Plan. Project manager for Napa (Calif.) General Plan Circulation Element and Downtown Riverfront Redevelopment Plan, on parking program for downtown Walnut Creek, on downtown transportation plan for San Mateo and redevelopment plan for downtown Mountain View (Calif.), for traffic circulation and safety plans for California cities of Davis, Pleasant Hill and Hayward, and for Salem, Oregon.

TRAFFIC • TRANSPORTATION • MANAGEMENT

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Transportation Centers. Project manager for Daly City Intermodal Study which developed a \$7 million surface bus terminal, traffic access, parking and pedestrian circulation improvements at the Daly City BART station plus development of functional plans for a new BART station at Colma. Project manager for design of multi-modal terminal (commuter rail, light rail, bus) at Mission Bay, San Francisco. In Santa Clarita Long Range Transit Development Program, responsible for plan to relocate system's existing timed-transfer hub and development of three satellite transfer hubs. Performed airport ground transportation system evaluations for San Francisco International, Oakland International, Sea-Tac International, Oakland International, Los Angeles International, and San Diego Lindberg.

Campus Transportation. Campus transportation planning assignments for UC Davis, UC Berkeley, UC Santa Cruz and UC San Francisco Medical Center campuses; San Francisco State University; University of San Francisco; and the University of Alaska and others. Also developed master plans for institutional campuses including medical centers, headquarters complexes and research & development facilities.

Special Event Facilities. Evaluations and design studies for football/baseball stadiums, indoor sports arenas, horse and motor racing facilities, theme parks, fairgrounds and convention centers, ski complexes and destination resorts throughout western United States.

Parking. Parking programs and facilities for large area plans and individual sites including downtowns, special event facilities, university and institutional campuses and other large site developments; numerous parking feasibility and operations studies for parking structures and surface facilities; also, resident preferential parking .

Transportation System Management & Traffic Restraint. Project manager on FHWA program to develop techniques and guidelines for neighborhood street traffic limitation. Project manager for Berkeley, (Calif.), Neighborhood Traffic Study, pioneered application of traffic restraint techniques in the U.S. Developed residential traffic plans for Menlo Park, Santa Monica, Santa Cruz, Mill Valley, Oakland, Palo Alto, Piedmont, San Mateo County, Pasadena, Santa Ana and others. Participated in development of photo/radar speed enforcement device and experimented with speed humps. Co-author of Institute of Transportation Engineers reference publication on neighborhood traffic control.

Bicycle Facilities. Project manager to develop an FHWA manual for bicycle facility design and planning, on bikeway plans for Del Mar, (Calif.), the UC Davis and the City of Davis. Consultant to bikeway plans for Eugene, Oregon, Washington, D.C., Buffalo, New York, and Skokie, Illinois. Consultant to U.S. Bureau of Reclamation for development of hydraulically efficient, bicycle safe drainage inlets. Consultant on FHWA research on effective retrofits of undercrossing and overcrossing structures for bicyclists, pedestrians, and handicapped.

MEMBERSHIPS

Institute of Transportation Engineers Transportation Research Board

PUBLICATIONS AND AWARDS

Residential Street Design and Traffic Control, with W. Homburger *et al.* Prentice Hall, 1989.

Co-recipient, Progressive Architecture Citation, *Mission Bay Master Plan*, with I.M. Pei WRT Associated, 1984.

Residential Traffic Management, State of the Art Report, U.S. Department of Transportation, 1979.

Improving The Residential Street Environment, with Donald Appleyard *et al.*, U.S. Department of Transportation, 1979.

Strategic Concepts in Residential Neighborhood Traffic Control, International Symposium on Traffic Control Systems, Berkeley, California, 1979.

Planning and Design of Bicycle Facilities: Pitfalls and New Directions, Transportation Research Board, Research Record 570, 1976.

Co-recipient, Progressive Architecture Award, *Livable Urban Streets, San Francisco Bay Area and London*, with Donald Appleyard, 1979.

Dear Planning Commissioner,

We're writing to express our concern and opposition to the proposed Field and Pond event center. There are a number of reasons for our opposition, many that have already been expressed by other individuals opposed to the project. However, our main concern is the inability of the road to safely accommodate the expected traffic from planned events.

We live in the agricultural community on a very similar narrow dead-end road not far from the proposed project. Like road 29, our road is unmarked and used primarily by residents, farmers and the vehicles necessary for farming practices. We are familiar with the fact that in various places, it is simply not wide enough for two vehicles to safely pass. Therefore, when residents and/or farmers see a vehicle traveling in the opposite direction, drivers pull over in an area where space allows and wait for the oncoming vehicle to pass before proceeding. During the growing season and harvest, it is normal for semi-trucks and farm equipment to travel the road day and night. We all know the road, what to expect and drive accordingly.

Although the eastern section of county road 29 is marked with a centerline and no shoulder, the road's western portion toward the proposed project is similar to ours. It narrows, has no markings and in several areas is not wide enough to accommodate two passing vehicles much less a semi-truck, harvester or tractor with implements. How can this road safely handle the expected traffic when most people will be unfamiliar with the area? How will the attendees safely navigate the road at night, especially with passing vehicles, trucks and farming equipment?

If Field and Pond is passed as proposed, it would set a precedent for future event centers to be placed in similar areas. We've lived in our home for over 21 years and can attest to the fact that if this event center was established on our narrow dead-end road, it would wreak havoc for farmers, farming equipment operators, truckers and residents. The road, like county road 29, is simply not designed to handle the volume of traffic from an event center.

The beauty of Yolo County and its rich farmland continues to bring interest to people and business owners from out of the area to live as well as establish farms and businesses. It is a given that longtime rural residents and farmers will have concerns about a project like this no matter where they are proposed as there will be inconveniences and hurdles to overcome as a result. When considering projects such as Field and Pond, it is our desire that the planning commission allow them to be placed only in areas where negative impacts on agriculture practices be kept to a minimum, preservation of farmland be of highest importance and road hazards to residents and visitors be heavily considered and avoided. Field and Pond will be an event center with a proposed thousands of attendees per year. The property is among rich farmland on the end of a narrow dead-end farming road with only one way in and one way out. We don't believe the site of the proposed business is in the best interest of agriculture endeavors, the safety of the general public nor our community. There are much more suitable areas for such businesses in Yolo County.

We thank you for your consideration.

Sincerely,

Brian and Deirdre Cross

CHAD ROBERTS, PH.D.

SENIOR ECOLOGIST (ESA), PROFESSIONAL WETLAND SCIENTIST (SWS)



28 July 2016

Stephanie Cormier, Senior Planner
Yolo County Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95695

Subject: Comments, Revised/Reissued Negative Declaration, Field and Pond Project, ZF2015-0018

Dear Ms. Cormier,

The following comments address the revised and reissued Initial Study (IS) and Draft Negative Declaration (NegDec) for the proposed Field and Pond Event Center Project on Road 29 in western Yolo County.

Many of the comments hereunder incorporate or are based on comments I sent to the Planning Department in April regarding the previous draft IS/NegDec, as many previously identified environmental concerns still exist for the revised environmental document. As before, most comments are focused on aspects of the natural environment on the site or in the vicinity; additional comments address selected land use and public services issues. My 04 April 2016 comment letter addressing the previous IS/NegDec is attached; please be sure that it's fully incorporated (with its attachments) into the county administrative record and provided for decision-maker review.

As indicated in my previous letter, I've been familiar with ecological conditions in the project vicinity and on the project for more than four decades, and have visited the area at irregular intervals over the years to observe changing conditions there. Generally, I've worked for more than 35 years as an applied ecologist and environmental planner, and I'm very familiar with both ecological science and environmental assessment processes as they relate to project environmental reviews. A brief resume (Attachment A) summarizes some relevant qualifications, particularly noting selected experiences with wetlands, riparian areas, and oak woodlands.

The revised IS/NegDec is improved with respect to its assessment of biological and conservation impacts resulting from the proposed project. The improvements are a result primarily of the inclusion of several broad-spectrum changes in the project. These are: (1) the completion of a credible biological study (by Estep Consulting, Attachment A to the revised IS/NegDec), which clearly identified a number of significant impacts from the proposed project and provided recommendations for mitigating some of the impacts; (2) the removal of the proposed development elements south of Chickahominy Slough and the area's retention as habitat; and (3) the recognition of the General Plan requirement in Policy CO-2.22 for a protective 100-foot setback of development from aquatic features on the project site, including Chickahominy Slough and the "2-acre pond."

Notwithstanding the substantial improvement in the NegDec, however, the assessment still fails to incorporate a sufficiently comprehensive framework that fully includes the proposal's effects

on the biological environment, and a number of significant environmental consequences are both unanalyzed and unmitigated. It remains my professional opinion that the IS/NegDec fails to meet the requirements of the California Environmental Quality Act (CEQA) with respect to the proposed project, failing to avoid, reduce, or offset adverse environmental consequences as required by law.

General Plan Relationships to CEQA Assessments

The reissued IS/NegDec incorporates an important relationship to adopted General Plan policies, as the IS/NegDec recognizes the requirement in Conservation and Open Space Policy CO-2.22 for 100-foot setbacks from aquatic features as a “threshold” for identifying significant environmental impacts. This conclusion is a general relationship that should have been carried forward for all subject areas in the Initial Study: *A proposed use (such as the proposed event center) creates a significant environmental impact when it conflicts with any single policy, or multiple policies, in an adopted General Plan.* This conclusion follows directly from long-standing elements in California law, most generally the state’s General Plan Guidelines¹ and the underlying Government Code, which require that proposed land uses be consistent with the jurisdiction’s adopted General Plan.

The proposed project conflicts with multiple policies in the county’s adopted General Plan; the conflicts discussed in this letter pertain mainly to conservation policies and are considered further below. However, when the IS openly identifies a direct conflict with adopted land use policies in its discussion under item X, it fails to identify this conflict as an environmentally significant impact, and instead offers the conclusory statement (p. 49): “The proposed project would not conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.” The discussion under item b in section X (p. 50) states: “The County’s zoning code defines agri-tourism as an income-generating activity conducted on a working farm or ranch, or other agricultural operation or agricultural facility,” followed by this conclusion: “the initial phase of the project cannot be characterized as meeting the County’s definition of agri-tourism” because the proposed site is clearly not a working farm or ranch with existing, ongoing agricultural operations. This is a *prima facie* conflict with policies in the adopted General Plan. The IS/NegDec subsequently argues that the inclusion of mitigation measures and conditions of approval (which are not identified in the IS/NegDec, an issue with the county’s review process further discussed below) remove all conflicts with adopted General Plan policies, a conclusion that’s clearly false.

The above example indicates a prevailing failure by the IS/NegDec to identify the overall incompatibility of the proposed event center project with land use policies in the adopted General Plan (others are discussed below). The pattern doesn’t merely fail to identify and mitigate an obvious impact; it represents a failure to perform the county’s public duty to avoid conflicts resulting from fundamentally incompatible land uses. The proposed event center is essentially an urban-type land use that’s being proposed in a remote and rural part of Yolo County. This

¹ For reference purposes, the current General Plan Guidelines may be downloaded from the OPR website at URL: https://www.opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf. A proposed revision of the Guidelines is also available: https://www.opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf.

proposal conflicts with the predominant character of all other land uses in the vicinity. The proposal originates, not as a way to strengthen the viability of existing agricultural operations in the vicinity, but as a fundamentally incompatible use sought by non-agricultural landowners who propose (after the fact of establishing and operating an event center without prior approval) to find some combination of elements that might allow the project to be construed as “agricultural.” This is clearly not what the adopted General Plan intended for the “agri-tourism” land uses in the zoning code, and the incompatibility represents a stark failure to identify a significant environmental land use impact under CEQA. However, an elephant cannot be turned into a giraffe by painting spots on its hide.

The land use incompatibility is so significant that multiple commenters, including adjacent landowners, the Farm Bureau, other organizations and numerous citizens, a number of county departments, and other non-county public agencies (including the state’s Department of Conservation) sent comments to the Planning Department identifying the conflict as a major issue. Regardless of claims made in the NegDec, this fundamental conflict is a major environmental concern of the type that the California Environmental Quality Act (CEQA) identifies a cause for the lead agency to prepare an Environmental Impact Report (EIR).²

General Plan Policy Consistency for Conservation and Open Space Element Policies

My 04 April letter to the county regarding the previous NegDec identified a number of policies in the adopted Conservation and Open Space Element for which the proposed event center project represents an inconsistent activity. One of those policies was CO-2.22, which the county has belatedly applied to prevent some of the most significant impacts that could have occurred should the project have been approved as proposed. Conservation Element policies specifically relevant for the proposed event center project were enumerated in the earlier letter. Rather than duplicating the entire list, I re-quote particularly relevant policies here:

Policy CO-2.1. Consider and maintain the ecological function of landscapes, connecting features, watersheds, and wildlife movement corridors.

Policy CO-2.3. Preserve and enhance those biological communities that contribute to the county’s rich biodiversity including blue oak and mixed oak woodlands, native grassland prairies, wetlands, riparian areas, aquatic habitat, agricultural lands, heritage valley oak trees, remnant valley oak groves, and roadside tree rows.

Policy CO-2.9. Protect riparian areas to maintain and balance wildlife values.

² In providing guidance for the lead agency in determining whether an EIR is required, the CEQA Guidelines include the following in Section 15064:

“(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. *For example, an activity which may not be significant in an urban area may be significant in a rural area.*

“(c) In determining whether an effect will be adverse or beneficial, *the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency.* Before requiring the preparation of an EIR, the Lead Agency must still determine whether environmental change itself might be substantial.” (*emphasis added*)

Policy CO-2.22. Prohibit development within a minimum of 100 feet from the top of banks for all lakes, perennial ponds, rivers, creeks, sloughs, and perennial streams. A larger setback is preferred. The setback will allow for fire and flood protection, a natural riparian corridor (or wetland vegetation), a planned recreational trail where applicable, and vegetated landscape for stormwater to pass through before it enters the water body. Recreational trails and other features established in the setback should be unpaved and located along the outside of the riparian corridors whenever possible to minimize intrusions and maintain the integrity of the riparian habitat. Exceptions to this action include irrigation pumps, roads and bridges, levees, docks, public boat ramps, and similar uses, so long as these uses are sited and operated in a manner that minimizes impacts to aquatic and riparian features. (DEIR MM BIO-1b)

Policy CO-2.30. Protect and enhance streams, channels, seasonal and permanent marshland, wetlands, sloughs, riparian habitat and vernal pools in land planning and community design.

Policy CO-2.36. Habitat preserved as a part of any mitigation requirements shall be preserved in perpetuity through deed restrictions, conservation easement restrictions, or other method to ensure that the habitat remains protected. All habitat mitigation must have a secure, ongoing funding source for operation and maintenance. (DEIR MM BIO-1c)

Policy CO-2.38. Avoid adverse impacts to wildlife movement corridors and nursery sites (e.g., nest sites, dens, spawning areas, breeding ponds). Preserve the functional value of movement corridors to ensure that essential habitat areas do not become isolated from one another due to the placement of either temporary or permanent barriers within the corridors. Encourage avoidance of nursery sites (e.g., nest sites, dens, spawning areas, breeding ponds) during periods when the sites are actively used and that nursery sites which are used repeatedly over time are preserved to the greatest feasible extent or fully mitigated if they cannot be avoided. (DEIR MM BIO-4a)

In a general sense, the overall guidance for all of these conservation policies is captured in Policy CO-2.1: “*Consider and maintain the ecological function of landscapes, connecting features, watersheds, and wildlife movement corridors.*” The policy directs county staff and decision-makers to maintain the ecological functions of landscape elements in the county, including features that integrate or connect them throughout the landscape. Riparian corridors associated with streams in the county have a primary significance in this policy, because they have a dual role in providing high-value habitat for resident species while also functioning as the most important ecological linkages to maintain ecosystem functions within the landscape. Oak woodlands are also identified as conservationally significant, including those dominated by blue oak (and particularly those in which valley oak occurs).

The IS/NegDec disregards these Conservation Element policies, not even identifying them in reviewing the potential for significant environmental effects resulting from planning inconsistency. Under state law, however, these Conservation Element policies have exactly the same status as every other policy in the adopted General Plan in shaping the county’s land use and environmental obligations. Each and every one of these policies applies explicitly to the

county's review process for the proposed event center proposal. This status is identified explicitly in the General Plan Guidelines (pp. 12-13), which states:³

“Internal Consistency: The concept of internal consistency holds that no policy conflicts can exist, either textual or diagrammatic, between the components of an otherwise complete and adequate general plan. Different policies must be balanced and reconciled within the plan.

“Equal Status Among Elements: All elements of the general plan have equal legal status. For example, the land use element policies are not superior to the policies of the open-space element.

“Consistency Between Elements: All elements of a general plan, whether mandatory or optional, must be consistent with one another.

“Consistency Within Elements: Each element's data, analyses, goals, policies, and implementation programs must be consistent with and complement one another.”

While the requirements of Policy CO-2.22 are addressed in the reissued document (largely because the biological study's author identified the potential for environment impacts if the policy were not followed), the IS/NegDec does little to identify functional inconsistencies of the proposed use with these quoted Conservation Element policies. In addition to failing to follow Government Code requirements for plan consistency review, the NegDec generally fails to identify impacts for conservation resources resulting from the proposed event center, or mitigation measures that fully offset impacts that arise from these conflicts, pursuant to requirements in the Public Resources Code and the California Code of Regulations.

The NegDec's inadequate consideration of planning conflicts extends to its consideration of habitat conservation plans under section X, where item c requires an identification of conflicts with applicable habitat conservation plans (HCPs) and natural community conservation plans (NCCPs). The NegDec dismisses potential conflicts with a statement that the Yolo Habitat Conservancy's HCP/NCCP has not been adopted and therefore there's no conflict. However, CEQA arguably requires (and this CEQA checklist section explicitly requires) a consideration of conflicts with “any applicable” HCP or NCCP; this environmental concern does not depend on whether or not the HCP or NCCP has been formally adopted. The Yolo Habitat Conservancy's HCP/NCCP clearly is an “applicable” conservation plan for Yolo County. What CEQA asks is that lead agencies identify conflicts with plans applicable to the lead agency's area of jurisdiction. The proposed event center project presents a potentially significant conflict with the NCCP. The IS/NegDec is deficient in not assessing the proposed project for impacts that affect the HCP/NCCP.

Chickahominy Slough is identified in the HCP/NCCP as a “habitat connectivity” linkage in the NCCP context, which requires that the NCCP demonstrate landscape-level elements sufficient to support conservation of the covered species.⁴ The Chickahominy Slough course in western Yolo

³ The underlying Government Code §65300.5 states: “*In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.*”

⁴ For example, Fish and Game Code §2820 (part of the NCCP Act) includes the following:

“(a). The department shall approve a natural community conservation plan for implementation after making the following findings, based upon substantial evidence in the record: ...

“(4) The development of reserve systems and conservation measures in the plan area provides, as needed for the conservation of species, all of the following:

County is identified in the HCP/NCCP as one of several west-county riparian linkages where land acquisition for habitat purposes would carry out plan policies. Further, the Chickahominy Slough corridor is also identified as an important conservation linkage in western Yolo County in the YHC's draft Local Conservation Plan.⁵

The failure to consider the content of the HCP/NCCP is not merely an oversight based on the currently unadopted status of the plan. The county's adopted General Plan Conservation Element also includes policies that specifically direct the county to consider the HCP/NCCP and incorporate portions as an implementation of General Plan Conservation Element policies when it's implemented. For example, Policy CO-2-4 states: "*Coordinate with other regional efforts (e.g., Yolo County HCP/NCCP) to sustain or recover special-status species populations by preserving and enhancing habitats for special-status species.*" Policies CO-2.40, CO-2.42, and CO-2.43 also explicitly refer to incorporating the HCP/NCCP as implementation for General Plan Conservation Element policies. The proposed event center project may significantly affect the ability of the HCP/NCCP to meet its objectives, but this potential environmental effect is not considered in the IS/NegDec, notwithstanding the previously established linkage between General Plan policies and the HCP/NCCP.

Mitigation Requirements in CEQA Documentation

In considering various subject areas under the CEQA checklist, the IS/NegDec fails to comply, in two contexts, with requirements for identifying mitigation under the California Environmental Quality Act.

When the IS considers potential impacts associated with a variety of essential services, rather than providing evidence that potential impacts have been studied, where the evidence indicates that no significant impacts will occur, the IS relies on the completion of future studies and approvals by other entities to meet the county's CEQA obligations. For example, in considering onsite wastewater treatment and disposal (p. 64), the IS concludes that no adverse environmental effects will result from the proposed project because the applicant will be required to obtain an "approval" from the county's Health Department: "As a Condition of Approval, the project will be required to obtain final approval for expanded use of an existing or any new onsite sewage disposal system(s) from Yolo County Environmental Health prior to implementation of the project. Thus, the project is not expected to create any new health or safety concerns from improper wastewater disposal and impacts will be less than significant." While it's certainly true

"(A) Conserving, restoring, and managing representative natural and seminatural landscapes to maintain the ecological integrity of large habitat blocks, ecosystem function, and biological diversity.

"(B) Establishing one or more reserves or other measures that provide equivalent conservation of covered species within the plan area and *linkages between them and adjacent habitat areas outside of the plan area.* ...

"(D) Incorporating a range of environmental gradients (such as slope, elevation, aspect, and coastal or inland characteristics) and high habitat diversity to provide for shifting species distributions due to changed circumstances.

"(E) *Sustaining the effective movement and interchange of organisms between habitat areas* in a manner that maintains the ecological integrity of the habitat areas within the plan area." (*emphasis added*)

⁵ Other west-county stream corridors identified in this context include Enos Creek/Dry Creek, Cottonwood Creek, Willow Slough, Thompson Canyon, Oat Creek, Bird Creek, and Buckeye Creek. In addition, Cache Creek and Putah Creek are primary east-west riparian linkages providing landscape connectivity within the plan area.

that the proposed project will need approval from the Health Department (and potentially the Regional Water Board), this is an abdication of the county's CEQA obligation to provide substantial evidence in the CEQA review process that potential impacts to surface and groundwater quality can or will be mitigated.⁶

Whether or not the proposed project is able to provide adequate onsite wastewater treatment and disposal is an environmental concern for CEQA review purposes. Information sufficient to enable review by the public and by other agencies of the project's ability to meet the wastewater treatment and disposal requirements must be included in the IS, as the applicants' inability or unwillingness to meet these requirements because of cost or site-specific constraints would be a significant effect on the local environment. Typically evidence to address this effect includes a study conducted by qualified engineering personnel, with a signed statement or report documenting the analytical results that is included in the county's administrative record and cited in the CEQA document. There's no indication that such evidence exists, or that the county has considered it.

Deferring such studies until after the environmental review process is completed prevents affected parties from effectively participating in the process, which is contrary to CEQA's requirements for open public review of environmental consequences based on substantial evidence in the county's administrative record. Each time the IS/NegDec adopts this approach it violates CEQA's directives to base conclusions on substantial evidence in the record.

As in the above example, the IS/NegDec repeatedly invokes future "conditions of approval" as means to assert that project impacts will not cross thresholds of significance. None of these conditions of approval is included in the IS/NegDec. Neither the public nor responsible and trustee agencies can evaluate these unstated future "conditions" to determine whether they actually avoid, reduce or offset impacts from this proposed project.

This is a fundamental violation of CEQA's requirement that lead agencies identify mitigation measures in the CEQA documents prepared for proposals that the lead agency is considering. CEQA requires that lead agencies assure that mitigation measures will be implemented,⁷ and this is typically accomplished by making them conditions of approval associated with the agency's action. However, *actions that are intended to mitigate the impacts of a proposal are mitigation measures, and they must be stated in the CEQA document to enable the concerned public and other agencies to consider them and comment on them.* In every instance where the IS/NegDec invokes a future condition of approval to avoid, reduce, or offset an impact, it fails to comply with CEQA's requirements.

⁶ The CEQA Guidelines include the following guidance in §15126.4(a)(1)(B):

"Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. *Formulation of mitigation measures should not be deferred until some future time.* However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way." (*emphasis added*)

⁷ The CEQA Guidelines in §15126.4(a)(2) state in relevant part:

"Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments."

A particularly illustrative example of this failure to comply with CEQA pertains to the implementation of General Plan Policy CO-2.22. The biological study recommends implementing a 100-foot setback as mitigation for biological impacts to Chickahominy Slough and its riparian resources, and includes a number of specific elements that reviewers can consider for potential effectiveness (see further discussion below). However the IS/NegDec simply states (p. 32): “the project will be required, through implementation of adopted Conditions of Approval, to maintain a minimum 100-foot buffer from Chickahominy Slough and the two-acre pond for all new development.” This “condition of approval” is not stated in the IS, and reviewers have no way to assess whether the measure will actually protect the environmental resources that exist on the site or the conservation values that the site represents for more regional concerns. Further, there’s no way that reviewers can be assured that the unstated condition of approval will actually be adopted (or that it won’t be substantially modified) as part of the county’s project-review process, as that’s a future action that can’t be known or considered in responding to the IS/NegDec.

This failure to specify the content of an action that the lead agency proposes to require to avoid impacts prevents me from evaluating the “condition of approval” and its potential for avoiding, reducing, or offsetting project effects to conservation resources that concern me directly as a Yolo County resident. The failure to identify this functional mitigation for review is contrary to the requirements of the California Environmental Quality Act. I am left with the conclusion that there are impacts from the proposed event center project that are unaddressed by the IS/NegDec, that the failure to address them with clearly identified mitigation measures means that the proposed project will have environmentally significant unmitigated impacts, and that the county’s review process for this proposal fails to comply with CEQA.

Specific Comments about Biological Resources in the Revised IS/NegDec

The revised and reissued document is much improved with respect to considerations of biological resources, largely because of the work of its professional biological consultant. Two major improvements stand out:

- The adoption of 100-foot setbacks for Chickahominy Slough and the onsite pond will protect many of the resource values north of the slough.
- The open space easement covering the land south of Chickahominy Slough will (ostensibly, but see comment on p. 12 below) prevent its conversion to orchards or other non-grassland condition, which will both protect the onsite habitat values and augment the capacity of the site to function as an ecological corridor.

The changes help to protect the ecological conditions and functions that the project location provides, which are addressed in several of the Conservation Element policies quoted previously. However, the IS/NegDec is unclear with respect to real details of the measures that the county will require if the project is approved, particularly with respect to the 100-foot setbacks.⁸

⁸ The 100-foot distance in Policy CO-2.22 refers to a *setback*, beginning at the top of the streambank or the edge of the pond. No development or other alterations are included within these setbacks, as the purpose is to protect the conditions within the setbacks. That is, these are not “buffers” for the aquatic features (as the IS/NegDec refers to them) established for the purpose of protecting or enhancing the aquatic features; considering these areas to be buffers would allow modifications aimed at reducing inputs to the aquatic features. The setbacks will effectively function as buffers, but the intent of the policy is to protect the conditions in the setbacks themselves.

Riparian zones associated with aquatic areas vary in width according to the “function” that is considered (National Research Council 2002); they can be relatively narrow for some functions (such as those related to water quality protection for some sites and some pollutants) to very wide for functions related to habitat. Under the policy framework in the adopted Yolo County General Plan the primary functions considered are habitat-related. While habitat-related setbacks as narrow as 100 feet may not fully address all impacts from adjacent development proposals (Sheldon et al 2005), this is a commonly adopted “standard” width in many regulatory contexts (see the recently adopted Sonoma County riparian zoning policy attached to my 04 April letter, attached). As such, the required 100-foot setback can be considered sufficient to protect most riparian-area resource values, and therefore it constitutes a scientifically defensible standard width as a mitigation measure under current CEQA guidance.

The riparian habitat associated with Chickahominy Slough through the project area is currently degraded (narrower than natural conditions support elsewhere in the vicinity, and fragmented because of “missing” trees and shrubs) because of human alterations on the site. The proposed event center project will further degrade the habitat’s values through:

- Intensified human presence, which is intrinsically a deterrent to wildlife use
- Increasingly altered habitat conditions resulting from the intrusion of site visitors into the riparian area, including not just the 100-foot setback but the slough channel itself
- Increased presence of domestic animals, which are intrinsically deterrents to wildlife use (especially dogs, for which even the odors left by past presence deters wildlife use) or predators (especially cats)
- Introduced exotic plant species, some of which will inevitably colonize the site, further altering biological communities at local and even regional scales

The Biological Report recommends, and the IS/NegDec adopts, a 100-foot riparian setback from Chickahominy Slough and the 2-acre pond as mitigation for impacts to riparian and aquatic resources. (The Report also includes a number of additional, specific recommendations for mitigating impacts from the proposed project; the IS/NegDec does not include these specific recommendations among the identified mitigation measures, and it’s unclear that they are proposed to be implemented to mitigate the proposed event center’s impacts.) A scientifically based claim exists that the degraded condition of the riparian zones currently associated with these aquatic features will not mitigate the impacts of the proposed event center. In order to offset the impacts of the proposed project it’s necessary to improve the currently degraded conditions. In my professional opinion, the following additional mitigation measures are necessary to meet CEQA’s requirements for mitigating project impacts.⁹

Mitigation Measure BIO-X1. Impacts to Chickahominy Slough’s habitat and linkage functions shall be avoided, reduced, or offset by implementing the following measure:

⁹ It should also be noted that Policy CO-2.36 in the adopted Yolo County General Plan (quoted previously) requires that measures adopted to mitigate impacts to riparian resources shall be established as easements or deed restrictions. This General Plan policy requirement applies to these riparian-related mitigation measures for the proposed event-center project.

- (1) Establish 100-foot setbacks along both north and south sides of Chickahominy Slough through the entire 80-acre project site. These setbacks shall include and be established along both sides of the tributary channel in the southwestern part of the project site.
- (2) Remove all project facilities from the 100-foot riparian setback, including the “event barn,” at the earliest feasible opportunity.
- (3) Exclude site visitors from the 100-foot riparian setback north of the creek by requiring a fence along the outer margin of the setback. A walking trail can be placed along the outer (north) side of the fence with interpretive signage indicating the functions of riparian linkages to Yolo County environmental resources and county residents.
- (4) Exclude all agricultural operations south of Chickahominy Slough from the 100-foot riparian setback by an impassible fence or barrier, and prevent disposal of agricultural residues within the setback.
- (5) Require a riparian restoration/enhancement plan for the entire 100-foot setback on both sides of Chickahominy Slough that will fill the existing gaps in the riparian corridor and widen the entire corridor to a 100-foot width on each side.
- (6) Restore/enhance appropriate riparian habitat conditions within the 100-foot setbacks along the tributary channel in the southwestern part of the project site (note: need not all include large woody plant species).
- (7) Establish the outer dripline of all riparian trees as a “no-entry” zone for machinery and people in order to protect roots and substrate conditions; all trails created on the site shall be located outside the dripline.

Mitigation Measure BIO-X2. Impacts to the 2-acre pond’s habitat functions may be avoided, reduced, or offset to some extent through implementing the following measure:

- (1) Consolidate to the extent possible all project features and use areas in order to minimize the disturbance footprint:
 - Relocate the parking lot from its current location north of the 2-acre pond. The most appropriate location for the parking area may be the strip of disturbed grass between County Road 29 and the gravel driveway east of the Main House.
 - Remove the four proposed cabins from the project due to the relocation of the parking area.
 - Relocate the proposed pool and cabana, which should be moved closer to the main house area to consolidate project elements.
 - Maintenance of cattail growth in the 2-acre pond should not occur during the breeding season (approximately March through August).
- (2) Maintain a 100-foot setback around the 2-acre pond. Prohibit visitor access into the setback, particularly during the tricolored blackbird’s breeding season (approximately March through August). Walking paths should be outside of the 100-foot setback. Rail fencing can be used to delineate the setback.

The county’s contracted Biological Report (on p. 13) includes a valid clarification about the conditions that define special-status species for CEQA review purposes. The Biological Report (Table 1) lists 22 species that are considered as potentially occurring on the project site. The county’s IS/NegDec subsequently addresses potential effects on selected species from this list (not coincidentally the species that were addressed in the previous version of the IS/NegDec), but it dismisses the project’s potential effects on the other species simply because the Biological Report identifies their primary habitat association as “grasslands,” which currently occur mostly

south of the slough. The IS/NegDec erroneously concludes that the project's effects only occur through direct habitat alteration, although other factors (such as the presence of domestic animals, noise, human activities, and other conditions associated with intensified human use) are known to adversely affect species-status species as well as other wildlife. Simply dismissing the potential effects of the project on these species is not what is required by CEQA, which is a reasoned consideration of the potential impacts of a proposed project on all aspects of the presence of these species and their use of the project area, for sheltering, breeding, foraging, and migration.

A reasoned consideration of the proposed event center project's effects on biotic resources is impossible without a more comprehensive assessment than is reflected in the IS/NegDec. Except for Estep's half-day survey (which cannot address the site's importance in any comprehensive sense, such as identifying its importance during migration periods or in terms of winter habitat value), no study has been conducted to document either which of the Report's listed species occur on the site or in the area, or which habitat elements are important to these species. Moreover, while the Report identifies a few additional species (all birds) that were observed on the site, it does not even claim to constitute a description of the wildlife species that occur on or utilize the site on a daily, seasonal, or annual basis. The Report also makes no claim to be an assessment of the project's effects on the full range of species that occur in the site or in the region, and it doesn't identify mitigation measures for any effects in this context. In short, the IS/NegDec lacks a factual or evidentiary basis to substantiate its dismissal of project impacts to regional biotic resources.

The Report explicitly does not address the scope of the proposal's impacts on *natural communities*, which is also a focus for CEQA project assessments. Environmental Checklist section IV, item b, requires a fact-based assessment of a proposal's impacts on riparian habitat or other "sensitive" communities that occur in the project area, as may have been identified in local or regional plans such as the HCP/NCCP and its associated Local Conservation Plan, or in the county's adopted Oak Woodlands Conservation and Management Plan, or in the updated State Wildlife Action Plan. The IS/NegDec fails to comply with CEQA's requirement to address the proposed event center project's impacts on the riparian habitat *per se*. Further, the IS/NegDec does not even mention the project's potential impacts on natural landscapes and the populations of organisms that depend on the habitats in the region, or on their conservation, as is intended by CEQA. Therefore it cannot comply with CEQA's requirements for identifying impacts to these public resources, or for mitigating those impacts, based on substantial evidence in the administrative record.

The IS/NegDec dismisses the project's potential impacts on wetlands by stating that the USFWS "Wetland Mapper" shows no federal jurisdictional wetlands on the project site. It then notes that no wetland identification/delineation was available to support any consideration of whether a federal "jurisdictional" wetland exists on the site. It's well-established among wetland practitioners that USFWS websites do not identify all wetlands subject to federal jurisdiction, which is not surprising because the definition of "wetland" used by the USFWS differs from the definition used by the two federal agencies responsible for implementing Section 404 of the Clean Water Act, the US Army Corps of Engineers and the USEPA. Applications for federal authorization for Clean Water Act permits require project-specific jurisdictional delineations, and do not rely on the USFWS "Wetlands Mapper" information. The county's IS/NegDec cannot

establish the existence of federal jurisdictional wetlands absent this kind of site-specific information, and therefore cannot comply with CEQA's requirement to identify impacts to these wetlands, or for identifying mitigation for such impacts, based on substantial evidence in the record.

Similar considerations exist for California wetland regulatory processes. While the State Water Boards generally use the federal Clean Water Act wetland definition and resulting delineation information for Section 401 certifications, or for related processes pursuant to the Porter-Cologne Act, the Department of Fish and Wildlife uses a much broader definition of wetlands in the "section 1600" process. Since no delineation results exist for the project site, the county's IS/NegDec is unable to address whether or not the project adversely affects wetlands that would be identified by state agencies, contrary to CEQA's requirements for substantial evidence on which decisions are based.

In identifying potential project-related impacts, the county should have recognized that all species are not identical, and that the environmental conditions in the project area differ among wildlife groups. In identifying evidence to support the evaluation of project impacts, appropriate methodology is necessary to identify effects on these different groups. For example, the importance of Chickahominy Slough as bat habitat (e.g., roosting or sheltering during daylight hours) is related to structure. The Biological Report reflects current understanding about bat habitat structural associations, and the existing habitat is most likely to be related to the abundance of tree-roosting bats during the warmer parts of the year. Use of riparian areas in central California in winter is significantly less well-known, although use of riparian areas in the region by wintering hoary bats (*Lasiurus cinereus*) has been suggested to be important to this species on a hemispheric scale (Cryan et al 2014). Identifying use by bats, and the importance of the project area and of the habitat elements in the project area, requires the application of appropriate study methodology, such as conducting acoustic surveys for bats

Bat foraging use is related primarily to prey species abundance, which is related to water. Chickahominy Slough is a seasonal or intermittent stream, and foraging value is expected to decline by early summer as prey abundance drops (Grindal et al 1999, Korine et al 2016). However, the 2-acre pond on the site is perennial and can be expected to provide water for drinking by foraging bats as well as emergent insect prey throughout the annual cycle. During the dryer parts of the year the presence of permanent water constitutes an essential element in sustaining bat populations in the Central Valley and bats [such as the Mexican free-tailed bat (*Tadarida brasiliensis*)] are known to travel many miles each night to forage. Use of the 2-acre pond by bats has not been evaluated either under current summer conditions or during the rest of the annual cycle, but the presence of "permanent" water likely indicates that the pond is a significant wildlife habitat element year-round regardless of its use by special-status species like Tricolored Blackbirds.

With respect to the 45 acres of the project site south of Chickahominy Slough the IS/NegDec essentially dismisses potential impacts by stating that the area will remain as it is currently. This statement has no basis in fact, as the application before the county proposes to use the area to establish some kind of "agricultural" use in order to qualify the project as complying with county General Plan and zoning requirements. It's absolutely not clear that the area will remain in its current state, and therefore the dismissal of potential impacts is not supported by any evidence,

and there is a high likelihood that changes in the grassland will result from any approvals granted by the county. Not requiring a clear explication of the future status of the grassland, and not evaluating the impacts of any changes, does not meet CEQA's requirements for fact-based assessments of a project the county is proposing to approve.

Until staff and decision-makers in Yolo County are able to address questions like these with fact-based substantial evidence, the county will not be able to show compliance with the requirements of the California Environmental Quality Act.

References Cited in the Section:

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Sheldon, D, T Hrubby, P Johnson, K Harper, A McMillan, T Granger, S Stanley, and E Stockdale. 2005. *Wetlands in Washington State - Volume 1: A Synthesis of the Science*. Washington State Dept. of Ecology. Publ. #05-06-006. Olympia, WA.

Conformance with California Environmental Quality Act Requirements

In my 04 April letter I identified a number of categories in which the county's Initial Study/Negative Declaration document failed to address CEQA requirements. While the modified project (with 100-foot setbacks for aquatic features and an expectation of no alterations in conditions south of Chickahominy Slough) could reduce the environmental consequences of the proposed event center project, and therefore the extent of concerns about lack of CEQA compliance, the revised/reissued IS/NegDec still demonstrates that its assessments fail to meet the county's obligations under CEQA.

As the CEQA Guidelines summarily state in subsection 15064(f)(1), "if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68)." This is commonly referred to as the "fair argument" standard for concluding that an EIR is required, and it presents a very low threshold for reaching that decision: a "fair argument" that the project will cause significant impacts, supported by substantial evidence. Under these circumstances an EIR is required even if the local agency has

other evidence that suggests that no significant impacts will occur. Further, if there is a public disagreement, supported by substantial evidence, about the significance of the project's impacts, then the local agency is required to prepare an EIR.

In this comment I've presented substantial evidence that a "fair argument" exists that the modified and reissued Negative Declaration for the Field and Pond Event Center project has still failed to address potentially significant environmental impacts, has failed to identify and disclose adequate mitigation measures for those effects, and represents a conclusory document that attempts to rationalize approving a project with environmentally significant impacts without avoiding, reducing, or offsetting those impacts as required by law.

The county may choose to (once more) retract the proffered Negative Declaration for revision, and subsequently issue a yet further-expanded environmental document. However, it's not likely that a further-revised NegDec will cure the ills that exist in the county's CEQA process for this proposal. The most appropriate and timely response is for the county to require the preparation of a legally adequate Environmental Impact Report.

Thank you for considering Yolo County's substantial environmental resources.

Sincerely,



Chad Roberts
Conservation Ecologist

Copies: Taro Echiburu, Director
Phil Pogledich, County Counsel
Yolo Audubon Society
Yolano Group, Sierra Club
Tuleyome
Bruce Rominger

Attached: 04 April 2016 letter

CHAD ROBERTS, PH.D.

SENIOR ECOLOGIST (ESA), PROFESSIONAL WETLAND SCIENTIST (SWS)



04 April 2016

Stephanie Cormier, Senior Planner
Yolo County Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95695

Subject: Comments, Negative Declaration, Field and Pond Project, ZF2015-0018

Dear Ms. Cormier,

The following comments are offered to the Planning Department regarding the Initial Study (IS) and Draft Negative Declaration (NegDec) for the proposed Field and Pond Event Center Project on Road 29 in western Yolo County. Most of the comments are focused on aspects of the natural environment on the site or in the vicinity, as I know those elements best. I've been familiar with the project site and the area for more than four decades; the region along Salt Creek/Chickahominy Slough was one of my principal study sites as a graduate student in ecology at UC Davis in the 1970s, and I've visited the site at irregular intervals over the years to observe changing conditions there. I've worked for more than 35 years as an applied ecologist and environmental planner, and I'm very familiar with both ecological science and environmental assessment processes as they relate to project environmental reviews. A brief resume is attached that summarizes some relevant qualifications, particularly noting selected experiences with wetlands, riparian areas, and oak woodlands.

Much of the IS/NegDec assessment of effects from the proposed project appears to reflect a process often used for local public agency environmental reviews. Those processes typically seek obvious lack of compliance with adopted planning documents or an identification of issues by other agencies as the primary criteria for identifying significant environmental impacts and potential mitigation measures for such impacts. More experienced agencies, in my experience, typically seek authoritative special studies for proposed projects when a project assessment engages technically complex or specialized topics, a practice which was not followed by the county for this proposal. As an environmental specialist who has both conducted specialized ecological studies and one who has used study results prepared by other applied scientists in conducting environmental reviews, it's my professional judgement that the assessment of potential biological impacts from the Field and Pond project and the identification of mitigation measures do not adequately identify either most project impacts or many feasible mitigation measures for those impacts. As a consequence, it's my professional opinion that the IS/NegDec fails to meet the requirements of the California Environmental Quality Act (CEQA) with respect to the proposed project, failing to avoid, reduce, or offset adverse environmental consequences as required by law.

Biological Assessment

The biological assessment in the NegDec appears to reflect a *pro forma* response to items in the CEQA Environmental Checklist based on limited consultations with agency staff, rather than an assessment that's informed by knowledge about the ecological resources of conservation significance in Yolo County, or about many of the actual conditions in the proposed project

vicinity. An informed assessment must begin with actual knowledge about resource values that are present. The following photo provides an overview of site conditions that can be used to identify or infer some of those values even without extensive observations on the ground.



Field and Pond Project site, looking northwest along the course of Chickahominy Slough. Edgar Peak (“Twin Peak”) is in the left background, and Salt Creek is indicated by the tree line in the left middle distance on the other side of the flat floodplain/terrace. (B Rominger photo, March 2016)

The most salient feature in the photo is an excavated pond on the south side of Chickahominy Slough which is not mentioned anywhere in the Initial Study. This feature, of undefined area but clearly several acres in extent, occupies much of the area identified by the applicant for a future garden area to supply victuals for the proposed event center and/or as part of the proposed pistachio orchard. The created berm along the northern pond margin is clearly less than 100 feet from the south bank of Chickahominy Slough. There is an evident channel excavated into the terrace surface along the base of the slope southeast of the pond that appears to be purposed to channeling runoff from the slope into the pond. There are other existing channels in the terrace surface south of the creek that affect the hydrology of the site, but their arrangement and functions aren’t clear from the photo, and an on-the-ground evaluation is needed to describe surface hydrology on the site.

A second significant ecological fact visible in the photo is that the riparian forest lining the Chickahominy Slough course through the project area is dominated by large, full-canopied trees, presumably mostly valley oaks (*Quercus lobata*), although some trees appear to be Fremont cottonwoods (*Populus fremontii*), some dense-foliaged trees appear to be interior live oaks (*Q. wislizeni*), and there are a few ghostly gray pines (*Pinus sabiniana*) (in fact that’s actually the composition of the dominant vegetation along the streamcourse). However, it’s clear that the riparian corridor through the project area is both narrow (generally only one tree wide on each bank with little understory) and discontinuous (with many spaces or gaps where there’s no significant overstory or which have no evident woody vegetative cover). In short, the riparian vegetation through the project area in the vicinity of the existing “homestead” is highly degraded. The photo indicates that in fact the riparian vegetation along the north bank in the immediate vicinity of the “barn” has been effectively obliterated.

A third element visible in the photo (although not prominent because of the distance involved) is an emergent wetland around the perimeter of the “two-acre pond” on the project site north of the creek. This emergent wetland habitat is also not mentioned in the Initial Study assessment, even though such wetland conditions significantly increase habitat values for a number of wildlife species, particularly in the dry Central Valley, and this emergent vegetation raises questions about whether the site conditions and habitat values in this wetland have been identified.

This cursory evaluation of site conditions reveals ecological characteristics that have substantial implications for the assessment of biological effects from the proposed project, but which are not considered in the Initial Study/NegDec. However, before returning to the assessment *per se*, it’s appropriate to consider the context in which Yolo County agencies must evaluate project effects.

Under state law the primary, overriding guidance for local agencies with land use regulatory authority is the agency’s General Plan. For Yolo County, the relevant plan is the adopted 2030 Yolo County General Plan (see URL: <http://www.yolocounty.org/general-government/general-government-departments/county-administrator/general-plan-update/adopted-general-plan>). While the General Plan is a complex document, under existing, long-established state law all elements of the General Plan must be mutually compatible. One of the elements in the adopted plan is the Conservation Element (<http://www.yolocounty.org/home/showdocument?id=14464>). Adopted conservation policies in this element are required guidance for the county’s review of the proposed Field and Pond Project, and a number of those policies (see box on following page) are specifically relevant for this environmental review process.

A general thread runs through the conservation policy guidance for land use in the county, perhaps best summarized in the first biological resources policy in the Conservation Element:

Policy CO-2.1. Consider and maintain the ecological function of landscapes, connecting features, watersheds, and wildlife movement corridors.

Subsequent policies expand and amplify this basic policy guidance, but the essential policy focus is clear enough from the few words in this policy. County staff and decision-makers are to maintain the ecological functions of landscape elements in the county, including features that integrate or connect them throughout the landscape. A focus on integrating watershed-level ecological elements is to be adopted, and in all cases wildlife movement corridors are to be maintained. Supporting policies make clear that riparian corridors along streams in the county hold a primary importance in carrying out the directive in this policy. Special attention is also required for protecting or restoring the ecological functions in wetlands and oak woodlands, particularly those dominated by valley oak. As will be shown below, in several specific elements the IS/NegDec assessment of the proposed project fails to meet the directions in this or the subsequent policy framework in the General Plan.

Environmental Checklist Questions Addressing Biological Resources

First, it’s necessary to consider the proposed project’s effects on sensitive species as required by item IV.a of the Environmental Checklist, which asks:

“Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans,

policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?"

GOAL CO-2 Biological Resources. Protect and enhance biological resources through the conservation, maintenance, and restoration of key habitat areas and corresponding connections that represent the diverse geography, topography, biological communities, and ecological integrity of the landscape.

Policy CO-2.1. Consider and maintain the ecological function of landscapes, connecting features, watersheds, and wildlife movement corridors.

Policy CO-2.3. Preserve and enhance those biological communities that contribute to the county's rich biodiversity including blue oak and mixed oak woodlands, native grassland prairies, wetlands, riparian areas, aquatic habitat, agricultural lands, heritage valley oak trees, remnant valley oak groves, and roadside tree rows.

Policy CO-2.9. Protect riparian areas to maintain and balance wildlife values.

Policy CO-2.10. Encourage the restoration of native habitat.

Policy CO-2.11. Ensure that open space buffers are provided between sensitive habitat and planned development.

Policy CO-2.22. Prohibit development within a minimum of 100 feet from the top of banks for all lakes, perennial ponds, rivers, creeks, sloughs, and perennial streams. A larger setback is preferred. The setback will allow for fire and flood protection, a natural riparian corridor (or wetland vegetation), a planned recreational trail where applicable, and vegetated landscape for stormwater to pass through before it enters the water body. Recreational trails and other features established in the setback should be unpaved and located along the outside of the riparian corridors whenever possible to minimize intrusions and maintain the integrity of the riparian habitat. Exceptions to this action include irrigation pumps, roads and bridges, levees, docks, public boat ramps, and similar uses, so long as these uses are sited and operated in a manner that minimizes impacts to aquatic and riparian features. (DEIR MM BIO-1b)

Policy CO-2.33. Create partnerships with landowners, non-government organizations, and other public agencies to implement the Yolo County Oak Woodland Conservation and Enhancement Plan.

Policy CO-2.30. Protect and enhance streams, channels, seasonal and permanent marshland, wetlands, sloughs, riparian habitat and vernal pools in land planning and community design.

Policy CO-2.36. Habitat preserved as a part of any mitigation requirements shall be preserved in perpetuity through deed restrictions, conservation easement restrictions, or other method to ensure that the habitat remains protected. All habitat mitigation must have a secure, ongoing funding source for operation and maintenance. (DEIR MM BIO-1c)

Policy CO-2.37. Where applicable in riparian areas, ensure that required state and federal permits/approvals are secured prior to development of approved projects. (DEIR MM BIO-1d)

Policy CO-2.38. Avoid adverse impacts to wildlife movement corridors and nursery sites (e.g., nest sites, dens, spawning areas, breeding ponds). Preserve the functional value of movement corridors to ensure that essential habitat areas do not become isolated from one another due to the placement of either temporary or permanent barriers within the corridors. Encourage avoidance of nursery sites (e.g., nest sites, dens, spawning areas, breeding ponds) during periods when the sites are actively used and that nursery sites which are used repeatedly over time are preserved to the greatest feasible extent or fully mitigated if they cannot be avoided. (DEIR MM BIO-4a)

Policy CO-2.41. Require that impacts to species listed under the State or federal Endangered Species Acts, or species identified as special-status by the resource agencies, be avoided to the greatest feasible extent. If avoidance is not possible, fully mitigate impacts consistent with applicable local, State, and Federal requirements. (DEIR MM BIO-5a)

Policy CO-2.42. Projects that would impact Swainson's hawk foraging habitat shall participate in the Agreement Regarding Mitigation for Impacts to Swainson's Hawk Foraging Habitat in Yolo County entered into by the CDFG and the Yolo County HIP/NCCP Joint Powers Agency, or satisfy other subsequent adopted mitigation requirements consistent with applicable local, State, and federal requirements. (DEIR MM BIO-5b)

The Initial Study identifies four species as potentially subject to the criteria in this question: Swainson's Hawk, Tricolored Blackbird, western pond turtle, and valley elderberry longhorn

beetle (VELB). However, as described below a number of additional species satisfy this threshold condition and should have been considered in the environmental assessment.

Apparently the county's staff relied upon a consultation with staff at the Yolo Habitat Conservancy to identify species that met the criteria identified in the Checklist question, receiving an answer about four species that are among the 12 "covered" species under the draft Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP).¹ An assessment of possible effects on the four identified species was based on existing occurrence records in a database of prior occurrences. There's no evidence that any field assessments were carried out to determine whether these four species, or habitat elements that they require, were actually present in or near the project site, or would be affected by the proposed project. The IS/NegDec thus lacks a credible factual basis for determining whether the proposal will affect these four species, and if so, whether impacts can be mitigated to a level less than significant.

In fact, Tricolored Blackbirds have been observed on the project site, occupying (and potentially occupying a nesting colony in) the emergent marsh surrounding the "two-acre pond" on the project site (Bruce Rominger, photograph, 02 April 2016). In addition, both the "two-acre pond" and the excavated wetland south of Chickahominy Slough appear to provide suitable habitat for western pond turtle; without a site evaluation by qualified personnel it's impossible to demonstrate that this species is not present and will not be affected. In addition, large riparian trees such as those along Chickahominy Slough are desirable nest sites for Swainson's Hawks, and this species is known to establish new nests as its population grows or as older nest sites cease to be used; this includes new (unmapped) nests in western Yolo County.

The county simply lacks real evidence to document that the proposed project will not adversely affect existing occurrences of these sensitive species, including necessary habitat, or that the measures identified in the IS/NegDec will avoid or reduce potentially significant impacts to a less-than-significant level.

Additional species occur in Yolo County that are "identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game² or U.S. Fish and Wildlife Service." These species are among those identified as "local concern species" or "focal species" for consideration in the Local Conservation Plan, an element in the Yolo Habitat Conservancy's approach to biological conservation in Yolo County. The list of species under consideration is presented in Table 1.

¹ It should be noted by reviewers that the standard procedure recognized for conducting assessments of project effects on "sensitive" species and their habitats involves a "nine-quad search" of the California Natural Diversity Data Base, resulting in identifying known occurrences of all sensitive species and habitat elements in the USGS 7.5-minute quad including the project site and the eight surrounding quads. Practice has demonstrated that this procedure is useful in identifying species that may occur on or near a project site, whether previously recorded or not. This database search is then used as the basis for a field investigation by qualified personnel that attempts to identify whether any of these sensitive species or habitat elements, or others that were not recorded previously, will be affected by the proposed project, directly or indirectly. This standardized procedure was not followed for the Field and Pond assessment.

² The agency is now the California Department of Fish and Wildlife.

Table 1. Focal Species identified for consideration in the Yolo Habitat Conservancy's Local Conservation Plan.

	<i>Common Name</i>	<i>Scientific Name</i>	<i>Status (Federal/State/CNPS)¹</i>
Plants			
1	bent-flowered fiddleneck	<i>Amsinckia lunaris</i>	-/-/1B
2	Jepson's milk-vetch	<i>Astragalus rattanii</i> var. <i>jepsonianus</i>	-/-/1B
3	Ferris' milk-vetch	<i>Astragalus tener</i> var. <i>ferrisiae</i>	-/-/1B
4	Alkali milk-vetch	<i>Astragalus tener</i> var. <i>tener</i>	-/-/1B
5	Heartscale	<i>Atriplex cordulata</i>	-/-/1B
6	Brittlescale	<i>Atriplex depressa</i>	-/-/1B
7	San Joaquin spearscale	<i>Atriplex joaquiniana</i>	-/-/1B
8	vernal pool smallscale	<i>Atriplex persistens</i>	-/-/1B
9	round-leaved fillaree	<i>California macrophylla</i> ²	-/-/1B
10	Snow Mountain buckwheat	<i>Eriogonum nervulosum</i>	-/-/1B
11	adobe-lily	<i>Fritillaria pluriflora</i>	-/-/1B
12	Hall's harmonia	<i>Harmonia hallii</i>	-/-/1B
13	Drymaria-like western flax	<i>Hesperolinon drymarioides</i>	-/-/1B
14	rose mallow	<i>Hibiscus lasiocarpus</i>	-/-/2.2
15	delta tule pea	<i>Lathyrus jepsonii</i> var. <i>jepsonii</i>	-/-/1B
16	Colusa layia	<i>Layia septentrionalis</i>	-/-/1B
17	Heckard's pepper-grass	<i>Lepidium latipes</i> var. <i>heckardii</i>	-/-/1B
18	Mason's lilaeopsis	<i>Lilaeopsis masonii</i>	-/-/R/1B
19	Baker's navarretia	<i>Navarretia leucocephala</i> ssp. <i>bakeri</i>	-/-/1B
20	Colusa grass	<i>Neostapfia colusana</i>	T/E/1B
21	Bearded popcorn flower	<i>Plagiobothrys hystriculus</i>	-/-/1B
22	Morrison's jewelflower	<i>Streptanthus morrisonii</i> ssp. <i>morrisonii</i>	-/-/1B
23	saline clover	<i>Trifolium depauperatum</i> var. <i>hydrophilum</i>	-/-/1B
24	Solano grass	<i>Tuctoria mucronata</i>	E/E/1B
Invertebrates			
1	Conservancy fairy shrimp	<i>Branchinecta conservatio</i>	E/-/-
2	Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	T/-/-
3	Midvalley fairy shrimp	<i>Branchinecta mesovallensis</i>	-/-/-
4	California linderiella	<i>Linderiella occidentalis</i>	-/-/-
5	Vernal pool tadpole shrimp	<i>Lepidurus packardi</i>	E/-/-
6	ancient ant	<i>Pyramica reliquia</i>	-/-/-
7	molestan beetle	<i>Lytta molesta</i>	-/CSC/-
Amphibians			
1	Foothill yellow-legged frog	<i>Rana boylei</i>	-/CSC/-
2	Western spadefoot	<i>Spea hammondi</i>	-/CSC/-
Birds			
1	redhead	<i>Aythya americana</i>	-/CSC/-
2	least bittern	<i>Ixobrychus exilis</i>	-/CSC/-
3	golden eagle	<i>Aquila chrysaetos</i>	-/FP/-
4	bald eagle	<i>Haliaeetus leucocephalus</i>	D/E, FP/-
5	northern harrier	<i>Circus cyaneus</i>	-/CSC/-
6	American peregrine falcon	<i>Falco peregrinus anatum</i>	D/E, FP/-
7	prairie falcon	<i>Falco mexicanus</i>	-/-/-
8	California black rail	<i>Laterallus jamaicensis coturniculus</i>	-/T, FP/-
9	western snowy plover	<i>Charadrius alexandrinus nivosus</i>	T /CSC/-
10	mountain plover	<i>Charadrius montanus</i>	PT/CSC/-

Common Name		Scientific Name	Status (Federal/State/CNPS) ¹
11	black tern	<i>Chlidonias niger</i>	-/CSC/-
12	short-eared owl	<i>Asio flammeus</i>	-/CSC/-
13	long-eared owl	<i>Asio otus</i>	-/CSC/-
14	Loggerhead shrike	<i>Lanius ludovicianus</i>	-/CSC/-
15	purple martin	<i>Progne subis</i>	-/CSC/-
16	yellow-billed magpie	<i>Pica nuttalli</i>	-/-/-
17	oak titmouse	<i>Baeolophus inornatus</i>	-/-/-
18	yellow-breasted chat	<i>Icteria virens</i>	-/CSC/-
19	sage sparrow	<i>Amphispiza belli</i>	-/-/-
20	Grasshopper sparrow	<i>Ammodramus savannarum</i>	-/CSC/-
21	yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	-/CSC/-
Mammals			
1	ringtail	<i>Bassariscus astutus</i>	-/FP/-
2	pallid bat	<i>Antrozous pallidus</i>	-/CSC/-
3	Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	-/CSC/-
4	western red bat	<i>Lasiurus blossevillii</i>	-/CSC/-
5	San Joaquin pocket mouse	<i>Perognathus inornatus inornatus</i>	-/-/-
6	American badger	<i>Taxidea taxus</i>	-/CSC/-
7	Sacramento Valley red fox	<i>Vulpes vulpes ssp. nov.</i>	-/-/-

¹Status:

Federal

E = Listed as endangered under ESA
 T = Listed as threatened under ESA
 PT = Proposed for listing as threatened under ESA
 C = Candidate for listing under ESA
 D = Delisted under ESA

California Native Plant Society (CNPS)

1B = Rare or endangered in California and elsewhere
 2.2 = Rare or endangered in California, but more common elsewhere

²Formerly *Erodium macrophyllum*.

State

E = Listed as endangered under CESA
 T = Listed as threatened under CESA
 CSC = California species of special concern
 FP = Fully protected under the California Fish and Game

Code

R = Listed as rare under the California Native Plant Protection Act
 H = harvest

The right-most column in the table identifies species that have been “identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.” This includes plant species that have been identified as sensitive (List 1B) by the California Native Plant Society, as the California Department of Fish and Wildlife considers these species to be environmentally sensitive for CEQA review purposes. That is, any entry in the right column marks a species that meets the criteria for this checklist question.

While some of the species in Table 1 occupy habitat types that are unlikely to occur on or near the project site (such as the vernal pool invertebrates), some of the species have occurred on or in the immediate vicinity of the project site in the past, including Golden Eagle, Mountain Plover, Loggerhead Shrike, and American badger (personal observations for all four species; see Table 1 for taxonomic names). In fact, for many years there was a well-documented Golden Eagle nest on the project site. There’s no particular reason not to conclude that any of these species, or all four, may occur on the site, or in its immediate vicinity, again in 2016 or in future years.

An adequate assessment of the potential impacts of the proposed project must consider both the direct and indirect impacts that will result from the project³ on all of the sensitive species in the above table, as all of these species cross the threshold of concern for this checklist question. This assessment must be conducted by a qualified biologist or ecologist, one who is familiar with the habitat relationships of the potentially affected species. In particular, potential indirect impacts include the consequences of approving the proposed project on a significant wildlife movement corridor along Chickahominy Slough through the project site, as described more fully below.

Environmental checklist question IV.b asks:

“Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?”

The IS/NegDec finds that the proposed project has a “less-than-significant” impact to Chickahominy Slough and its riparian resources on account of a “condition of approval” that the document asserts will be recommended for decision-maker adoption. The IS/NegDec correctly identifies a General Plan requirement (Policy CO-2.22) for a 100-foot setback from streambank margins to protect riparian habitats associated with Yolo County streams, as this setback should be a necessary requirement for General Plan compliance. However, as it is also a mitigation measure intended to offset potential direct and indirect impacts to the riparian area and the streamcourse, and because there’s no assurance that it will be adopted as a “condition of approval,” it should have been identified in the NegDec as Mitigation Measure BIO-4, with required monitoring to assure its implementation.

This mitigation measure does not, however, prevent substantial, environmentally significant indirect impacts to the riparian area of Chickahominy Slough, effects which are derived from other project-related activities. Unless these indirect impacts are identified and effective mitigation implemented, the impacts will significantly alter a number of ecological values currently provided by the stream and its ecological linkage functions. It should be recalled that the riparian corridor through the project area is currently incomplete or “broken,” largely because of prior human alterations on the site, and the linkage values of the corridor have already been substantially reduced. The uses proposed by the applicant will further diminish the already-diminished linkage values of the riparian corridor through: (1) greatly intensified human presence, which is intrinsically a deterrent to wildlife use; (2) increasingly altered riparian conditions resulting from the intrusion of site visitors into the riparian area, including not just the 100-foot setback, but the current narrow riparian corridor itself; (3) increased presence of domestic animals, which are intrinsically deterrents to wildlife use (especially dogs, for which even the odors left by past presence deters wildlife use) or predators (especially cats); and (4) an extensive introduction of exotic plant species, some of which will inevitably colonize the site, creating the potential to alter biological communities at local and even regional scales.

Indirect impacts to the stream’s linkage functions may be avoided, reduced, or offset to some extent by implementing mitigation measures that include practices such as the following:

³ Public Resources Code §21065.3: “Project-specific effect” means all the direct or indirect environmental effects of a project other than cumulative effects and growth-inducing effects.

1. Remove all project facilities possible from the 100-foot riparian setback required by the General Plan, including specifically the “event barn.”
2. Exclude site visitors from the 100-foot riparian setback north of the creek by requiring a fence along the outer margin of the setback. A walking trail can be placed along the outer (north) side of the fence with interpretive signage indicating the functions of riparian linkages to Yolo County environmental resources and county residents.
3. Exclude any agricultural operations south of the creek from the 100-foot riparian setback by an impassible fence, and prevent disposal of agricultural residues within the setback.
4. Require a riparian restoration/enhancement plan for the entire 100-foot setback on both sides of the creek that will fill the existing gaps in the riparian corridor and widen the entire corridor to a 100-foot width on each side. Note that the outer dripline of all riparian trees will mark a “no-entry” zone for machinery and people in order to protect roots and substrate conditions, and any trails created on the site will need to be located outside the dripline.

The above measures do not result from a complete assessment of potential impacts to the riparian linkage, and therefore they can't be considered to be the only measures that may be required in order to avoid or offset impacts. In order to identify all of the potential impacts and to identify measures that will avoid or offset those impacts, the county will require (from the applicant) a complete plan identifying all proposed uses, including both structures and practices, which may affect the riparian corridor and its linkage functions during the economic life of the proposed project. This description can be used by a competent consulting ecologist to identify direct and indirect impacts to the resource values and to devise suitable mitigation measures. Absent such an assessment, with the resulting mitigation measures fully specified, the county will not, in my professional opinion, be able to certify a legally defensible CEQA document for this proposed project.

The county's IS/NegDec asserts that the proposed project will not adversely affect the “linkage” functions provided by Chickahominy Slough because, in part, the land south of the stream is under easement for open space purposes. However, the applicant's proposal includes the conversion of the open prairie areas south of the stream to pistachio orchards and a large “kitchen garden.” Neither of these uses is compatible with habitat values for most wildlife species in this region, and these converted uses do not constitute habitat; that is, such conversions effectively remove this area from consideration as a wildlife linkage. Moreover, the excavated pond south of the creek is quite likely to be a wetland (see below), and will require protection in its own right, including 100-foot buffers. Lack of recognition in the IS/NegDec of the actual character of this area obviates the IS/NegDec's claim that impacts to the linkage functions of Chickahominy Slough will be avoided.

[Notwithstanding the comments above, the county's recognition of the need for riparian setbacks is a positive step, and deserves recognition. Other California counties with high-intensity and high-value agriculture have made similar advancements in protecting riparian areas. As an example, I append to this comment a copy of Sonoma County's riparian protection ordinance, which is implemented in part through a zoning overlay, but which intends to accomplish essentially the same purpose as the Yolo County General Plan Policy CO-2.22.]

Environmental Checklist question IV.c asks this question:

“Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?”

The IS/NegDec answers this question by stating that while the obvious wetland on the project site (the “two-acre” pond) is not mapped by the US Fish and Wildlife Service’s national wetland database, the county still recognizes the pond as wetland and will require a 100-foot setback to protect aquatic and riparian values. This is a positive step, but the IS/NegDec is silent about how the applicant can achieve some key elements of the proposed project when the setback precludes the development of an essential element in the project (the proposed parking area) needed to offset other impacts.

The IS/NegDec is silent about the excavated feature south of Chickahominy Slough. This feature was excavated more than a decade ago by a previous owner, and even in this winter of below-average rainfall still is inundated to an extent that the inundation will have driven the biogeochemical changes that result in the development of wetland characteristics.⁴ This wetland also requires a 100-foot setback per county policy. Since a part of the wetland appears to lie within the 100-foot setback south of Chickahominy Slough, the setbacks will coalesce. The setback will not allow the development of the “kitchen garden” proposed for this part of the site; nor will it allow the development of pistachio orchards.

Actual boundaries of both wetlands require delineation by a properly qualified wetland practitioner, as a delineated boundary will be required in order to establish the starting perimeters around which the 100-foot setbacks are to be established. Similarly, the poorly resolved presence of other aquatic features south of the creek will need identification as to whether or not these are aquatic features protected by the Clean Water Act. It should be noted that Section 404 (and the related Section 401 certification process by California Water Boards) considers disruption of hydrological support for jurisdictional features to have no less an adverse effect than does direct filling of those features.

The IS/NegDec is silent about the conflict that results from the county’s required 100-foot setbacks from aquatic features and the Firesafe requirements identified in the discussion of public services [item VIII.h: “The applicant will also be required to comply with state law which requires that property owners maintain defensible areas around all building and structures to reduce exposure of people and structures to wildland fire.” (p. 43)]. These “defensible area” requirements include a virtual prohibition on trees and other flammable vegetation within 30 feet of all buildings, and a substantial reduction in vegetation structure within 100 feet of the structure (Public Resources Code §4291). Since the County’s General Plan Policy CO-2.22 includes a specific exception allowing vegetation removal for fire protection purposes, it remains unclear that the 100-foot aquatic area setbacks will protect riparian areas within 100 feet of the structures on the site. The IS/NegDec should have assessed, but did not, the effect of this

⁴ These changes result from the chemical absence of oxidizing conditions in substrates that result after approximately a week of inundation, which limit the ability of many plant species to survive and grow; detailed descriptions of these relationships are beyond the scope of this comment. However, both ponds on the project site are clearly inundated for sufficiently long durations to support the development of wetland characteristics.

exception on the utility of the proposed condition of approval/mitigation measure, as it could obviate the protection of riparian areas.

Question IV.d asks:

“Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?”

The IS/NegDec erroneously concludes that the proposed project will not interfere with or adversely affect the linkage functions of Chickahominy Slough, essentially arguing that the easement coverage of the land south of the stream prevents the development of the 11-acre “homestead site” from adversely affecting the corridor. The error arises through ignoring the ecologically well-understood indirect effects of intense human uses on many wildlife species, and the reduction in habitat utility that consequently occurs. For example, the American badger is a species with large habitat-area requirements, but the species is extraordinarily sensitive to human disturbance impacts in its preferred (prairie/grassland/oak woodland) habitats (as reported in Spencer et al 2006).⁵ Several of these effects were summarized above, but identifying the full range of effects on wildlife resulting from development is beyond the scope of this comment.

The significance of this effect will not be mitigated by imposing 100-foot setbacks along Chickahominy Slough, as the nominal setbacks will have little effect on preventing people (and pets) from entering the riparian area that constitutes the linkage habitat. The impact to linkage functions will certainly be intensified, rather than mitigated, by permitting the conversion of the prairie south of the stream corridor to pistachio orchards and kitchen gardens, as these are not habitat for wildlife species that travel along the corridor (assuming that the applicant does not follow the standard practice of fencing the agricultural areas to prevent depredations by wildlife, particularly deer).

This effect is completely incompatible with the spirit of the 2030 General Plan Conservation Element policies focused on protecting integrated landscapes, watershed processes, natural communities, habitat values, ecological connectivity, and other ecosystem functions in Yolo County, for current residents and for posterity. The draft Local Conservation Plan (a voluntary element associated with the Yolo Habitat Conservancy’s regulatory HCP/NCCP) identifies the Salt Creek/Chickahominy Slough system as one of the important secondary ecological linkages in the wilder western portion of Yolo County.⁶ The direct and (especially) indirect effects of the proposed project on this corridor have the potential, if not fully mitigated, to functionally sever its ecological linkage utility. The degree to which this effect occurs is directly proportional to the degree to which the proposed project’s impacts remain unaddressed and unmitigated.

⁵ Spencer, W, R Noss, J Marty, M Schwartz, E Soderstrom, P Bloom, G Wylie, and S Gregory. 2006. *Report of Independent Science Advisors for Yolo County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP)*. Prepared for Yolo County Habitat/Natural Community Conservation Plan Joint Powers Agency. This document is no longer available on the Conservancy website, but a copy may be obtained by contacting Conservancy staff.

⁶ The HCP/NCCP in its initial development phases included the wildlands in the western part of Yolo County as part of the covered landscape, a focus largely eliminated from the current HCP/NCCP document. In its original framing of conservation approaches, the HCP/NCCP also included Salt Creek/Chickahominy Slough as an important secondary riparian linkage system supporting species conservation in the county, and the plan originally included all of the species identified in Table 1 above.

Question IV.e asks:

“Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?”

While the IS/NegDec identifies only Policy CO-2.22 as a relevant General Plan policy affecting environment resources at this project location, this is clearly an invalid interpretation of the intent of the Conservation Element policies quoted in the box above, particularly when the body of those policies is taken as a whole. The focus of many General Plan Conservation Element policies is clearly to protect existing ecological values in the Yolo County landscape. For the many reasons identified in this comment, the proposed IS/NegDec is inconsistent with this entire General Plan policy focus.

The discussion under this section of the Environmental Checklist identifies the existing wildlife and open space easement as an additional reason why the proposed project won't conflict with conservation policies in Yolo County. This appears to be *non sequitur*, as the existence of the easement has no bearing on whether the proposed project conflicts with adopted General Plan Policy CO-2.22 or other General Plan conservation policies. In fact, the easement may protect some of the project site from development impacts, but only if the easement area is prevented from conversion to pistachio orchards and kitchen gardens. In misinterpreting the General Plan's focus on protecting important regional ecosystem elements, the IS/NegDec does a disservice to current and future County residents who will undoubtedly find that they value those natural elements more than the alternative developed uses.

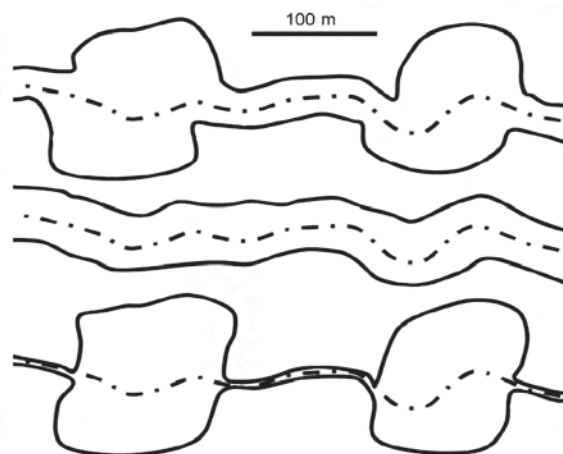
Question IV.f asks:

“Would the project conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?”

The answer in the IS/NegDec is technically correct (that there's no adopted habitat conservation plan in Yolo County), inasmuch as the Yolo Habitat Conservancy's HCP/NCCP has not yet been adopted. Nor has the Local Conservation Plan associated with the HCP/NCCP been adopted. It's nonetheless true, however, that adverse impacts on the Salt Creek/Chickahominy linkage are not consistent with the conservation provisions of the HCP/NCCP, and particularly with the LCP part of the overall plan.

A required element of the HCP development process is consideration of the initial plan focus by a group known as the Independent Science Advisor (ISA) team. The Yolo HCP was subjected to a review by an ISA team, resulting in a report about the prospective plan's content and approach (Spencer et al 2006). Included in the ISA report (pp. 41-42) was the figure at right, which was accompanied by the following explanatory text:

“Create continuous riparian corridors with wide nodes in key locations. The advisors strongly recommend that conservation, restoration, and



enhancement of riverine corridors strive to create continuous riparian vegetation corridors along major streams and tributaries through the plan area, with major “nodes” of wider riparian vegetation at strategic locations, including at riverine junctions and other locations scattered along river corridors. All else being equal, if the amount of riparian vegetation that can be maintained and restored is limited, it should be distributed according to the conceptual design in Figure 1A (top).”

Because the ISA review and report is a required element in the HCP, the ISA recommendation is also included in the HCP/NCCP framework. The configuration of the existing Chickahominy Slough riparian corridor most closely resembles the lower figure in the diagram, with a single narrow tree row in most areas, although there are no wide nodes and the corridor itself is intermittent (broken or absent in places). This existing configuration is not compatible with informed conservation science opinion about riparian linkages, and in this sense the IS/NegDec must incorporate restoration requirements for the riparian area in order to bring the configuration of the existing corridor into compliance with ISA recommendations for the HCP.

Adverse effects on biological linkages in Yolo County are incompatible with larger planning efforts aimed at regional conservation, most notably the planning efforts reflected in documents such as the State Wildlife Action Plan.⁷ Enhancing connectivity at local and regional scales is a key element in these adopted state-level plans aimed at addressing the impacts of both current and expected future land uses in California, in combination with altered temperature and moisture regimes resulting from climate change. The most explicit statement of the significance of regional linkages in this framework is included in the California Essential Habitat Connectivity (CEHC) report (Spencer et al 2010).⁸ A regional conservation planning framework is an essential element in developing and implementing more localized conservation plans like the HCP/NCCP, because the state and federal agencies reviewing the Yolo Habitat Conservancy’s documents incorporate the relationships of the Yolo HCP/NCCP into a regional or statewide framework that transcends the county’s boundaries.

For all of these reasons (and others), the IS/NegDec’s dismissive treatment of conservation plan documents is an inadequate assessment of the significance of the proposed project’s impacts on conservation planning in Yolo County and the State of California.

Conformance with California Environmental Quality Act Requirements

The county’s Environmental Checklist discussion of potential biological effects from the proposed Field and Pond project demonstrates the following:

- The checklist does not identify significant conditions (sensitive species, habitats, wetland and other aquatic features) that exist on or in the immediate vicinity of the project site that materially affect the potential environmental consequences of the project, thereby failing to identify likely significant impacts to environmentally sensitive resource elements (species, habitats, aquatic features);

⁷ See URL: <https://www.wildlife.ca.gov/SWAP>.

⁸ Spencer, WD, P Beier, K Penrod, K Winters, C Paulman, H Rustigian-Romsos, J Strittholt, M Parisi, and A Pettler. 2010. *California Essential Habitat Connectivity Project: A Strategy for Conserving a Connected California*. Prepared for California Department of Transportation, California Department of Fish and Game, and Federal Highways Administration. See URL: <https://www.wildlife.ca.gov/Conservation/Planning/Connectivity/CEHC>.

- The checklist lacks credible evidence of possible environmental effects or the likely need for mitigation measures that are linked to or based on studies by qualified professionals, and the majority of the assessment is based on speculation by county staff rather than constituting substantial evidence, as required by CEQA;
- The checklist includes a policy framework for conservation that is substantially narrower than the actual conservation policy framework established in the adopted General Plan, leading to the dismissal in the assessment of significant policy conflicts with the adopted General Plan;
- The checklist makes assumptions about the effects of an existing open-space easement in protecting environmentally sensitive species, habitats, and migration patterns in the project area that are not (cannot be) verified at this point in time, thus minimizing the significance of impacts to these species, habitats, and migration patterns and overestimating the potential utility of the easement in mitigating adverse project impacts;
- The checklist fails to identify the project site's significance within a conservation context that arises because of the site's particular location in a regional/watershed context, thus underestimating the likelihood of adverse impacts and minimizing the need for mitigation measures to address those impacts;
- The checklist erroneously states that the proposed project has no potentially significant conflicts with regional habitat conservation planning approaches and documents; and
- The checklist does not identify a wide range of sensitive species and habitats that could be affected by the proposed project, and does not address the potential effects of the project on these species or habitats.

In my professional judgement, a CEQA document offered to support a lead agency's consideration of a proposed project that suffers from such a list of defects does not meet CEQA's requirements for identifying or mitigating the project's environmental effects. [It should be noted that this list of defects arises solely for biological and ecological considerations, and it's likely (based on the extent of the list above) that assessments in the IS/NegDec for other subject areas would disclose similar shortcomings.]

As the CEQA Guidelines summarily state in subsection 15064(f)(1), "if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68)." This is commonly referred to as the "fair argument" standard for concluding that an EIR is required, and it presents a very low threshold for reaching that decision: a "fair argument" that the project will cause significant impacts, supported by substantial evidence. Under these circumstances an EIR is required even if the local agency has other evidence that suggests that no significant impacts will occur. Further, if there is a public disagreement, supported by substantial evidence, about the significance of the project's impacts, then the local agency is required to prepare an EIR.

In this comment I've presented a "fair argument" that the proposed Negative Declaration for the Field and Pond Event Center project has significant environmental impacts that are not/have not been identified, and for which adequate mitigation measures have not been identified that reduce potential impacts to levels of significance. This conclusion is supported by substantial evidence,

as well as by policy analysis of relevant planning information that should have been, but which was not, considered by the county.

A revised and expanded CEQA assessment of the project's effects is necessary to meet CEQA requirements. The county may choose to retract the proffered Negative Declaration for revision (an approach that must include conducting all necessary studies, using qualified personnel, as well as identifying adequate mitigating measures or programs that avoid, reduce, or offset the project's impacts). However, the most appropriate and timely response (for the county as well as for the applicant) would be for the county to require the preparation of a legally adequate Environmental Impact Report.

Thank you for considering Yolo County's substantial environmental resources.

Sincerely,



Chad Roberts
Conservation Ecologist

Copies: Taro Echiburu, Director
 Phil Pogledich, County Counsel
 Yolo Audubon Society
 Yolano Group, Sierra Club
 Tuleyome
 Bruce Rominger

CHAD ROBERTS, PH.D.

SENIOR ECOLOGIST (ESA), PROFESSIONAL WETLAND SCIENTIST (SWS)



RIPARIAN AREAS, WETLANDS, AND OAK WOODLANDS

Dr. Roberts has had more than 40 years of professional experience in developing and applying ecological and environmental information in decision-making and management contexts.

EDUCATION AND PROFESSIONAL CERTIFICATION

Bachelor of Arts (honors), zoology; December 1969. Humboldt State College, Arcata, CA.

Doctor of Philosophy, ecology; September 1976. University of California, Davis, CA.

Senior Ecologist; Ecological Society of America Board of Professional Certification.

Professional Wetland Scientist (No. 268); Society of Wetland Scientists Professional Certification Program.

SELECTED PROFESSIONAL EXPERIENCE

ORGANIZATIONAL ENGAGEMENT

Member, Technical Advisory Group for Aquatic Assessment (L2 Committee), California Wetland Monitoring Workgroup. Current (since July 2008).

Member, Principal Investigator Group, California Rapid Assessment Method (CRAM). Current (since June 2007).

Member, Yolo County Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP) Advisory Committee. Current (since February 2005).

Planner, Humboldt Bay Harbor, Recreation and Conservation District. September 2006 to June 2012.

President, Western Chapter, Society of Wetland Scientists (SWS). January 2001 to June 2007.

Chair, California Steering Committee, Pacific Coast Joint Venture, North American Waterfowl Management Plan. May 1991 to July 1999.

Instructor, Resources Planning, Humboldt State University, Arcata, CA. January 1997 to May 1998 (previously also September 1982 to June 1983).

PAPERS AND PRESENTATIONS

Collins, JN, S Lowe, S Pearce, and C Roberts. 2014. *Santa Rosa Plain Wetlands Profile: A Demonstration of the California Wetland and Riparian Area Monitoring Plan.* Prepared for the California Natural Resources Agency, STD Agreement # OCA10043-2. San Francisco Estuary Institute/Aquatic Sciences Center, Richmond, CA. Contribution # 726.

Solek, CW, MA Sutula, ED Stein, C Roberts, R Clark, K O'Connor, and KJ Ritter. 2012. *Determining the health of California's coastal salt marshes using rapid assessment.* *Wetland Science and Practice* 29:8-28.

Roberts, RC, RT Huffman, JN Collins, BC Livsey, and CN Harvey. 2011. *Wetland Identification and Delineation.* *Technical Memorandum No. 4*, SWRCB Technical Analysis Team.

Collins, JN, RC Roberts, et al. 2010. *Landscape Framework for Wetlands and Other Aquatic Areas.* *Technical Memorandum No. 3*, SWRCB Technical Analysis Team.

Sutula, M, JN Collins, R Clark, C Roberts, E Stein, C Grosso, A Wiskind, C Solek, M May, K O'Connor, E Fetscher, JL Grenier, S Pearce, A Robinson, C Clark, K Rey, S Morrissette, A Eicher, R Pasquinelli, and K Ritter. 2008. *California's Wetland Demonstration Program*

Pilot – A Final Project Report to the California Resources Agency. Tech Rep 572, Southern California Coastal Water Research Project, Costa Mesa, CA.

Reconnaissance-level biological report, Recycled-Water Seasonal Storage Project. Biological studies addressing oak woodlands, riparian areas, and vernal pools in 1200 acres at seven potential recycled-water reservoir locations in western El Dorado and eastern Sacramento counties. Prepared for *El Dorado Irrigation District*. November 2004.

Environmental Resources and Conservation Opportunities, Yolo Parks Master Plan. Conservation opportunities and recommended guidelines for managing Yolo County parkland units to achieve conservation purposes. Prepared for the *Yolo County Department of Planning and Public Works*. November 2004.

Roberts, RC. 2001. ***Hydrology and floodplain ecology, Mill Creek, McKinleyville, Humboldt County.*** Paper presented at the Riparian Habitat Joint Venture/Wildlife Society-Western Section 2001 Riparian Habitat and Floodplains Conference, Sacramento.

Roberts, RC. 1987. ***Preserving oak woodland bird species richness: suggested guidelines from geographical ecology.*** *Proceedings of the symposium on multiple-use management of California's hardwood resources*, pages 190-197. TR Plumb and NH Pilsbury (Tech Coord). Gen Tech Rep PSW-100; Pacific Southwest For & Range Exp Stn, Berkeley.

Ray, D, W Woodroof, and RC Roberts. 1984. ***Management of riparian vegetation in the North Coast region of California's coastal zone.*** *California Riparian Systems*, pages 660-672. RE Warner and K Hendrix (ed); University of California Press.

PROJECT EXPERIENCE

Training in the California Rapid Assessment Method. Conducted training for agency staff and consultant personnel in the CRAM assessment methodology; tasks included preparatory fieldwork, revising or developing presentation materials, and classroom and field training. Multiple courses since 2010, including courses in Sacramento, Santa Rosa, Richmond, Eureka, and Ukiah, covering riverine, depressionnal, vernal pool, and slope wetland modules.

CRAM Coordinator, Bakersfield-Fresno Section, California High Speed Train Project. Wetland condition (CRAM) assessment for a HST segment alignment (September 2011 to March 2012). Technical report oversight (August 2012). Services provided for *URS*, Oakland, CA, and *California High Speed Rail Authority*. September 2011-December 2012.

Field Tests, USA-RAM (a rapid assessment method included in the 2011 National Wetland Condition Assessment): Cosumnes River, Sacramento County (October 2009); Coyote Hills Slough (Alameda Creek), Alameda County (July 2010); and Huichica Creek, Napa County (November 2010). For the *US Environmental Protection Agency*.

Draft Humboldt Bay Management Plan (April 2005) and ***Draft Environmental Impact Report*** (April 2006). The Management Plan and environmental document included port-related, recreation, and natural-environment setting and policy sections that provide a 20-year planning framework for Humboldt Bay. Prepared for the *Humboldt Bay Harbor, Recreation and Conservation District*.

Draft Environmental Impact Report, Lake Earl Management Plan. Programmatic environmental document covering the Management Plan's implementation, which proposed formally adopting a "managed" elevation of eight feet (8') for the lagoon surface for the 5,600-acre Lake Earl Wildlife Area. Prepared for the *California Department of Fish & Game*. June 2003.

Ordinance No. 6089

An Ordinance Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Amending Chapter 26 Of The Sonoma County Code To Add Or Replace Miscellaneous Definitions, Rename The Rural Commercial District, Replace The Biotic Resource Combining District With Separate Combining Zones For Riparian Corridors And Biotic Habitat, Revise Stream Protection Policies For Riparian Corridors To Implement Sonoma County General Plan 2020, And Rezone Properties To Add The Riparian Corridor Combining Zone To All Designated Streams

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Chapter 26 of the Sonoma County Code is amended as follows:

(a) Section 26-020-140 [Definitions] is amended to add or replace the following terms:

Agricultural Crop: Any cultivated crop grown and harvested for commercial purposes.

Agricultural Cultivation: The act of preparing the soil for the raising of agricultural crops.

Contiguous riparian vegetation: Riparian vegetation that is physically touching or adjacent, and not separated by features like roads, developed land, or cropland.

Cropland: Land devoted to the production of agricultural crops.

Designated Stream: A river or stream mapped or identified in the Open Space and Resource Conservation Element of the General Plan, or in an adopted area plan or specific plan or other adopted stream protection standards, guidelines, or mitigation measures.

Resource Agency: A federal or state agency having jurisdiction by law over natural resources affected by an activity or use. Resource agencies include the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, NOAA Fisheries, California Department of Fish and Wildlife, North Coast and San Francisco Bay Regional Water Quality Control Boards, State Water Resources Control Board, and other similar federal and state agencies.

Restoration: Actions taken with the primary goal to maintain, improve, or restore physical, chemical, and biological functions of a stream, wetland, or other sensitive habitat.

Riparian Corridor: The area occupied by a river or stream and related plant and animal communities.

Riparian Corridor, 50-foot: A riparian corridor with a streamside conservation area of 50 feet on each side of a designated stream measured from the top of the higher bank.

Riparian Corridor, 100-foot: A riparian corridor with a streamside conservation area of 100 feet on each side of a designated stream measured from the top of the higher bank.

Riparian Corridor, 200-foot: A riparian corridor with a streamside conservation area of 200 feet on each side of a designated stream measured from the top of the higher bank.

Riparian Functions: The beneficial uses of areas in and along streams, including: providing food, water, and breeding, egg deposition and nesting areas for fish, amphibians, reptiles, birds, insects, and mammals; providing protective cover, shade and woody debris to stream channels as habitat for coho salmon, steelhead, freshwater shrimp, and other protected and common aquatic-dependent species; providing movement opportunities, protective cover, and breeding, roosting, and resting habitat for terrestrial wildlife; filtering sediment and pollutants in runoff into streams; providing erosion protection for stream banks; and facilitating groundwater recharge.

Riparian Tree: A woody perennial plant growing in a riparian corridor, typically larger than 14 feet at maturity with a well-defined stem and definite crown having a single or multi-trunk structure, with a minimum diameter at breast height of two (2) inches for a single stem or aggregate of multi-trunk stems of five (5) inches, and a minimum height of ten (10) feet.

Riparian Vegetation: Plant communities contiguous to and affected by surface and subsurface hydrologic features of water bodies (rivers, streams, lakes, or wetlands) that have one or both of the following characteristics: 1) distinctly different vegetative species than adjacent areas, and 2) species similar to adjacent areas but exhibiting more vigorous or robust growth forms. Riparian vegetation is usually transitional between wetland and upland.

Soils, Highly Erodible: Soils in the Diablo, Dibble, Goldridge, Laughlin, Los Osos, Steinbeck, and Suther soil series as mapped by the U. S. Department of Agriculture.

Soils, Less Erodible: Any soils that are not highly erodible soils.

Upland Area: An area with less erodible soils and a natural slope steeper than 15 percent, or highly erodible soils and a natural slope steeper than 10 percent.

Vegetation Removal: The cutting, breaking, burning or uprooting of vegetation, the application of herbicide to vegetation, the covering over of vegetation with earth, or the compacting of the soil under and around vegetation. For the purposes of this chapter, vegetation means all natural, non-cultivated plant life including the root system, stem, trunk, crown, branches, leaves or blades.

(b) Section 26-04-010 (d) [Permitted Uses - LIA zoning district], Section 26-06-010 (d) [Permitted Uses - LEA zoning district], Section 26-08-010 (d) [Permitted Uses - DA zoning district], Section 26-10-010 (d) [Permitted Uses - RRD zoning district], Section 26-16-010 (h) [Permitted Uses - AR zoning district], Section 26-18-010 (e) [Permitted Uses - RR zoning district], Section 26-26-030 (g) (2) [Permitted Uses - PC zoning district], Section 26-40-010 (e) [Permitted Uses - AS zoning district], and Section 26-42-010 (e) [Permitted Uses - K zoning district] are amended to read as follows:

“The growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops, including wholesale nurseries, **conducted and maintained in compliance with Article 65, RC Riparian Corridor Combining Zone.**”

(c) Article 38 RC Rural Commercial District is amended to change the title of the Article to the CR Commercial Rural District.

(d) Article 65 RC Riparian Corridor Combining Zone is added to read as set forth in Exhibit “A,” attached hereto and incorporated herein by this reference.

(e) Article 66 BR Biotic Resource Combining District is amended to change the title of the Article to the BH Biotic Habitat Combining Zone, and amended to read as set forth in Exhibit “B,” attached hereto and incorporated herein by this reference.

(f) The Official Zoning Database is amended to rezone properties to reflect the new combining zones for all riparian corridors and biotic habitat areas and to rezone Rural Commercial properties to CR Commercial Rural as set forth in the Table in Exhibit “C,” attached hereto and incorporated herein by this reference.

Section II. For the purposes of Section I of this ordinance, only cropland under active cultivation on the effective date of this ordinance shall be deemed to be existing cropland.

Section III. The amendments in Section I of this ordinance are consistent with Sonoma County General Plan 2020 in that they incorporate into zoning the General Plan’s goals, objectives, and policies that provide for the protection of riparian corridors, including the establishment of streamside conservation areas as set forth in the Open Space and Resource Conservation Element and as specifically required by Open Space and Resource and Conservation Implementation Programs 11 and 12. The amendments in Section I of this ordinance are also consistent with the County’s Area/Specific Plans in that the proposed stream setbacks would correspond with the

standards of the applicable Area/Specific Plan when those standards are more stringent than the General Plan as required by General Plan Policy LU-1a.

Section IV. The Program Environmental Impact Report (EIR) for Sonoma County General Plan 2020, certified by the Board of Supervisors in 2008, disclosed, evaluated, and mitigated potential environmental impacts of General Plan policies. Potential impacts of riparian protection measures and stream setbacks were analyzed in multiple sections of the EIR. In addition, Mitigation Measure 4.6-2(b) directs the rezoning of all lands within Streamside Conservation Areas to the Biotic Resources combining zoning district, and the adoption of a riparian protection ordinance. The amendments in Section I of this ordinance would implement Mitigation Measure 4.6-2(b). Riparian protection will be achieved through application of the zoning database and planning process. The amendments in Section I of this ordinance would not relax any existing standards or policies in the General Plan or Area Plans. The amendment in Section I of this ordinance would not result in any new significant impacts, or a substantial increase in the severity of any previously-identified impacts, due to substantial changes in the project or its circumstances, or new information of substantial importance that was not known and could not have been known at the time of certification of the General Plan Program EIR in 2008. The amendments in Section I of this ordinance are within the scope of the General Plan covered by the EIR, and would not have effects that were not examined in the EIR. As a result, pursuant to CEQA Guidelines Section 15168 (c) (2), no new environmental document is required. The Program EIR for the General Plan 2020 is available for review at the PRMD office and online at <http://www.sonoma-county.org/prmd/divpages/complandiv.htm>.

Section V. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section VI. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California. Pursuant to Government Code Section 25124, complete copies of Exhibits "A", "B", and "C" to this ordinance are on file with the Clerk of the Board of Supervisors and are available for public inspection and copying during regular business hours in the office of the Clerk of the Board of Supervisors, 575 Administration Drive, Room 100A, Santa Rosa, California. Complete copies of the Exhibits are also available for public review on the County's website at http://www.sonoma-county.org/prmd/docs/riparian_corridor/index.htm

In regular session of the Board of Supervisors of the County of Sonoma, passed and adopted this 24th day of November, 2014, on regular roll call of the members of said Board by the following vote:

Supervisors:

Gorin: Aye Zane: Aye McGuire: Aye Carrillo: Aye Rabbitt: Aye

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

Whereupon, the Chair declared the above and foregoing ordinance duly adopted and

So Ordered.

Chair, Board of Supervisors
County of Sonoma

Attest:

Veronica A. Ferguson,
Clerk of the Board of Supervisors

By: _____
Chief Deputy Clerk of the Board

Exhibit “A”

Article 65. RC Riparian Corridor Combining Zone

Sec. 26-65-005. Purpose

Sec. 26-65-010. Applicability

Sec. 26-65-020. Determination of Streamside Conservation Areas and Setbacks for Agricultural Cultivation

Sec. 26-65-030. Prohibited Uses and Exceptions

Sec. 26-65-040. Allowed land uses, activities and permit requirements

Sec. 26-65-005. Purpose

The RC combining zone is established to protect biotic resource communities, including critical habitat areas within and along riparian corridors, for their habitat and environmental value, and to implement the provisions of the General Plan Open Space and Resource Conservation and Water Resources Elements. These provisions are intended to protect and enhance riparian corridors and functions along designated streams, balancing the need for agricultural production, urban development, timber and mining operations, and other land uses with the preservation of riparian vegetation, protection of water resources, floodplain management, wildlife habitat and movement, stream shade, fisheries, water quality, channel stability, groundwater recharge, opportunities for recreation, education and aesthetic appreciation and other riparian functions and values.

Sec. 26-65-010. Applicability

The RC combining zone shall be applied to designated streams and include the stream bed and bank and an adjacent streamside conservation area on each side of the stream as measured from the top of the higher bank. The minimum streamside conservation area shall be shown in the zoning database followed by the minimum setback for agricultural cultivation (e.g., RC 100/50). Where the drip line of existing riparian trees with trunks located wholly or partially within the streamside conservation area extends beyond the streamside conservation area boundary, as indicated in the zoning database, the boundary shall be increased to include the outer drip line of the riparian trees.

Sec. 26-65-020. Determination of Streamside Conservation Areas and Setbacks for Agricultural Cultivation

The streamside conservation area indicated in the zoning database is approximate to allow for a parcel-specific determination of the boundary based upon the location of the top of the higher bank and existing riparian vegetation. The streamside conservation area shall be determined by the Director. The setback for agricultural cultivation indicated in the zoning database is also approximate to allow for a site-specific determination of the boundary based upon the location of the top of the higher bank, existing riparian vegetation, and, for upland areas of 50-foot riparian corridors, the slope and soil types of the planting area. The setback for agricultural cultivation shall be determined by the Agricultural Commissioner.

Sec. 26-65-030. Prohibited Uses and Exceptions

Except as allowed by Section 26-65-040, grading, vegetation removal, agricultural cultivation, structures, roads, utility lines, and parking lots shall be prohibited within any stream channel or streamside conservation area.

- A. An exception to this prohibition may be approved by the Director with a Zoning Permit if:
 - 1. It makes a parcel unbuildable, provided vegetation removal is minimized;
 - 2. The use involves the minor expansion of an existing legally established structure in conformance with Article 94 where it is demonstrated that the expansion will be accomplished with minimum vegetation removal and protection of riparian functions;
 - 3. The use involves only the maintenance, restoration, or reconstruction of an existing legally established structure or use in conformance with Article 94; or
 - 4. The Director determines that the affected area has no substantial value for riparian functions.
- B. An exception to this prohibition may be approved with a use permit if a conservation plan is adopted that provides for the appropriate protection of the biotic resources, water quality, floodplain management, bank stability, groundwater recharge, and other applicable riparian functions. Off-site mitigation will be considered only where on-site mitigation is infeasible or would provide superior ecological benefits, as determined by the Director.

Sec. 26-65-040. Allowed land uses, activities and permit requirements.

The following activities and uses may be allowed within a streamside conservation area, if allowed by the base zone and any combining zones, subject to any required permits and the standards specified in this section. These activities and uses shall also be conducted and maintained in compliance with any prohibitions, permits, approvals, or authorizations required by applicable resource agencies.

- A. Stream maintenance and restoration carried out or overseen by the Sonoma County Water Agency.
- B. Levee maintenance.
- C. Invasive plant removal, such as Himalayan blackberry (*Rubus armeniacus*), giant reed (*Arundo donax*), salt cedar (*Tamrix* sp.), and star thistle (*Centaurea solstitialis*), not exceeding 5 acres in disturbed area, principally involving hand labor and not using mechanized equipment.

- D. Streamside maintenance and small riparian habitat restoration not exceeding 5 acres of disturbed area, principally involving hand labor and not using mechanized equipment, as described by State CEQA Guidelines Section 15333, subject to a zoning permit.
- E. Stream dams and stream-related water storage systems, subject to a zoning permit.
- F. Road and utility line crossings in compliance with County road construction standards and maintenance guidelines, subject to a zoning permit.
- G. Fencing and maintenance of existing outdoor activity areas, such as yards, gardens, and landscaped or natural vegetation, associated with a legally established structure or use and not involving further encroachment into existing riparian vegetation.
- H. The following agricultural activities, provided that they are conducted and maintained in compliance with agricultural best management practices developed or referenced by the Agricultural Commissioner, or defined in a farm or ranch water quality plan acceptable to the Agricultural Commissioner. The Agricultural Commissioner shall determine the applicable agricultural best management practices and shall enforce the provisions of this subsection.
 - 1. Grazing and similar agricultural production, not involving cultivation or structures. Livestock control fencing and watering facilities are allowed.
 - 2. Agricultural cultivation and related access roads, drainage, planting, seeding, fertilizing, weeding, tree trimming, irrigation, and harvesting that do not involve the removal of existing contiguous riparian vegetation within 200 feet of the top of the higher bank, and are located as follows:
 - a. No closer than 100 feet from the top of the higher bank in the 200-foot riparian corridor for the Russian River;
 - b. No closer than 50 feet from the top of the higher bank in the 100-foot riparian corridors designated in the General Plan and the upland areas of the 50-foot riparian corridors; or
 - c. No closer than 25 feet from the top of the higher bank in all other riparian corridors.
 - 3. Replanting existing cropland and related access roads, drainage, planting, seeding, fertilizing, weeding, tree trimming, irrigation, and harvesting that are located closer to the top of the higher bank than specified in Subsection 26-65-040.H.2, provided that the existing cropland is under active cultivation and the footprint of the planting area is not increased within the applicable setback for agricultural cultivation.

4. Filter strips, equipment turnarounds, grassy avenues, and fencing associated with agricultural cultivation that does not involve the removal of existing contiguous riparian vegetation within 200 feet of the top of the higher bank.
- I. Selective vegetation removal as part of an integrated pest management program administered by the Agricultural Commissioner.
 - J. Wells in compliance with Sonoma County Code Chapter 25B (Water Wells).
 - K. Fire fuel management in compliance with County Fire Safe Standards, provided that no redwood trees are removed and vegetation removal is limited to the minimum required for fire safety purposes. New development located within 100 feet of any riparian corridor shall be allowed with a zoning permit only where there are no feasible alternative development locations that do not require vegetation removal for fire protection and fire resistive construction materials are used to avoid or minimize the need for vegetation removal in the riparian corridor.
 - L. Bikeways, trails, and parks on publicly owned land or public use easements, or on private lands, subject to a zoning permit.
 - M. Temporary seasonal gangway and floating dock of up to 120 square feet with encapsulated floatation and grated deck, subject to a zoning permit.
 - N. Timber operations conducted in compliance with an approved timber harvest plan.
 - O. Tree removal subject to a zoning permit, to protect life or property from the threat of harm posed by a dead, dying, diseased, or damaged tree likely to die within one year of the date proposed for removal, or a tree at risk of falling when the structural instability cannot be remedied. A report by a certified arborist or registered professional forester documenting the hazardous condition and a tree replacement plan is required.
 - P. Mining operations, subject to a use permit for surface mining activities in compliance with the Chapter 26A (Surface Mining) of this code.
 - Q. Other activities or uses not meeting the above criteria may be permitted with an exception under Section 26-65-030 (Prohibited Uses and Exceptions), subject to a use permit and approval of a conservation plan.

Exhibit “B”

Article 66. BH Biotic Habitat Combining Zone

Sec. 26-66-005. Purpose

The BH combining zone is established to protect and enhance Biotic Habitat Areas for their natural habitat and environmental values and to implement the provisions of the General Plan Open Space and Resource Conservation Element, Area Plans and Specific Plans. Protection of these areas helps to maintain the natural vegetation, support native plant and animal species, protect water quality and air quality, and preserve the quality of life, diversity and unique character of the County.

Sec. 26-66-010. Applicability

The BH combining zone is applied to the areas that are designated as Biotic Habitat Areas in the General Plan Open Space and Resource Conservation Element. The BH combining district may also be applied to other biotic resource areas that are identified in adopted area or specific plans. Where such plans require greater protection of biotic resources, the more restrictive standards shall apply. As biotic resources are assessed and new occurrences are reported, additional areas may be considered for BH zoning.

Sec. 26-66-020. Standards for Biotic Habitats

The following requirements shall apply to properties within the BH combining zone that are designated as Biotic Habitat Areas on Open Space Plan Maps, of the General Plan Open Space and Resource Conservation Element.

- A. **Biotic resource assessment.** A biotic resource assessment to develop mitigation measures may be required where the Director determines that a discretionary project could adversely impact a designated critical habitat area.
- B. **Tentative map requirements.** Each tentative map shall include building envelopes that avoid biotic habitat areas.
- C. **Setback requirements.** Each proposed structure shall be set back a minimum of 50 feet from the edge of any wetland within a designated biotic habitat area, with the following exceptions:
 1. Existing farm structures are exempt and may be expanded or modified, provided that the expansion or modification shall not encroach further into any wetland; and
 2. The Director may modify the setback if, after preparation of a biotic resource assessment, the Director determines that either:
 - a. Applying the setback makes an otherwise buildable parcel unbuildable; or
 - b. The structure is a noncommercial agricultural structure and needs to be located adjacent to an existing farm complex for efficient farm operation.

Yolo County Community Services Department

Yolo county Planning Commissioners

292 W. Beamer Street

Woodland, CA 95695

Comments on Initial Study / Mitigated Negative Declaration Zone file #2015-0018

Revised and Recirculated Sch #2016032024

Remember as you read this that it says in the Ag zoning codes that "other uses must be compatible with surrounding agriculture".

Page 15 II. a.

The Field & Pond project site is 100% Zamora and Tehama soils. These are very deep, productive loam soils that are suitable for all row crops and orchards. Just because the county has drawn a somewhat arbitrary line to delineate soils of different classes does not mean these are any less productive than the exact same soil types across road 29 only 50 feet away that are classified differently and that have grown tomatoes and are now covered by a walnut orchard. When leach lines need to be expanded for the B&B bathrooms and a parking lot is built they will cover approximately two acres of fertile land that will be lost to ag production. Most commercial developments have to mitigate for taking farmland out of production. I did not see a mitigation measure in the MND for this loss of farmland.

Mitigating impacts to adjacent agriculture-

Page 17

"This notification process will also require that the applicant notify those living along CR 29, from its terminus to CR 89, of pending scheduled events. Thus the applicant will be required to coordinate with adjacent agricultural operator when scheduling events that will attract multiple non-residents to the area."

I do not see how exactly this notification/coordination would work to mitigate impacts. Is the applicant required to cancel an event/wedding if the farmer next door starts harvest or needs to spray? The weddings are scheduled a year or more in advance and the farm schedule changes on a daily basis. The reality will be (and has been) that the farmer is expected to "work around" the event center schedule. The only way to avoid conflict is for the farmer to change his schedule. **This is not a mitigation, this is an admission of impact/conflict with the adjacent farming operations.** Notifications sounds like a good process but it will not change the impacts to the farmer.

Page 19

Mitigation Measure AG-1

The State of California Department of Conservation, the California Farm Bureau Federation and the Yolo County Farm Bureau have already expressed their concerns about this projects legality on land enrolled in the Williamson Act. Yolo County should not go against its long standing reputation for preserving agriculture by putting this non-ag business on this land zoned for agriculture with a Williamson Act contract in place. The mitigation for this is not to allow new buildings. That is not a mitigation, it is the law that is already in existence because of the Williamson act contract that is in place on this parcel.

Mitigation Measure AG-2

(a)

Limiting the site to 20 events is not a mitigation. The MND maintains they have 8 by-right events and then proposes to allow 20 and calls it a mitigation. The mitigation would be something that deals with the added impacts of going from 8 to 20 events but the MND is trying to say that the 20 events is in itself a mitigation. This is irrational and cannot be considered a mitigation.

(b)

"This notification process shall also include a process to notify those adjacent landowners living along CR 29, from its terminus to CR 89, of pending scheduled events at least two weeks advance"

See page 17 comments above.

Notification will not lesson any potential conflicts unless the farmer changes his schedule of operations for the benefit of the event center. This can have a very significant impact on the farmers bottom line. Once again, this is not a mitigation. On page 62 it says neighbors are required to *"be notified not less than three weeks in advance"*. Which is it, two or three weeks?

Page 20 It says *"notification will ensure that impacts to ag uses will be reduced to less than significant"*

See above- It will not reduce impacts to agriculture. I strongly disagree with this statement.

In two different sections, Agriculture and Forest Resources and Transportation/Traffic this *"notification process"* is used as a mitigation. This is not a valid mitigation in either case as I have explained previously.

None of these mitigations for agricultural impacts are effective or can be considered real mitigations. Thus they have **no mitigations in the MND that will deal with the impacts to the surrounding agricultural operations.**

Page 21 Ag Commissioner comments-

"The Yolo County Ag Commissioner's office has expressed concern over the project's potential conflicts with the ag activities in the area and strongly recommends maintaining a 500-foot buffer from adjacent ag operations."

The Planning department should follow the Ag Commissioner's strongly worded advice. I do not think the Planning department knows more about ag impacts than the Ag Commissioner. The county ag department deals with ag/urban interface issues on a regular basis and because of their experiences they have recommended a 500 foot buffer. Instead the MND attempts to "mitigate" this by not allowing any future buildings within 500 feet. What good is that when you are going to allow events that will happen multiple times per year, for years to come, with 150-300 people in and around buildings that already exist all within the 500 foot buffer. That is not a mitigation for impacts of permitting this event center, it only prevents more future buildings at the event center site which can't be built anyway because of Williamson act restrictions.

The 500 foot buffer that the Ag Commissioner recommended will be put in place but to the detriment of the neighboring farmer. Since the Planning Department did not take the Ag Commissioners advice on this buffer the Ag Commissioner is compelled to impose a 500 foot buffer for the spraying of any restricted material on the **farmer's side of the property line.** Once again the farmer absorbs the negative impact.

These potential conflicts/impacts where recognized when the county decided to require a 40 acre minimum parcel size for landowners to have 8 by-right events. The thought is that 40 acres is a big enough parcel so it would minimize impacts to and from neighbors by allowing enough room between the event center and the property lines. There would

be room for a 500 foot buffer on the event center property so no neighbors would have any of their land restricted. The problem with the Field and Pond site is that it is only 12.45 acres and is situated on the edge of their property. It does not satisfy the intent of the counties own 8 events by-right criteria. This reason alone is reason enough to deny a permit for an event center at this site.

Page 29

2030 County wide General Plan prohibits development within 100 feet of the creek or pond.

Yolo county Ag Zoning code Sec 8-2.305, footnote 2 pg. 92.

"Minimum setback requirements shall be increased to no less than 100 feet if adjacent ag operations require a larger setback to accommodate spraying."

When you include this setback requirement with the 100 foot setbacks from the creek and the pond there is hardly any land left on the project parcel that isn't restricted with a buffer for either environmental reasons or agricultural impact reasons. The County needs to require a new site plan that shows where the new parking lot will be and where the septic/leach field will be. I don't think there will be room for these in the area not covered by buffers.

Even with these buffers the neighboring farmer is still left with a 500 foot restricted spraying zone in his orchard because of this event center.

Road Safety-

This narrow one-lane road with blind corners and 90 degree turns has already become more dangerous even without this project being permitted. We have already seen a speeding sports car flying around turns, a delivery van missing a corner and having to veer into a neighboring driveway and a shuttle bus blocking the entire road of more than an hour. What has to happen before the county realizes that this road is not suitable for this much traffic?

Fire safety-

There are requirements for on-site safety plans but no mention in the MND of emergency vehicle access to the site and other properties farther west on Rd 29 if a large grass fire starts in the vicinity and all of the guests have to be evacuated. I have lived on this road for over 50 years and have seen fire trucks, tankers and long lowbeds carrying bulldozers up this road on numerous occasions. They will certainly be hindered by evacuating event center traffic on this one lane road because there is no room for two large vehicles to pass on many parts of this road and it will make an already hazardous fire even more dangerous.

For these reasons and others this is the wrong location for an event center.

Thank you,

Bruce & Robyn Rominger

July 28, 2016

Stephanie Cormier, Senior Planner
County of Yolo Planning & Public Works Dept.
292 West Beamer
Woodland, California 95695

Re: Conditional Use Permit application filed by Dahvie James & Philip Watt dba
Field & Pond, LLC.

We are writing to express our strong opposition to the project proposed in this use permit application. There are numerous reasons why this use is inappropriate for this site. We list a few below:

County Road 29 in that location is not a through road. The immediate access is a one lane, poorly maintained road. The volume of traffic not only from guests but from service vehicles & staff would create dangerous conditions. There is cattle and sheep grazing on the land accessed by that road and intensive farming on bordering properties. This one lane road is the only access for the large equipment involved in these operations. The access for fire and emergency vehicles is also limited.

Chickahominy Slough bisects the property. This is a wildlife corridor and the continual activities proposed would disrupt wildlife.

The use has no agricultural value on this agriculturally zoned property that is under Williamson Act and covered by a conservation easement. The use would not be augmenting an existing agricultural operation. It is a large hospitality business that already is holding events.

We have lived in this part of Yolo County for more than forty years and we established our farming business, Hedgerow Farms, more than twenty-five years ago. We regret that agricultural land is being repurposed for ventures not related to the agricultural base of this area. We urge the commissioners to reject this application.

John & Marsha Anderson
2170 County Road 88
Winters, CA 95694
530 662-4570
janderson@hedgerowfarms.com
hedgefarm@jps.net

Yolo Land & Cattle Co.

37874 County Rd 28
Woodland, CA 95695
(707) 693-9061 Office
(707) 693-9062 Fax
Email: boyeatsbeef@yahoo.com

July 28, 2016

Eric Parfrey, Senior Planner
County of Yolo Planning & Public Works Dept.
292 West Beamer Street
Woodland, CA 95695

Re: Mitigated Negative Declaration, Field & Pond, LLC. File ZF#2015-0018

We are writing to express our continued opposition to the project, as proposed in the revised permit application.

We are highly supportive of commercial enterprises which enhance existing ag uses, examples being wineries, olive oil processing facilities, and agri-tourism. Years ago, agri-tourism emerged as way for existing ag operations to bring in additional revenue, when commodity prices were low. The county recognized the benefits of this and recently expanded the definition of agri-tourism to include other types of facilities. These were meant to enhance existing agricultural operations. This project has tried to fit under that definition, but it is solely commercial, and should have originally been treated as such by planning staff.

The argument has been made that this property has not been actively farmed or has limited agricultural value. The fact that the previous owner did not choose to farm the property intensively is irrelevant. Many commercial developers use this tactic to declare a piece of property as useless for farming. Ag parcels get acquired and then intentionally fallowed to make this case. If this parcel were adjacent to other urban parcels then it would be a more valid argument, but it is surrounded entirely by productive farmland and rangeland.

If Yolo County allows a developer to acquire Williamson Act property solely for the purpose of immediately converting it to a commercial use under the guise of agri-tourism, then we believe it sets a very poor precedent, and will lead to many more of these projects in the future. This county has a strong track record of protecting agriculture, and the integrity of the Williamson Act. We urge the applicants to seek a more appropriate location for their venture, or to reduce the scope of their operation to a reasonable scale, which does not unduly impact their neighbors. If that cannot be accomplished, then we respectfully request that the Planning Commission deny this application in its present form. Thank you for your consideration.

Sincerely,

Scott A. Stone
Partner

Kenneth C. Stone
Partner

July 28, 2016

Mr. Eric Parfrey
Yolo County Community Services Department
292 West Beamer Street
Woodland, CA 95696

Re: Field and Pond Initial Study/Mitigated Negative Declaration File # 2015-0018 Revised and Recirculated

Dear Mr. Parfrey et al:

This letter is to inform you that the above referenced Initial Study/Mitigated Negative Declaration (IS/MND) is inadequate under the California Environmental Quality Act's guidelines, rules and regulations. The majority of the conclusions in the IS/MND are not supported by evidence in the Initial Study and are conclusory. They display only a token observance of the Act's requirements.

Furthermore, the IS/MND includes inadequate mitigation measures, many of which fail from deficient impact analysis. With respect to several mitigation measures the IS/MND does not sufficiently explain the measure proposed nor explain, even briefly, how the measure will reduce a significant effect to a less-than-significant level.

Because the administrative record clearly contains a fair argument, based on substantial evidence in light of the whole record, that this project may have a significant environmental effect an Environmental Impact Report must be prepared.

In addressing the deficiencies of the IS/MND I will let my comments on the IS/MND of March 8, 2016 stand as they are still applicable but will comment further on the three (3) topics below. These are taken up in the order they are laid out in the IS/MND.

The Project Is Not Adequately Described

The Project description does not include information necessary for the public to have a meaningful opportunity to comment on the project's true environmental impacts. What was the IS/MND based on? There have been several proposals put forward and the IS/MND seems to pick and choose information from several. The public cannot make informed input without knowing the basis for the proposal.

Moreover, the IS/MND does not include the occupancy numbers for the proposed Bed and Breakfast. How many guests will be allowed to stay in each room? What will be the maximum rental term? Will the Bed and Breakfast be in operation year-round? Without this information how can the project's impacts, especially water use and septic issues, be properly analyzed?

With respect to proposed agricultural use (currently the property has none) the description is amorphous. The project is restricted by easements and it's 11 acre footprint. After the applicants' own home, the B&B area, the event barns and outdoor venues, the pond, the proposed pool and cabanas, the parking areas and the proposed additional lodging where will the production

agriculture on the property be located? These are just a few questions that the IS/MND does not answer. Because of this, an informed analysis as to erosion, water use and biological resources cannot be made.

The description does not give any detail as to the weekend farming program, the urban youth program or the resident farmer that the project proposes. How many people will participate in the weekend farming program? How many weekends out of the year? How will they arrive and depart from the project site? How many youth will be involved in the urban youth program? How often will they be at the site and for what duration? How will they arrive and depart? Because there is no agricultural production at the site, what will the urban youth program involve? Again, without any of this detail an informed analysis cannot be made.

The Project Conflicts with Existing Zoning for Agricultural Use and a Williamson Act contract

The proposed project conflicts with current zoning because, as stated in the IS/MND (p.50 of the recirculation) "the project cannot be characterized as meeting the County's definition of "agri-tourism." The IS/MND makes this finding based on the fact that the project cannot be called a "working farm or ranch" as the code requires. The IS/MND claims that proposed mitigations cure this defect. They do not. *Not a single mitigation purports to address the fact that the project is not a working farm or ranch.*

The proposed project is also in violation of a Williamson Act (Act) contract. The IS/MND states that the project with mitigation will be consistent with the Williamson Act. The IS/MND begins its inquiry assuming, and so not even addressing, the proposed use as consistent with the Act. It is not.

As the County is aware, the Act requires property under contract to be *maintained in commercial agriculture use for the life of the contract*. Agricultural use is defined as using the land for the purpose of *producing agricultural commodities for commercial purposes*.

The Act allows "compatible uses" on land under contract with "compatible" being defined as those uses permitted under the Yolo County Zoning code. However, *a compatible use must be secondary to the primary use of the land for commercial agricultural purposes, even if it is a use allowed under the jurisdiction's zoning code. A use will be found secondary when it is required for, or is part of, the primary agricultural use.*

When a use is found to *increase the temporary or permanent human population* on the property and that increase in population *could hinder or impair agricultural operations* on either the subject property or other agricultural land in the area *than that use is incompatible*.

The proposed project cannot purport to meet the above requirements and the IS/MND fails to account for this. The IS/MND also fails to heed the advice and comments responsible agencies in this area have put forth on this topic (See comment letters from the Department of Conservation, Yolo County Farm Bureau and California Farm Bureau). Moreover the proposed mitigations do not consider any alternatives other than the mitigation, nor do the mitigations

avoid the impacts they claim to address.

The proposed project is under Williamson Act contract until 2024 and must be maintained in commercial agricultural use. It is not and the IS/MND itself notes as much (p. 49) Taking applicant's at their own word it is clear that they are not an agricultural operation of any type as their own proposals state that they must be granted a Use Permit so that they can run the B&B and Event Center in order to fund agricultural operations (p. 49 IS/MND; Field and Pond Proposals 6/8/15, 10/14/15, 10/16/15, 12/7/15, 1/15/16, 1/27/16) The proposed project, then, is in violation of the Act and the IS/MND fails to address this.

The project fails in the compatible use determination as well. Although the Yolo Code allows event centers and other agri-tourism endeavors in the A-X zone (it is an argument for another day whether that code section itself is valid under the Act for allowing such uses) the compatible use must be secondary. *The running of an event center and B&B is not required for, or part of, the primary agricultural use on the project site.* The site has no primary agricultural use, as admitted to by the County and applicants. The proposal is the exact opposite of what is allowed under the Act because the event center and the B&B are the primary uses of the land under Williamson Act contract. Therefore, the proposed project is in violation of the Act and the IS/MND fails to address this.

The proposed project is also incompatible because it will increase both the permanent and temporary population on the property and that increase will hinder and impair agricultural operations on agricultural land in the area. The permanent population will be increased by the resident farmer and his or her family members. The IS/MND does not account for this. The project also has the likelihood of increasing the permanent population in the area by drawing people to this area who will then choose to reside in the vicinity, and attempt to run agri-tourism businesses in the A-X zone.

Although the IS/MND finds that a potential significant conflict exists with the Act due to the temporary human population increase, it accounts for only attendees of events on the property and does not take into account the B&B guests, the Urban Youth program or the Weekend Farmer program. The IS/MND fails then to judge the true nature of impacts caused by the proposed project.

The proposed mitigations to alleviate the impacts on agriculture and the conflicts with the Williamson Act are not feasible, do not avoid the impacts they purport to cure and are not adequately explained. No discussion of alternatives is given or how the mitigations actually alleviate the impacts.

Mitigation Measure AG-1 does not cure the fact that the project, by its very nature, is in violation of the Williamson Act. It is odd that the County finds that constructing and operating new, additional lodging will be in violation of the Act but then *ignores that the running of the proposed event center and main house B&B is an active ongoing violation on the proposed site.* Just as with new construction, the new use of an event center and B&B must be deferred until the current Act contract terminates.

Mitigation Measure AG-2 does not ensure that the project does not significantly hinder or impair agricultural operations. A range of alternatives to address the agricultural impacts was, hopefully, explored by the County yet there is no discussion of any alternatives considered. With respect to AG-2(a) limiting the project's event totals alleviates the significant impacts on agriculture *only if the event's themselves do not occur during a critical time* for nearby agricultural owners. The IS/MND does not address this fact and never discusses how limiting event operations reduces the impact on agriculture to a less than significant level.

With respect to Mitigation measure AG-2(b) *the notification process mentioned is vague and ill-defined. Because the process is yet to be developed the County cannot determine it to be effective. Such a deferral of mitigation is improper.*

Moreover there is no discussion or analysis of how this notification process will alleviate significant impacts on agriculture. There is no mention of experts or studies consulted to determine if notification would be effective. There has, however, been ample testimony as to the potential for significant detrimental effects on agriculture in the area. The IS/MND contains absolutely no discussion of how and/or why this process was chosen from a range of alternatives. How and/or why was this mitigation determined to be the best to achieve the desired outcome. It is easy to contend that it does not.

Simply notifying agricultural operations in the area of an event upcoming in two (2) weeks time is not effective. *What does the County propose is to happen when an event falls on the same day and time as intensive agricultural operations, like tomato harvest?* Harvest dates and times cannot be scheduled in the way an event can. Must project applicants cancel their event once a conflict is discovered? If not, what is the point of the notification? What steps follow notification? Upon just a little reflection one can see that this mitigation measure is not feasible.

Mitigation Measure AG-3 *fails to account for the operations of the event center* and only applies to newly constructed buildings. It fails to account for the proposed pool and any decking or patios that may be constructed. Mitigation (b) to provide foliage screening to combat conflicts with agricultural spraying and other application operations is not feasible. Agricultural sprays are designed to penetrate through, around and over an entire canopy of foliage. A fence could not be built high enough to mitigate the impacts of these sprays. This mitigation measure, therefore, is not feasible.

The Project Fails to Adequately Account for Water Usage

The conclusion of a less than significant impact with respect to the water usage of the proposed project is not supported by substantial evidence in the IS/MND. In fact, there is absolutely no evidence given for this conclusion. The IS/MND states that *"the project will require approximately 179,00 gallons of water on an annual basis. This annual total is derived from estimated domestic use, including employees and transient lodging at 149,000 gallons, plus an anticipated 30,000 gallons for crops."* The IS/MND fails to disclose the evidence these water usage projections are based on. There is no study, survey, table or chart referenced as to where these numbers come from. This information needs to be supplied to the public so that a meaningful opportunity to respond can occur.

The numbers themselves, appear a gross underestimate. The Biological Site Assessment of the Field and Pond Project (June 20, 2016 by Jim Estep) states the project proposes five (5) acres of orchard at the site. A quick online search found a statistic from the *University of California, Davis Center for Watershed Sciences* which states that fruit and nut trees use an average of 2.2 acre feet, per acre, annually. One acre foot of water is approximately 326,000 gallons. *The project's proposed 5 acre orchard alone will actually use approximately 3,586,000 gallons.* Industry experts state that this is a conservative estimate.

Moreover, a quick online search for Bed and Breakfast water usage found a *Washington State Department of Ecology Guide for Non-Residential Water Demand* that estimates hotel room water needs based on two (2) persons per guest room. The project proposes 5 guest rooms. The study states that each room would use fifty (50) gallons per day. Because the IS/MND fails to estimate how many nights the guest rooms will be available for booking, we must assume the scenario with the greatest impacts, as CEQA requires. Therefore at 50 gallons per day the proposed project is estimated to use 91, 250 gallons annually for the guest rooms alone. This does not account for the preparation of food, janitorial services or the water needs of on-sight employees.

The project also fails to account for the water needed to fill and upkeep the proposed swimming pool. There is also no mention of how much water will be needed to upkeep the landscaping on the property and keep the 2 acre pond filled.

If project applicants or the County have more accurate water estimates or can show how they are arriving at the current estimate, that information should be supplied to the public so an informed analysis can be made. Without this background information an accurate analysis of water usage cannot be made and the IS/MND therefore is inadequate.

For the reasons stated above together with my comments from March 8 2016, the Initial Study and the Mitigated Negative Declaration for the Field and Pond project is inadequate and a proper CEQA analysis must be done. An Environmental Impact Report should be prepared because a fair argument has been made that, based on the substantial evidence in light of the whole record, this project will have a significant environmental effect.

Thank you for your time and attention to this matter. Please feel free to contact me should you have any questions or comments.

Sincerely,
Sheri Rominger
28047 County Road 29
Winters, CA 95694

Cc: Leroy Bertolero, Sydney Vergis, Daniel Friedlander, Darrin Hall, Pat Reynolds, Jack Kasbergen, Amon Muller

The June,2016,proposed mitigation re: traffic volume & risk to public safety is inadequate and incomplete.

As has been pointed out repeatedly to county staff and officials, County Road 29 is a substandard,narrow road with dangerous curves and an uneven surface. In several places it is basically a one lane road.

In recognizing that a larger volume of cars traveling to & from Field & Pond could cause a risk to public safety if they were allowed to have 20 events in addition to the 8(or 12) so called By Right events ,the county staff has proposed the use of shuttles/ buses as a way to mitigate this increased risk to the public. **Before this proposed mitigation is even considered by the Yolo County Planning Commission the county must be required to establish that the road from the beginning of CR 29 to Field & Pond is in fact wide enough to accommodate the sizes of the proposed shuttles and/ or buses and oncoming traffic traveling in the opposite direction.**

If the county cannot establish that there is adequate space the entire length to allow for safe passage for vehicles traveling in the opposite direction from these shuttles and/or buses than this is not a mitigation. In fact,in attempting to mitigate the risk to the public caused by a dramatic increase in cars traveling on the road to events,the proposed use of shuttles and/ or buses may actually increase the danger.

Barbara Dieter

July 27, 2016

To Whom it May Concern:

I am writing in response to the Initial Study/Mitigated Negative Declaration Zone File #2015-0018 regarding Field and Pond, and to express that I am still against this proposal.

My sister and I both grew up on our family's farm in Winters. We both also worked on the farm, hoeing weeds in tomato fields and helping to keep the shop and my Dad's office neat. Later on in high school, I kept track of our filter inventory and our harvested hay bales. I valued the opportunity to work alongside my Dad and my uncles and their employees, and learn more about agriculture in the county I grew up in. It wasn't until I worked on the farm in high school that I truly appreciated the amount of time, work, and love that goes into the land to produce nourishment for others.

When I moved to Berkeley after high school, other young people were amazed to meet someone who had grown up on a farm. It is rare, a novelty, a mysterious existence – farms and farm lands are disappearing. I feel lucky to have grown up in a rural area, where values of land preservation are deeply instilled. My Berkeley friends preached sustainability, organic produce, conservation, but few of them really understood the people, land, and lifestyle behind those words as I did. I was raised to appreciate and value agriculturally productive land, and to care for it.

The Field and Pond proposal is not caring for the land. The parcels are located on Williamson Act Property, which means they are protected from development or conversion to any use other than agriculture. There is also a conservation easement protecting the land and all the unique plants and wildlife that call that space home.

Having an event center on Williamson Act land is in direct conflict with the spirit and intention of the Act. Having crowds of visitors, loud party music, and unnatural lighting are laughable standards for a piece of acreage under a conservation easement. This piece of land is not meant for such use – there are other areas where event centers are welcome and more accessible, without having to jeopardize attempts to preserve a natural setting. There are fewer and fewer acres of undeveloped land in Yolo County each year, and fewer still that harbor such unique wildlife – why risk tainting such an environment for an event center which could easily exist elsewhere?

Animals frequent Chickahominy Slough, which runs through the property in question. It is a wildlife corridor attracting many different kinds of animals and birds, plus native fresh water newts and turtles. As a child, spotting a newt or a turtle was a treat; it meant that the creek was healthy and clean, and could provide a good habitat to many different species. With an event center along the creek, I can't imagine it would still provide a healthy habitat. With unnatural lighting, potential for trash and waste, and loud music and conversation, no animal will stay near for long.

Another concern I must voice is the traffic that an event center would cause. Growing up on County Rd. 89, which is a wide and straight road, I have seen all kinds of traffic, car trouble, and navigation mistakes from people who weren't from the area, and weren't used to driving in a rural setting. It ranged from easy fixes (out of gas, lost) to seriously dangerous situations (drunkenly crashing into our yard.) County Rd. 29, unlike 89, is narrow, windy, and further from rescue services such as ambulances and fire trucks. If you're unfamiliar with the area, it is easy to drive too fast when there is a one-lane bridge or a tight turn ahead, or to get lost, or to hit an animal you may not expect to

see, such as a deer or a turkey, or livestock from the many small farmers in the area. County Rd. 29 is simply not equipped to handle a constant flow of heavy traffic, let alone drivers coming from events where alcohol may be served.

I mentioned firetrucks. As I'm sure you know, wildfires are a huge concern each summer in California, and many of them are started by cars parking in dry grass and cigarettes – two things that would likely be a part of an event center in this area. You need only to look at the coastal range around Berryessa to see how serious wildfires can become quickly; the hills there are still brown and scarred from the Wragg fire last summer, which burned over 8,000 acres. It started from an idling car. A wildfire in this area would not only threaten countless animals, but also the many families that live along County Rd. 29 and nearby.

It is clear from my concerns that wildlife in the area would be threatened by an event center being built in their habitat. I would like to know how the county intends to mitigate the negative impact of Field and Pond's events on surrounding wildlife, and how such a proposal was ever accepted for Williamson Act and conservation easement land.

Thank you for your consideration of my request.

Sincerely,

Sarah Rominger



WILBUR-ELLIS®

To: Eric May and Eric Parfrey

CC: Yolo County Planning commissioners and Board of Supervisors

Date:07/27/2016

Re: Field and Pond

This is a letter in opposition to the proposed Field & Pond event center.

Wilbur-Ellis works with many growers on thousands of acres of production agriculture in Yolo and surrounding counties. We are very concerned about the negative impacts of these types of facilities interspersed in agricultural areas. Farmers and custom applicators who need to apply fertilizer and crop protection materials will be hampered by the presence of large numbers of people gathered at these sites and it will negatively impact the economic viability of their operations and thus ours also. The Yolo County Agricultural Commissioner has designated these facilities as "sensitive" and has imposed more stringent requirements when working with crop protection materials nearby.

Production agriculture is vital to all segments of business in Yolo County. Yolo County has a long history of being supportive of production agriculture and this is a step backwards that will hurt the agricultural economy of this county.

Thank you,

Mike Vaughn

Pest Control Advisor, Certified Crop Advisor

mvaughn@wilburellis.com

Ideas to Grow With®



**William B. Davis MD
Wendy Walker Davis Ph.D.
110 Edwards Street
Winters, California 95694**

July 27, 2016

Stephanie Cormier
Yolo County Planning Department
297 W. Beamer Street
Woodland, CA 95695

Dear Ms. Cormier,

We are writing regarding our distress and unease about the Yolo County Planning Department's Initial Study (Initial Study/Mitigated Negative Declaration Zone File #2015-0018) for the business Field and Pond Bed and Breakfast and large event center located at the end of Road 29. The study does not adequately address health and safety issues, it does not address the impact of the new business on neighboring farm operations and it seems to set the bar very low for the requirements of the business to meet the definition of an "agritourism" site. We have lived and worked in Winters, California for 30 years and have always been proud of the progressive agriculture and wonderful local programs and businesses that promote agriculture. We know that agritourism can be a good thing for our community when done well. However, there are grave safety concerns and issues of fairness that are not adequately addressed in this Initial Study and we urge the planning department to take a second look and make sure that they are fully addressed.

Specifically, we are concerned about fire danger and the safety of using a narrow dead end road with two small bridges that can hold one vehicle at a time (one way) as the sole entrance and exit for large events such as weddings. This road already must daily accommodate the movement of various farm machinery, including harvesters, trucks, double load semis carrying tomatoes, cattle trucks and tractors. We know this road well, we have visited farms on the road and one of us (Dr. William Davis) has done house calls in several of the homes on that road. It is not in good shape with disheveled, broken pavement in parts. There are dips in the road where you cannot see oncoming traffic.

An even more profound safety concern is the very real fire danger. Those of us living in this region have already been warned by Cal Fire that severe fire danger is ongoing. Field and Pond is located on 80 acres located in a designated Fire Hazard Severity Zone. There have been fires in the area in recent years. For this reason, it seems important that very specific and complete fire safety precautions should replace the rather vague language in the Study. For example, a commitment to require sprinklers in all buildings housing people, a safe exit plan for guests and a plan for how Field and Pond plans to keep Road 29, which is the deepest entry point into the Berryessa Range, accessible to Cal/Fire and other emergency crews who use the property at the

western end of Road 29 as a fire staging area. Large tractors and bulldozers, firetrucks and fire crews must pass unimpeded by exiting guests. It is not clear to us how this will be possible from the mitigation measures described in the Study.

Finally, we are concerned about the precedent of granting a use permit under the agricultural commercial uses in the A-X Zone when the Study clearly states that the project does not meet the County's definition of agritourism, and may or may not ever meet the definition (see page 49). The intent of agritourism is to promote agriculture. The proper location is a working farm/agricultural operation. The primary activities of tourists is enjoyment, education or involvement in the activities of the agricultural operation. It seems that in the other agritourism locations we have visited that the activities are also compatible with the farm operation.

In the case of Field and Pond, the activities are not compatible with their farming neighbors. Some have raised concerns that it may put them out of business. Of course, we can't know that for certain, however, it seems unfair that the potential negative impact of neighboring farms is not addressed in this study. It appears that farmers are being required to accommodate Field and Pond rather than Field and Pond accommodating the realities of farming. For example, an event center like Field and Pond likely plans events months in advance. Farming is a day to day business. There is a limited time to plant, spray, or harvest before a freeze. It has to happen whether or not there is a party of 100 people down the road. How will Field and Pond deal with the scenario of getting their guests in and out during harvest with semi-trucks and tractors running on the road day and night? How will they keep wedding guests healthy and safe at their outdoor events when farmers need to spray their crops? If the owners of Field and Pond truly want to be farmers someday, these are questions they should be prepared to answer.

We respectfully ask that the health and safety and fire concerns raised regarding this business be revisited and addressed. We also think it is imperative that the agritourism codes be followed. In fact, it seems that if the codes are followed it would likely be concluded that this is a potentially good business in a bad place.

Sincerely,

William B. Davis MD

Wendy Walker Davis Ph.D.

**William A. Chapman
4038 Boulder Drive
Antioch, California 94509-6233**

July 27, 2016

Mr. Taro Echiburu, Director
County of Yolo
Planning & Public Works Department
292 West Beamer Street
Woodland, California 95695

RE: Conditional Use Permit application file ZF #2015 – 0018
application filed by Dahvie James and Phillip Watt, dba Field and Pond.

Dear Sir,

In order to understand and comply with the ordinances of the County of Yolo which govern compliance with the County's Use Permit application process and procedures; would you please provide a copy of the Yolo county's accounting policies, practices and procedures as they govern the determination of compliance with the term “**not-for-profit**” - as it may be applied in the determination of compliance for “Large event centers” - who are permitted and those not permitted..

Does the term '**not-for-profit**' – as used by the County of Yolo, Planning & Public Works Department – conform with the policies and procedures as set forth and defined in the IRC (Internal Revenue Codes) and/or as defined by the AICPA.? Or is the term '**Not-for-profit**' uniquely defined and governed by accounting policies and procedures codified by the County of Yolo?

Are **Not-for-profit** event(s) - reporting documentation - are the reports filed and **audited** and regulated by your department?

Please provide a copy of your template as used for compliance in so reporting.

How are capitalized costs (expenditures) identified, recorded, and accounted for?

What cost classifications and/or types of revenues are excluded from your **not-for-profit** calculations?

Thank your for your response to this request.

Sincerely,

William A. Chapman
“Retired - Certified Public Accountant”



RICHARD E. ROMINGER ~ 28681 CO. ROAD 29, WINTERS, CALIFORNIA 95694

Ph. (530) 795-2171 ~ Cell (530) 383-7127 ~ email: terr@cal.net rerominger@gmail.com
ROMINGER BROTHERS FARMS, INC.

February 18, 2016

To the Yolo County Planning, Public Works and Environmental Services Department:

Concerning the proposed Field and Pond project; File Number ZF #2015-0018

We are writing to oppose the large event center known as Field and Pond that is being proposed on County Road 29 approximately 3 miles West of County Road 89. It is not the proper location for such an event center.

County Road 29 is a dead end road that is narrow, uneven, and with sharp corners. It is not a safe road for the amount of traffic being proposed. It is the only way to and from the site. This is an agricultural area where farm pickups, agricultural equipment, tractors, grain harvesters, tomato harvesters and trucks, and livestock trucks are common during all hours.

If a fire occurred in the hills adjacent to the large event center, and this is not uncommon, during one of their events, and large numbers of cars began fleeing the area, it would be nearly impossible for fire trucks and other emergency vehicles to reach the area. It would be even more dangerous if the event guests had been consuming alcohol.

Chickahominy Creek runs through the property, and the event center barn is immediately adjacent to the creek. This is a wildlife corridor that is home to many species of wildlife. The property is also covered by an agricultural conservation easement. The noise created day and night by the hundreds of people proposed for events at the site is not compatible with this wildlife corridor.

The subject property is covered by a Williamson Act contract, as are all of the surrounding lands. The purpose of the Williamson Act is to protect agricultural land for agriculture. The proposed Field and Pond project will interfere with the agricultural activities of all of the neighboring farms and ranches. A large event center in this location is not compatible with Williamson Act lands.

Yolo County's zoning, with minimum parcel sizes for agricultural lands, is meant to prevent "leapfrog" development. Field and Pond's proposal to build additional cabins or bungalows is "leapfrog" development.

The definition of Agricultural Tourism is a working farm that invites others, especially urban residents, to come to the farm to be educated about agriculture and enjoy the experience, and sometimes pay a fee to do so to supplement the farmer's income. Events, such as a wedding with hundreds of guests does not meet this definition.

This is a large event center that is trying to masquerade as a farm. This is not the appropriate place for such a project.

Sincerely,



February 18, 2016

I've been working for more than 30 years to protect farmland in Yolo County. I was a co-founder and founding president of the Yolo Land Trust, and on the board of the American Farmland Trust for many years, working to develop policies and programs at the federal, state and local level to protect farm and ranch land.

Yolo County has done a good job of keeping development to our cities and towns and is looked to by others as the right way to do it.

Let's not go backwards by permitting this large event center, with plans for additional housing that would constitute leap frog development, near the end of a narrow dead end road.

It will interfere with the agriculture, and disturb the wildlife, of this agriculturally zoned area. It is not compatible with the Williamson Act protected surrounding farm and ranch lands.

RE Rominger

Re: Proposed Field & Pond Event Center; From Richard E. Rominger 4/7/16

Zoning, and the regulations and limitations that go along with it, is for the purpose of assuring compatibility of adjacent and nearby land uses. For example, hog farms are not permitted in cities. So why should large event centers be permitted in agricultural areas?

In order to co-exist, the surrounding farms have to alter their farming practices for the benefit of the event center. Farming operations are governed by crop cycles, weather, pest and disease infestations, and sometimes are not easily altered. Yet event centers schedule events weeks or months in advance and expect the surrounding farmers to not stir up dust, spray crops, or generate noise from tractors, trucks, or harvesting equipment during their events.

Farmers and ranchers are willing to co-exist with a few event centers, but that means event centers should be few and far between. And they should be sited where they cause the least disruption for farmers and other neighbors, and also where they cause the fewest problems for traffic and emergency vehicles.

The proposed Field and Pond large event center does not fit these criteria. It is on a dead end road that is very narrow with poor shoulders, with curves, corners and dips that are not easy to navigate. It will certainly pose hazards for drivers unfamiliar with the road leaving an event at night after they have been consuming alcohol. They will also be a hazard for the neighbors along the road. There is only one way to and from the proposed event center, approximately three miles west of Road 89.

In the event of a fire in the adjacent dry hills during a large event, it will be almost impossible for fire trucks and other emergency vehicles to access the area if hundreds of cars are trying to flee the area. The Field and Pond developers have proposed shuttles to bring people to events. Will they have enough shuttles standing by at the event to evacuate all attendees? And how will they force all attendees to use the shuttles to come to the event?

Park Winters is an example of siting that is accessible from three directions on good straight roads, and only one mile from a major county road. They have also restored a very historic Victorian home.

Agri-tourism is defined as existing farms and ranches, which get most of their income from their agricultural operations, inviting members of the public to come to their farm or ranch for an educational/recreational experience, and supplement the income of the farm or ranch.

Bed and Breakfasts and large event centers are something else, and should be few and far between, if we are going to continue protecting agriculture in Yolo County.



May 6, 2016

Stephanie Cormier, Senior Planner
Yolo County Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95695

To Members of the Yolo Planning Commission:

RE: Agri-tourism and the Siting of Large Event Centers

Yolo County has a Right to Farm Ordinance, and the Zoning Code discusses Agti-tourism. Neither of these should be ignored when permitting Large Event Centers.

Agri-tourism is defined as a working farm or ranch that earns most of its income from its agricultural operations, and invites members of the public to come to the farm or ranch for an educational/recreational experience which supplements the income of the farm or ranch.

Williamson Act contracts must also be considered. It is our understanding that Large Event Centers are not permitted on lands covered by a Williamson Act contract, since this is not a compatible use.

Easements should also be considered. Whether it is a conservation easement to prevent development or a wildlife habitat conservation easement to protect wildlife, they should not be ignored. A large event center would be incompatible. There should also be setback requirements for an event center on adjacent property.

We understand the minimum parcel size for Large Event Center is 40 acres, to provide a buffer to prevent adverse effects from activities on neighboring properties. There should be buffers from Williamson Act land and any conservation easements.

The problem is that these event centers schedule events weeks or months in advance with no regard for what activities may be happening on adjoining farms or ranches. They expect their neighbors to alter their farming operations so as not to create noise, dust, spraying or traffic of tractors, trucks, cultivating or harvesting equipment. Farming and ranching are based on biological events – crop cycles, pest and disease infestations, contracts with crop delivery dates, and weather, and are not easily altered.

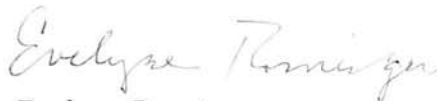
Therefore, Large Event Centers should be few and far between, and should be sited where they cause the least disruption to farmers and other neighbors, and where they cause the fewest problems for traffic and emergency vehicles.

Yolo County has historically done a good job of supporting agriculture, and now is not the time to go back on that history. We urge you to continue supporting a strong, viable and profitable agriculture in Yolo County.

Sincerely,



Richard E. Rominger



Evelyne Rominger



July 27, 2016

VIA EMAIL: ERIC.PARFREY@YOLOCOUNTY.ORG

Mr. Eric Parfrey, Principal Planner
County of Yolo Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95696-2598

Dear Mr. Parfrey:

FIELD & POND BED & BREAKFAST AND SPECIAL EVENT FACILITY USE PERMIT ZF #2015-0018; REVISED AND RECIRCULATED IS/MND SCH #2016032024

The Department of Conservation (Department) has reviewed the revised and recirculated Mitigated Negative Declaration for the proposed Field & Pond project. The Department monitors farmland conversion on a statewide basis, funds the acquisition of agricultural conservation easements, and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. The Department's prior comment letters on this project are included as enclosures to this letter.

It appears that Yolo County and the applicant have worked to improve the proposed project, and the Department supports portions of the proposed project, such as the proposed implementation of a program to provide career mentorship to urban youth and the restoration of the agricultural value of the property. However, for reasons discussed below, the Department respectfully urges Yolo County to postpone certification of the revised and recirculated Mitigated Negative Declaration and the use permit until the applicant has further revised the project to lessen the impacts on the surrounding agricultural operations. Based on a recent court ruling in San Luis Obispo on a similar project, if the applicant will not further revise the project, the Department suggests that Yolo County consider preparing an Environmental Impact Report. A copy of that ruling is enclosed.

Project Description

As described in the Notice of Availability and Notice of Intent to Adopt a Mitigated Negative Declaration, the project, as proposed, is for the operation of a "large bed and breakfast (B&B) and large special event facility" on an 80-acre parcel in an unincorporated area of the county. According to the Notice, Chickahominy Slough bisects the property and separates the 11-acre homestead from the remainder to the property. Some of the existing improvements on the homestead area included three residential structures and three barns. The proposal includes converting one of the residential structures into a five bedroom B&B and one of the barns into an event barn for the hosting of indoor/outdoor events. In addition, the proposal also includes the construction of four stand-alone cottages and a pool with cabana.

Comment Period

If you were not already aware, the date provided for the close of the comment period on the Notice is inconsistent with that provided through CEQAnet. The date provided in the Notice is July 28, 2016; on CEQAnet, the date is July 27, 2016.

Presence of a B&B on Williamson Act Contracted Land

Page 18 of the Mitigated Negative Declaration states that according to Yolo County Code Section 8-2.507 and Resolution #69-256, detached living quarters shall not be rented or used as a business on a Williamson Act contracted parcel. Accordingly, Mitigation Measure AG-1 prohibits the construction of the four individual cottages until the Williamson Act contract has completely non-renewed (i.e., in 2024). It is unclear why that same prohibition will not apply to the proposed conversion of the main house, which is a detached building from the cottage occupied by the applicant/owner, into a five bedroom B&B.

Please consider providing a justification for why the prohibition does not apply to the proposed five bedroom B&B. If the prohibition does apply, the Department strongly urges that the conversion of the main house to a five bedroom B&B be delayed until the Williamson Act contract has completely non-renewed.

Event Center on Williamson Act Contracted Land

Pages 18 through 21 and 60 through 63 of the Mitigated Negative Declaration discuss the proposed event center's effect on existing agricultural operations adjacent to the property. As currently proposed, during March through November, the event center will host four to five events a month, but no more than 35 per year. The applicant anticipates seeking to increase the number of annual events to 45. Anticipated attendance ranges from 120 people to no more than 300. The applicant will require transportation shuttles during for-profit events that have more than 150 guests.

Mitigation Measure AG-2 limits the number of events to 20 per calendar year, no more than one per week, and not more than four events with up to 300 guests, no more than one per month. This implies that events will occur year-round, however, page 60 of the Mitigated Negative Declaration states that there is an event season of March through November. The intensity of the impacts increases if the 20 events are over 9 months, rather than 12. Please consider clarifying this mitigation measure so that the sufficiency of this mitigation measure on the intensity of these impacts can be adequately evaluated. In addition, please consider clarifying if the Mitigated Negative Declaration includes an analysis of the future increase of events to 45. If it is not included, please explain why that is the case and why it is not piecemealing.

Mitigation Measure AG-2 also requires that for events with more than 150 guests, shuttles or vans shall be required. Mitigation Measure TR-1 requires the applicant to fund the installation a single "Road Narrows" sign. Page 62 of the Mitigated Negative Declaration does state that a Condition of Approval will be that the applicant must notify the neighboring property owners and agricultural operators no less than three weeks in advance of any event. According to page 62 of the Mitigated Negative Declaration, these operations rely on large, slow moving vehicles such as tractors, tomato harvesters, livestock haulers, manure hauling semi-trucks, which must utilize County Road 29. These measures and conditions, while helpful, do not appear to respond to the comments or limit the potentially significant impact that the increased usage by personal vehicles driven by out-of-town guests will have on existing agricultural operations that use County Road 29, which is a narrow, rural road.

The Department is concerned that these measures are inadequate to prevent significant displacement or impairment of current agricultural operations on other contracted lands in agricultural preserves. If this is indeed the case, then the proposed project may violate both the Williamson Act's Principles of Compatibility requirement (Gov. Code §51238.1) and Yolo County's

Mr. Eric Parfrey
July 27, 2016
Page 3

existing zoning regulation, 8-2.306(k)(8). The Department recommends adopting stronger mitigation measures to better protect surrounding agricultural operations.

Agreements Restricting Neighboring Farms as a Mitigation Measure

Pages 20 through 21 of the Mitigated Negative Declaration discuss the potentially significant impacts that the construction of new structures will have on the neighboring agricultural operations. This impact will occur as a result of the required 300 to 500 foot buffer between agricultural operations where spraying or application of other agricultural related products may occur and certain structures. Mitigation Measure AG-3(a) requires that the applicant reach an agreement to reduce the buffer with the neighboring landowners or to acquire an easement from the adjacent landowners.

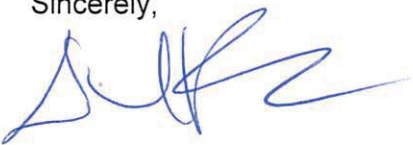
Both of the options proposed in Mitigation Measure AG-3(a) require neighboring agricultural operations to curtail their agricultural operations. The Department is concerned that such a requirement is inconsistent with Yolo County's Right to Farm Ordinance. In addition, the Department, on behalf of the state Strategic Growth Council, is in the process of acquiring an agricultural conservation easement over one of the neighboring agricultural operations. Once the Department's acquisition is complete, Mitigation Measure AG-3(a)'s easement option, which likely would limit farming operations, will likely become infeasible. For these reasons, the Department strongly requests that Mitigation Measure AG-3(a) be re-evaluated. Further, the Department recommends clarifying the status of the applicant's permit if an applicant is unable to reach agreements with the neighboring agricultural operations for either a buffer agreement or easement.

Conclusion

The Department appreciates Yolo County's long-standing support of agriculture and is aware of the challenges associated with these type of projects. If desired, the Department is willing to assist in finding a resolution to the issues raised in this letter.

Thank you for the opportunity to comment on the proposed Field & Pond project. If you have any questions or need additional information, please contact Jessica Rader at (916) 323-6733.

Sincerely,



David Bunn
Director

cc: Jessica Rader

Enclosures



State of California • Natural Resources Agency
Department of Conservation
Division of Land Resource Protection
801 K Street • MS 14-15
Sacramento, CA 95814
(916) 324-0850 • FAX (916) 327-3430

Edmund G. Brown Jr., Governor
John M. Lowrie, Assistant Director

March 17, 2016

VIA EMAIL: STEPHANIE.CORMIER@YOLOCOUNTY.ORG

Ms. Stephanie Cormier, Senior Planner
County of Yolo Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95696-2598

Dear Ms. Cormier:

FIELD AND POND LLC, USE PERMIT ZF2015-0018, BED AND BREAKFAST AND SPECIAL EVENTS ON WILLIAMSON ACT CONTRACTED LAND

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the proposed Use Permit submitted by Yolo County. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project and the potential impacts on agricultural land and resources.

Project Description

The proposed project is located on an 80 acre agriculturally zoned property northwest of the City of Winters in Yolo County. The land was previously used for grazing, and contains a wildlife habitat corridor (Chickahominy Slough), with rural residences, a two-acre fishing pond, and several accessory structures, including barns, a water tower, and grain silos. The property is under a Williamson Act contract and a Wildlife Heritage Foundation conservation easement encompasses the property south of Chickahominy Slough. The Williamson Act contract is in the nonrenewal process, with the contract expiring in 2024.

The applicant, Field & Pond, is proposing to operate a bed and breakfast and special events facility. The proposed use permit would allow the applicant to host up to 35 events per year, with the possibility of increasing the number of annual events if shuttles are used exclusively for transportation. In addition to the five room bed and breakfast, four future stand-alone cottages and a pool and cabana are also proposed. A 45,000 square foot event parking area will accommodate up to 75 cars with a separate event entrance and exit.

Proposed mitigation would prohibit the construction of the stand-alone cottages until the current Williamson Act contract has completed its nonrenewal process. Also, mitigation has been proposed which would reduce the number of events from 35 to 24 per year.

Williamson Act Comments

The Williamson Act enables local governments to enter into 10-year contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or compatible uses.

California Government Code (GC) § 51230 enables local government to enter into Williamson Act contracts; in return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual use (i.e. farming, grazing, and/or open space), as opposed to potential market value. Although the project property is under nonrenewal, it retains agricultural land use constraints until the contract expires in 2024. During the remaining years of the contract, the County is advised to adhere to Williamson Act requirements, as discussed below.

The Williamson Act instructs counties and cities on what constitutes a compatible use – that counties and cities are given latitude to determine other uses that can be deemed compatible within the intent of the Williamson Act; and that these uses must be associated with agricultural operations on the property. GC § 52138.1(b)(3) also states that a compatible use, “is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve”.

The Division supports the activities of agricultural business ventures on land under a Williamson Act contract as long as the use supports and promotes the agricultural commodity being grown on the premises; and the number of attendees does not abuse the Williamson Act’s leniency in allowing counties to determine the permanent or temporary human population of the agricultural area (GC § 51220.5). This section was written to protect agricultural lands from uses that often hinder or impair agricultural operations and as such should not be taken lightly.

Business activities that are asserted to promote products grown on site should be validated to ensure that they are unique enough to justify compatibility, as opposed to a use that could occur on non-contracted or urban lands. While the Department has typically found tasting rooms to be similar in nature to stands selling produce grown on-site, and therefore compatible; event centers and other facilities which increase the population of the area can have a more difficult time finding consistency with GC § 51220.5 and the Principles of Compatibility (GC § 51238.1). The project does suggest mitigation to reduce the number of events, but the exact number of attendees remains unclear; therefore, the potential increase in population to the area should be carefully considered.

Yolo County has established bed and breakfasts and event centers as compatible uses on contracted lands; however, the proposed bed and breakfast and events facility do not seem to be related to any agricultural use on the subject property, and therefore may not be consistent with the principles of compatibility established in the Williamson Act

The Department is concerned about the effects that the proposed project will have on the subject property and also with the compatibility of the proposed use on Williamson Act contracted land. It is suggested that the County carefully consider how this project, as proposed, is consistent with the principles of compatibility and the purpose of the Williamson Act. Should the County be unable to meet the statutory requirements for compatible use, the Department recommends that the project be postponed until the current Williamson Act contract has completed its nonrenewal process as there would be no question as to the compatibility with the Act. Another option would be cancellation, or partial cancellation, of the contract for those areas not devoted to agricultural use.

Ms. Stephanie Cormier
March 17, 2016
Page 3

The Department provides an advice paper regarding cancellations which can be found at the following address:

http://www.conservation.ca.gov/dlrp/lca/basic_contract_provisions/Documents/Cancellation%20Advice%20Paper%20Final_Amended_7.16.2015.pdf

Additional Comments

The applicant describes efforts to restore agricultural value to the property, including potential orchard planting. The Department advises that any conflicts with the conservation easement held by the Wildlife Heritage Foundation should be addressed prior to allowing conversion of land uses subject to permanent conservation easement.

Thank you for the opportunity to provide comments on the Field and Pond Project's proposed use permit, file number ZF #2015-0018. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions concerning our comments, please contact Farl Grundy, Environmental Planner at (916) 324-7347 or at farl.grundy@conservation.ca.gov.

Sincerely,



Molly A. Penberth, Manager
Division of Land Resource Protection
Conservation Support Unit

cc: Yolo County Farm Bureau



State of California • Natural Resources Agency
Department of Conservation
Division of Land Resource Protection
801 K Street • MS 18-01
Sacramento, CA 95814
(916) 324-0850 • FAX (916) 327-3430

Edmund G. Brown Jr., Governor
John M. Lowrie, Assistant Director

August 18, 2015

VIA EMAIL: STEPHANIE.CORMIER@YOLOCOUNTY.ORG

Mrs. Stephanie Cormier, Senior Planner
County of Yolo Planning and Public Works Department
292 West Beamer Street
Woodland, CA 95696-2598

Dear Mrs. Cormier:

**FIELD AND POND LLC; CONDITIONAL USE PERMIT – BED AND BREAKFAST AND
LARGE SPECIAL EVENTS FACILITY ON LAND RESTRICTED BY WILLIAMSON ACT
CONTRACT**

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Conditional Use Permit submitted by Yolo County. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project's potential impacts on agricultural land and resources.

Project Description

The proposed project is located on an 80 acre agriculturally zoned property northwest of the City of Winters in Yolo County. The land was previously used for grazing, and contains a wildlife habitat corridor (Chickahominy Slough), with rural residences, a two-acre fishing pond, and several accessory structures, including barns, a water tower, and grain silos. The property is under a Williamson Act contract and a Wildlife Heritage Foundation conservation easement encompasses the property south of Chickahominy Slough.

The applicant, Field & Pond, is proposing to operate a large bed and breakfast and large special events facility that includes lodging, events, and seasonal dinners. The project also proposes walking trails, sale of onsite agricultural products, harvest events, including tastings, farm tours, overnight parking, and a pool and cabana on 10 acres of the 80 acre property. The remaining 70 acres include grazing land and proposed row crops. The project proposes using the existing main house as a five room bed and breakfast, as well as the future construction of five bed and breakfast guest cottages. One of the two existing barns will be restored and renovated into an "event barn" to accommodate secure storage, events, and dinners.

The applicant anticipates approximately 35 events per year to accommodate weddings, corporate retreats, and nonprofit events. Events are to accommodate no more than 150 guests. Buildout of the proposed project will occur in phases with full buildout anticipated between 2018 to 2025.

Department Comments

Government Code (GC) § 51242 enables local governments to enter into Williamson Act contracts on land that is devoted to agricultural use and located in an area designated as an agricultural preserve. In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual agricultural and/or open space use, as opposed to potential market value. Because the Williamson Act provides a preferential tax assessment on contracted land in exchange for limiting the land to agricultural uses, any use other than the agricultural or open space use for which the property was placed under contract must be found to be compatible.

The Williamson Act¹ instructs counties and cities on what constitutes a compatible use -- that counties and cities are given latitude to determine other uses that can be deemed compatible within the intent of the Williamson Act; and that these uses must be associated with agricultural operations on the property. GC § 52138.1(b)(3) also states that a compatible use, "is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve".

The Division supports activities of an agribusiness venture on land under a Williamson Act contract as long as the facilities and activities support and promote the agricultural commodity being grown on the premises. However, it must be shown that these uses and facilities would be inherently related to the site's existing agricultural operation; and the number of attendees does not abuse the Williamson Act's leniency in allowing counties to determine the permanent or temporary human population of the agricultural area².

While the Department has typically found tasting rooms to be similar in nature to stands selling produce grown on-site, and therefore compatible; the project site contains no agricultural operation that would support the existence of a tasting room. Yolo County has established bed & breakfasts and event centers as compatible uses on contracted lands, however, the proposed bed & breakfast and events facility are unrelated to any agricultural use on the subject property, and are therefore does not appear to be consistent with the principles of compatibility³.

The proposed project would bring large numbers of people into the agricultural area multiple times per year, thus increasing the temporary population of the area under contract. The applicant anticipates approximately 35 events per year to accommodate weddings, corporate retreats, and nonprofit events. Each event is expected to accommodate no more than 150 people. The project also plans to employ five full time employees and two part time employees. These numbers suggest a population increase of more than 6,800 people per year to the project area for a use that is not directly related to any existing agricultural operation on the property.

Yolo County reiterates GC § 51220.5 in their own Williamson Act Guidelines stating, "A use is incompatible if it increases the temporary or permanent human population on the subject property and that increased population could hinder or impair agricultural operations on the subject property and/or other agricultural lands in the vicinity"⁴.

¹ Government Codes §51201, §51206, §51220, §51220.5, §51238, §51238.1, §51242, and §51250.

² Government Code §51220.5 – Legislative Findings: Compatible Uses (Temporary Population Increases)

³ Government Code §51238.1

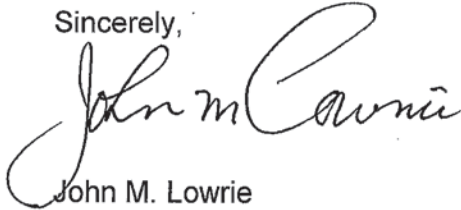
⁴ Yolo County Williamson Act Guidelines; Section V.(A)(5), page 8.

Conclusion

The Department is concerned that Yolo County has underestimated the effects the proposed project will have on the subject property and has concerns regarding the compatibility of the proposed use on Williamson Act contracted land. It is suggested that the County carefully consider how this project, as proposed, is consistent with the principles of compatibility and the purpose of the Williamson Act. The Department recommends that the contract be put into nonrenewal and that the project be postponed until such time as there would be no question as to the compatibility of use. Another option would be cancellation, or partial cancellation, of the contract for those areas not devoted to agricultural use.

Thank you for giving us the opportunity to comment on the Conditional Use Permit for the Field and Pond Project. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Environmental Planner at (916) 324-7347 or via email at Farl.Grundy@conservation.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "John M. Lowrie". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

John M. Lowrie
Assistant Director
Department of Conservation
Division of Land Resource Protection

**STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO
CERTIFICATE OF MAILING
Ruling on Petition for Writ of**

Save Adelaida vs. County of San Luis Obispo	15CVP-0197
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Alison Nicole Norton

147 S River Street Suite 221
Santa Cruz CA 95060

Michelle Landis Gearhart
Adamski Moroski Madden Cumberland
& Green LLP
PO Box 3835
San Luis Obispo CA 93403

Whitney G McDonald
Deputy County Counsel
County of San Luis Obispo
County Gov Center Room D320
San Luis Obispo CA 93408

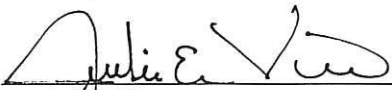
Under penalty of perjury, I hereby certify that I deposited in the United States mail, at, Paso Robles, California first class postage prepaid, in a sealed envelope, a copy of the foregoing addressed to each of the above;

OR

If counsel has a pickup box in the Courthouse a copy was placed in said pickup box this date.

Dated: 6/23/2016

Michael Powell, Clerk of the Court

By:  Deputy Clerk
Julie Vierra

FILED

JUN 23 2016



SAN LUIS OBISPO SUPERIOR COURT

BY Julie Viena
Julie Viena, Deputy Clerk

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO
PASO ROBLES BRANCH

SAVE ADELAIDA, WILTON WEBSTER
AND HELEN WEBSTER,

Petitioners,

v.

COUNTY OF SAN LUIS OBISPO and
DOES 1 through 15,

Respondents.

WILLOW CREEK NEWCO LLC, and
DOES 16 through 30,

Real Parties in Interest.

Case No.: 15CVP-0197

**RULING ON PETITION FOR WRIT
OF MANDAMUS**

Save Adelaida, Wilton Webster, and Helen Webster (collectively Save Adelaida) bring this writ of mandate challenging the County of San Luis Obispo Board of Supervisor's (Board) denial of Petitioners' appeal and approval of Willow Creek NewCo, LLC's (Willow Creek) minor use permit (MUP). For CEQA compliance purposes, the MUP was approved based on the adoption of a mitigated negative declaration (MND).

1 Willow Creek owns and operates the Pasolivo olive oil company which produces,
2 markets, and sells olive oil on its 45-acre property located at 8530 Vineyard Drive in
3 Adelaida. The Board approved a phased development for the expansion of Willow
4 Creek's agricultural processing facility (Project).¹

5 The Project includes demolition and replacement of a 6,820 sq ft barn,
6 construction of a 2,600 sq ft building for additional processing, and a 3,000 sq ft building
7 for a tasting room, retail sales, commercial kitchen, office, and storage. Also, included in
8 the MUP, and the focal point of the writ action, is the approval for up to 20 annual events
9 with no more than 200 people, limited to two weekends a month. This approved use is
10 limited to a 10-year time period. The approval does not apply to normal tasting room
11 patronage or any events with less than 50 people. The MUP also modifies certain setback
12 requirements.

13 In Save Adelaida's opinion, the MUP constitutes the approval of an "Event
14 Center" that is out of character with the agricultural uses of the property and surrounding
15 area. Save Adelaida believes that this use violates state and local land use laws and more
16 importantly, contends the approved MND is deficient because it ignores certain
17 significant environmental impacts. Save Adelaida argues that under CEQA there exists
18 substantial evidence to support a fair argument that the Project has significant impacts on
19 the environment such that a full environmental impact report (EIR) is required.

20 Conversely, Willow Creek maintains that the MUP allows for a modest expansion
21 of an existing olive oil business which includes limited temporary events that are
22 consistent with the agricultural nature of the property. In fact, Willow Creek emphasizes
23 that the approved MUP actually reduces the amount and extent of events that were
24 previously available to it. According to Willow Creek, the Board's adoption of the MND

25
26 ¹ In a separate process, the County of San Luis Obispo approved a permit for the remodel of an existing
27 residence on the premises. Because the remodel encompasses seven bedrooms and 6.5 bathrooms, and
28 based on statements made by the principals of Willow Creek, Save Adelaida argues that the "Project"
should include the remodel as it was intended for use as a vacation rental or B&B. As will be
discussed below, the MUP specifically excludes any use of the remodeled residence or any other
residence on the property as a vacation rental or B&B. As such, the Court's definition of Project
excludes the permit for the remodel.

1 was appropriate because there is not substantial evidence to support a fair argument that
2 the Project, as approved, will have any unmitigated and significant environmental
3 impacts.

4 For background and informational purposes, the appellate court in *Quail*
5 *Botanical Gardens Foundation, Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597
6 accurately summarizes the purposes of CEQA as follows:

7 CEQA requires a governmental agency prepare an environmental impact
8 report (EIR) whenever it considers approval of a proposed project that
9 ‘may have a *significant* effect on the environment.’ (§21100, italics
10 added.) In addition to the intent to require governmental decision makers
11 to consider the environmental implications of their decisions, the
12 Legislature in enacting CEQA also intended to provide certain substantive
13 measures for protection of the environment. (*Friends of Mammoth v.*
14 *Board of Supervisors* (1972) 8 Cal.3d 247, 254-256, disapproved on
15 another point in *Kowis v. Howard* (1992) 3 Cal.4th 888, 896-899; *Sierra*
16 *Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41]; *Quail*
17 *Botanical* at 1601.)

18 In a CEQA based action a critical consideration is the appropriate standard of
19 review. The applicable standard in this case is the “fair argument” test. (*Quail Botanical*
20 *Gardens Foundation, Inc, supra*, 29 Cal.App.4th at 1597, 1602) To place that standard
21 into the appropriate CEQA context, the court in *Keep Our Mountains Quiet v. Cty. of*
22 *Santa Clara* (2015) 236 Cal.App.4th 714, explained:

23 If the initial study uncovers ‘substantial evidence that any aspect of the
24 project, either individually or cumulatively, may cause a significant effect
25 on the environment,’ it must prepare an EIR. (Guidelines, §15063, subd.
26 (b)(1).) An EIR is required whenever ‘substantial evidence in the record
27 supports a ‘fair argument’ significant impacts or effects may occur.’(*City*
28 *of Arcadia v. State Water Resources Control Bd.* (2006) 135 Cal.App.4th
1392, 1421) If, on the other hand, there is ‘no substantial evidence that the
project or any of its aspects may cause a significant effect on the
environment,’ the agency prepares a negative declaration. (Guidelines,
§15063, subd. (b)(2).) Alternatively, if ‘the initial study identifies potential
significant effects on the environment but revisions in the project plans
‘would avoid the effects or mitigate the effects to a point where clearly no

1 significant effect on the environment would occur' and there is no
2 substantial evidence that the project as revised may have a significant
3 effect on the environment, a mitigated negative declaration may be
4 used.' (*Architectural Heritage Assn. v. County of Monterey* (2004) 122
5 Cal.App.4th 1095, 1101; *Keep Our Mountains Quiet* at 730)

6 In this instance, Save Adelaida reminds the Court that the fair argument standard
7 is a low threshold test. (*Pocket Protectors v. City Of Sacramento* (2004) 124 Cal.App.4th
8 903, 928) Also, "it is a question of law, not fact, whether a fair argument exists, and the
9 courts owe no deference to the lead agency's determination." (*Id.*) "Thus, if substantial
10 evidence in the record supports a 'fair argument' that significant impacts or effects may
11 occur, an EIR is required and a negative declaration cannot be certified." (*Quail*
12 *Botanical Gardens Foundation, Inc., supra*, 29 Cal.App.4th 1597, 1602.) Even so,
13 Willow Creek responds that an EIR in this case is not required as there is not substantial
14 evidence in the record that the Project will have significant impacts on the environment.

15 With regard to specific environmental impacts, Save Adelaida asserts that there is
16 substantial evidence to establish a fair argument that the Project will result in significant
17 traffic impacts. The County of San Luis Obispo (County), as the lead agency in the
18 initial study and proposed mitigated negative declaration, determined the Project would
19 have an insignificant impact on transportation/circulation such that no mitigation
20 measures were necessary. (AR 36-37, 239-240) Despite the County's conclusions, Save
21 Adelaida retained the services of traffic and parking expert Gay Pang (Pang) to "peer
22 review" that conclusion. (AR 2504) Pang was critical of the MND as it relates to traffic,
23 including but not limited to the number of estimated trips generated by the Project, which
24 he estimated at over 116 peak hour trips, compared to the County's estimate of 80 peak
25 hour trips; driveway corner sight distance parameters; level of service which Pang
26 estimates would be reduced to LOS D; and the lack of a roadway safety analysis (RSA).
27 (AR 2511-2512)

28 In response to Pang's peer review, Willow Creek retained the services of traffic
engineer Stephen Orosz (Orosz) to prepare an RSA and to respond to Pang's criticisms.

1 Orosz concluded that the Project would not result in any significant traffic impacts or
2 require additional road improvements. (AR 1436) Orosz concluded the Project-generated
3 trips are 62 daily and 11 peak hour trips which would not change the existing level of
4 service from LOS A. (AR 1441) The RSA also found that no roadway improvements
5 were required and no traffic safety issues were identified. (AR 1441)

6 In preparation for the July 7, 2015 Board hearing, County Staff prepared a report
7 which addressed the issues raised by Save Adelaida. Staff discussed Save Adelaida's
8 assertion that the MND failed to sufficiently analyze the traffic issues. Staff concluded
9 that based on the evidence presented, no significant traffic or safety impacts had been
10 identified such that the MND was adequate. (AR 1372)

11 At oral argument, Save Adelaida emphasized the dispute between experts related
12 to the existence of traffic impacts and argued that that dispute alone was sufficient
13 evidence to establish a fair argument that the Project would have significant impacts on
14 traffic. (Cal. Code Regs. tit. 14, §15064—"If there is disagreement among expert opinion
15 supported by facts over the significance of an effect on the environment, the Lead
16 Agency shall treat the effect as significant and shall prepare an EIR.") "Where such
17 expert opinions clash, an EIR should be done." (*Pocket Protectors, supra*, 124
18 Cal.App.4th at 903, 928)

19 The Court in its tentative ruling noted that evidence which is argumentative,
20 speculative, unsubstantiated opinion or narrative, or evidence which is clearly inaccurate
21 or erroneous is not substantial evidence. (Cal. Pub. Res. Code §21082.2) The Court also
22 opined that the purposes of CEQA were not furthered if a project opponent could simply
23 retain an expert to create a "fair argument" of environmental impacts. The Court gave
24 the Board the benefit of the doubt on any disputed issue of credibility. (*Quail Botanical
25 Gardens Foundation, Inc., supra*, 29 Cal.App.4th at 1597, 1603.) The Court also stated
26 that Staff and the Board had concluded that the evidence submitted by Pang was not
27 sufficiently credible or substantial enough to show an adverse traffic impact.

28

1 In re-reviewing the evidence after the hearing, and in light of the very low
2 threshold of the fair argument standard, the Court now concludes that it would most
3 likely be an abuse of discretion for it to hold that there is no evidence showing an adverse
4 traffic impact. The Court again reviewed the definition of “substantial evidence” under
5 the Guidelines which actually favors Save Adelaida’s arguments in this matter. In *Pocket*
6 *Protectors, supra*, 124 Cal.App.4th at 903, 927-28, the appellate court summarized
7 “substantial evidence” as follows:

8 ‘Substantial evidence’ means ‘enough relevant information and reasonable
9 inferences from this information that a fair argument can be made to
10 support a conclusion, even though other conclusions might also be
11 reached.’ (Guidelines, §15384, subd. (a).) Substantial evidence ‘shall
12 include facts, reasonable assumptions predicated upon facts, and expert
13 opinion supported by facts.’ (Guidelines, §15384, subd. (b).) ‘Argument,
14 speculation, unsubstantiated opinion or narrative, evidence which is
15 clearly erroneous or inaccurate, or evidence of social or economic impacts
16 which do not contribute to or are not caused by physical impacts on the
17 environment does not constitute substantial evidence.’ (Guidelines,
18 §15384, subd. (a).)

16 Here, Staff conclusively responded to Pang’s criticisms and opinions, relied on
17 additional analysis prepared by Orosz, and determined there were no significant traffic
18 impacts. (AR 1372) Nevertheless, because there is substantial evidence of an adverse
19 impact, contrary evidence such as that referred to by Willow Creek is not adequate to
20 support a decision to dispense with an EIR. (*League for Prot. of Oakland's etc. Historic*
21 *Res. v. City of Oakland* (1997) 52 Cal.App.4th 896, 904-05.) Instead, Pang’s May 20,
22 2015 peer review of the MND, and his June 19, 2015 peer review of Orosz Engineering’s
23 RSA, contain sufficient and substantial evidence, as defined above, to establish a fair
24 argument of significant traffic impacts. (AR 2504-2513 and 1478-1480)

25 At the hearing, Save Adelaida referred to public testimony on the traffic issue
26 which it contends is sufficient to establish a fair argument of significant traffic impacts.
27 (*Keep Our Mountains Quiet, supra*, 236 Cal.App.4th 714, 730) Factual testimony about
28 existing environmental conditions can form the basis of substantial evidence. (*Id.*) In

1 opposing the Project, numerous neighbors testified to what they perceived to be the
2 dangerous conditions with Vineyard Drive and the effects the Project will have on traffic.
3 (AR 1833, 1835-1836, 1855-1858, 1860-1861 and 1866) Contrary to its prior
4 conclusion, the Court, in closely reviewing the testimony from the neighbors now,
5 confirms that the evidence is actually sufficient to meet the fair argument test. Testimony
6 about road conditions based on personal knowledge is substantial evidence. (*Keep Our*
7 *Mountains Quiet, supra*, 236 Cal.App.4th 714, 735)

8 Save Adelaida also asserts that the Project will have significant adverse noise
9 impacts on the environment. During the approval process, Willow Creek provided an
10 acoustic survey conducted by David Dubbink (Dubbink) which concluded there are
11 potential adverse noise effects from amplified music and voices at certain locations at the
12 Project. (AR 655) However, Dubbink found that those effects could be mitigated to a
13 level that did not exceed County standards such that the impacts were less than
14 significant. (AR 655)

15 In response, Save Adelaida retained Edward Pack to peer review Dubbink's
16 findings.(AR 668) Pack indicated the study needed to be more comprehensive, needed to
17 address noise increases over the ambient noise environment, and the noise mitigation
18 measures needed more detailed designs. (AR 674) In reply, Willow Creek retained
19 David Lord to prepare another noise assessment. (AR 1261) That assessment addressed
20 outdoor amplified music and its compliance with the County's land use ordinances. Lord
21 concluded that the proposed Project did not result in a significant noise impact under
22 CEQA and that it complied with the County's land use ordinances. (AR 1265)

23 Save Adelaida maintains that it has produced sufficient expert evidence to
24 establish that the noise impacts will exceed County standards and there will be a
25 substantial increase in ambient noise levels. However, the MUP approved by the Board
26 addressed the noise impacts by requiring that all amplified music be allowed only inside
27 of the replacement barn with the doors on the south side remaining closed. Furthermore,
28 the south terrace cannot be used for any events. (AR 14, 1373, 1414)

1 Despite Willow Creek's agreement to limit amplified music, and the barring of
2 outdoor amplified music, Save Adelaida replies that the adopted mitigation measures are
3 not proper because there was no opportunity for public review. However, recirculation of
4 the new measure is only required if there is a substantial revision, which Save Adelaida
5 fails to establish. (14 Cal. Code Regs. §15073.5)

6 Save Adelaida also asserts that newly added mitigation is inadequate because it
7 does not take into consideration amplified voices as a source of noise. The mitigation
8 appears to be limited to amplified music such that there is an open question as to
9 amplified voices. In Pack's March 11, 2015 peer review, he noted that amplified vocals
10 tend to carry more over large distances and that a boisterous DJ or MC can generate high
11 vocal sound levels during wedding events. (AR 670) Also, Pack's acoustical analysis,
12 while focused on outdoor amplified music, also included an analysis of vocal
13 announcements between songs. (AR 1337) The potential noise impacts have not
14 necessarily been fully mitigated to less than significant. In other words, there is sufficient
15 expert evidence to establish a fair argument that significant noise impacts may occur
16 despite the mitigation conditions.

17 Another disputed issue is the Project's impacts on water supply. Save Adelaida
18 points out an alleged discrepancy between the estimated .42 ac.ft. increase in water use
19 attributable to the Project compared to an estimate of .54 ac.ft. in the Staff Report
20 presented to the Board. (AR 40 and 568) In essence, the initial study appears to have not
21 considered the increase of water use associated to the doubling of the olive production.
22 Even so, the Staff Report affirms that based on the capacity of the well on the property,
23 the Project will not impact water supply. (AR 568) In other words, there is evidence in
24 the record establishing that water resources are adequate to support the Project even
25 under the higher estimate of increased water use.

26 Nevertheless, Save Adelaida argues the MND fails to address or analyze other
27 increases in water demand such as events involving less than 50 people, the effect of
28 processing off-site olives, an increase in the capacity of the remodeled home, and an

1 increase in drip irrigation for olive trees. In opposition, Willow Creek and North Coast
2 Engineering respond that the annual water use of 151,250 gallons is sufficiently covered
3 by the onsite well which produces 104 gpm. (AR 1417) Also, they assert the well does
4 not draw from the Paso Robles Groundwater Basin such that there is no basis to believe it
5 will have any negative impact on neighboring water supply. However, similar to the
6 traffic impacts, there was testimony from the neighbors as to water supply issues. (AR
7 1841 and 1855) As such, there is substantial evidence in the record to support a fair
8 argument that the Project will have significant impacts on water supply.

9 With regard to wastewater, Save Adelaida contends the MND simply concludes
10 there will be no adverse impacts from wastewater discharge based on an assumed
11 compliance with the Central Coast Basin Plan and permit process. Save Adelaida argues
12 that this is an improper deferral of the impact analysis. (*Sundstrom v. Cty. of Mendocino*
13 (1988) 202 Cal.App.3d 296, 307) The MND does not neglect or defer any impact
14 analysis; rather, the MND confirms that wastewater is subject to compliance with the
15 County Plumbing Code and Central Coast Basin Plan. (AR 241) Also, wastewater issues
16 related to the olive oil production or winery are subject to regulation through a waste
17 discharge permit or exemption for liquid waste disposal issued by the Regional Water
18 Quality Control Board. (*Id.*) It is not an apparent violation of CEQA to require an
19 applicant to comply with the environmental requirements of other agencies and those
20 approvals are a sufficient method for assuring any mitigation of impacts and avoids an
21 improper deferral of mitigation. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359,
22 1394-1395)

23 As indicated above, Save Adelaida believes the Project was unlawfully segmented
24 by allowing the remodel of the residence through a general building permit process
25 independent of the approval of the Project. Under the assumption that the purpose of the
26 remodel was to create a vacation rental or B&B, Save Adelaida argues that use, coupled
27 with the Event Center, should constitute a single project that should not have been
28 segmented. Save Adelaida contends that the remodel, which expands the residence to

1 seven bedrooms and six and one half bathrooms, changes the scope and nature of its
2 environmental impacts. However, as emphasized by Willow Creek, it never intended that
3 the remodel be a vacation rental or B&B, and it agreed to specifically prohibit any
4 vacation rentals or B&Bs. Also, Willow Creek points out the remodel of the residence is
5 simply a ministerial act that falls outside of CEQA. (*Prentiss v. City of South Pasadena*
6 (1993) 15 Cal.App.4th 85, 90) Therefore, there is no segmentation of the Project.

7 According to Save Adelaida, the MND must consider the cumulative impacts of
8 this Project with other related projects. Save Adelaida argues that the MND is deficient
9 because it fails to evaluate cumulative impacts of water use, wastewater generation, the
10 residential remodel, and the event center. This is supported by concerns raised by
11 neighbors that many other local wineries have “improved” or built out their properties to
12 host events and attract tourist. Save Adelaida also cites to statements made by Cal Fire
13 that because the location of the Project results in an extended response time, the
14 “cumulative effects” of large scale events and increased commercial operations continue
15 to place challenges on Cal Fire’s ability to provide effective emergency services. (AR
16 795) Under the Public Services/Utilities section in the Initial Study, there is also a
17 statement that this Project, along with others in the area, will have a “cumulative effect”
18 on police/sheriff, fire protection, and schools. (AR 35) There was discussion in the Staff
19 Report and significant discussion at the Board hearing about whether the Project would
20 change the Adelaida area and the potential cumulative impacts. (AR 1368-1370, 1883-
21 1954)

22 For purposes of determining whether or not an EIR is required as it relates to
23 cumulative impacts, 14 Cal. Code Regs. §15065(3) states that an EIR is necessary when:

24 The project has possible environmental effects that are individually
25 limited but cumulatively considerable. ‘Cumulatively considerable’ means
26 that the incremental effects of an individual project are significant when
27 viewed in connection with the effects of past projects, the effects of other
28 current projects, and the effects of probable future projects.

1 In *San Joaquin Raptor/Wildlife Rescue Ctr. v. Cty. of Stanislaus*, *supra*, 42
2 Cal.App.4th 608, the appellate court explained that the lead agency must consider the
3 effects of other projects, but in the context for considering whether the incremental
4 effects of the subject project are considerable. (*Id.* at 624) Here, the Initial Study found
5 that the limited individual impacts, when cumulatively considered, did not result in a
6 significant impact. (AR 43) However, there is evidence that the Project may result in
7 significant cumulative impacts to emergency services. More importantly, the Court has
8 concluded that there is a fair argument that the Project will have significant impacts on
9 traffic, noise, and water supply, such that an EIR is necessary. As such, cumulative
10 impacts will have to be addressed in the EIR.

11 Save Adelaida also asserts that there is a fair argument that the Project conflicts
12 with the Williamson Act (Act) and agricultural zoning of the property. (*Pocket*
13 *Protectors, supra*, 124 Cal.App.4th at 903, 930.)

14 As to the Act, Save Adelaida cites to the March 9, 2015 letter from the
15 Department of Conservation (DOC) in which it concluded that the Project, especially the
16 addition of the events, is not compatible with the Act. (AR 1475) Save Adelaida also
17 claims that the increase in population related to the temporary events will violate the Act.
18 The DOC did not agree with the County's determination of insignificant impacts and that
19 the proposed uses would be anything less than a potentially significant impact under
20 CEQA. (*Id.*)

21 In the July 7, 2015 Staff Report, there is a detailed analysis of the Project's
22 compatibility with the Act. (AR 1370) In essence, Staff concludes that the Project's
23 temporary events component does not violate the Act. The Project, as approved, does not
24 include any vacation rentals, B&Bs, or restaurants which were factors that the DOC
25 relied on when reaching its contrary conclusion. Staff found that agricultural processing
26 and temporary events are allowed uses under Table 2 of the San Luis Obispo County
27 Rules of Procedure to implement the Act. (*Id.*) In sum, Staff determined and the Board
28 agreed that the Project, as approved, complies with the intent of the Act because the

1 primary use is and will remain agriculture. (*Id.* at 1781-1785) As emphasized by Willow
2 Creek, it is the County that is legislatively mandated to determine whether the uses are
3 compatible with the agricultural use of the land and that is what the County in this case
4 determined. (AR 1433) In the EIR, it appears it will again be up to the County to decide
5 whether or not the Project violates the Act.

6 With regard to violation of the San Luis Obispo County land use regulations, Save
7 Adelaida asserts there is no authority for allowing “special events” uses for olive oil
8 production operations. Under County Code §22.30.070, there are special events listed for
9 wineries, but not olive oil producers. According to Save Adelaida, in order for Willow
10 Creek to get around this issue, it is claiming the events are temporary events under
11 County Code 22.30.610. Save Adelaida contends this is not a viable option because
12 Willow Creek’s construction of accessory facilities does not qualify as a temporary event.
13 The County addressed this issue and determined that the Project does not violate section
14 22.06.030 as the Project is obtaining the necessary discretionary minor use permit. Also,
15 as to section 22.30.610, the Board did approve the necessary minor use permit with an
16 end date that authorizes temporary events. (AR 1368-1369) Staff also concluded that the
17 Project is in conformance with the land use ordinances. (AR 1370)

18 For the foregoing reasons, Save Adelaida’s writ petition is granted. There is
19 substantial evidence in the record to support a fair argument that the approved Project
20 may have significant impacts, at a minimum, on traffic, noise, and water supply such that
21 a full EIR is necessary. A peremptory writ shall issue directing the County to void its
22 adoption of the MND and void the approval of Willow Creek’s MUP pending completion
23 and certification of a legally sufficient EIR.

24 Save Adelaida shall prepare a proposed judgment and proposed peremptory writ.
25 The parties’ respective requests for judicial notice are granted.

26
27 DATED: June 23, 2016

28 
GINGER E. GARRETT
JUDGE

GEG;jn



CALIFORNIA FARM BUREAU FEDERATION

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Via Regular Mail and E-Mail
(eric.parfrey@yolocounty.org)

July 26, 2016

Eric Parfrey, Principal Planner
Yolo County Community Services Department
292 West Beamer Street
Woodland, CA 95695

Re: Field & Pond Use Permit – Zoning Violations and CEQA Review

Dear Mr. Parfrey:

This letter is submitted by the California Farm Bureau Federation (“Farm Bureau”), on behalf of the Yolo County Farm Bureau, in review of both current zoning violations and the revised and recirculated Initial Study and Mitigated Negative Declaration (dated June 2016) (hereinafter “MND”) associated with CEQA review of the proposed Field & Pond Use Permit (Zone File # 2015-0018) for the event center located on County Road 29 to the north of Winters, California.

Farm Bureau is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing more than 53,000 agricultural, associate and collegiate members in 56 counties. Its membership in Yolo County includes the 1,176 members of the Yolo County Farm Bureau. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources. As such, it has a vital and continuing interest in land use decision-making and the conservation of agricultural resources.

This letter is offered in comment on both the current operations of the Field & Pond facility, which appear to be an urgent matter of code enforcement for the County, and in review of the proposed expanded operations of that facility which are described in the MND which is now out for public review. The Yolo County Farm Bureau opposes the project, and has written

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separately to ask the County to deny the use permit for the expanded operations.¹ This letter is written separately to more fully explain Farm Bureau's concerns regarding both the current facility's operations and the potential impacts of an expanded Field & Pond event center.

I. Zoning Violations Associated with Field & Pond's Current Operations

The County has already received numerous complaints about the number and size of events at the Field & Pond facility from its neighbors, and the County's Department of Community Services has issued at least two "courtesy notices" detailing numerous zoning and code violations on the property – including matters which are a matter of public safety.² In addition, as a property that is enforceably restricted to agricultural use under the Williamson Act, the property's current use as an event center violates Government Code section 51242. Moreover, the County now appears engaged in a running battle of legal casuistry about whether Field & Pond can take advantage of a so-called "not for profit" exemption in the zoning code to hold more events than the annual limit of 8 which clearly applies under current zoning to an entity like Field & Pond.³

Given the current enforcement headaches which the Field & Pond facility has given the County, as well as the legal issues that are present, it is our recommendation that the County deny – or minimally, table – the current use permit application. The County simply must ensure that the land use on the property conforms to the requirements of law and contract that apply to it, and the first step is to get a handle on what is currently happening on the property. Expanded

¹ As detailed in the Yolo County Farm Bureau's letter, Farm Bureau has several written policies which it applies consistently for the protection of agricultural lands and agricultural operators. In particular, Farm Bureau strongly opposes non-farm related developments in agricultural zones if agricultural productivity is significantly compromised or agricultural operations are impaired. These policies are squarely invoked in Farm Bureau's opposition to the Field & Project use permit.

² See "Courtesy Notice" of June 9, 2016, to applicants from Ed Short, Chief Building Official. Detailed within are violations with respect to an excessive number of events held on the property, the failure to develop a public safety plan, failure to maintain fire apparatus access roads, the failure to expeditiously clear the blockage of County Road 29, and an inadequate shuttle entrance.

³ See correspondence of July 6, 2016, from Phil Pogledich, County Counsel, to attorneys Taylor and Barth for the applicants. With respect to this supposed "not for profit" exemption, Farm Bureau respectfully suggests that the spirit and intent of the exemption is obviously in reference to family gatherings, charitable fundraisers, and possibly *bona fide* non-profit entities which are pursuing recognized non-profit goals - and it is completely disingenuous for a for-profit actor like Field & Pond to throw up its hands and claim to not be making any money in order to hold a slew of events through the summer months under this supposed exemption. In addition, Farm Bureau agrees with and fully supports the observations made in the July 22, 2016 letter from the Farmland Protection Alliance to Mr. Pogledich, pointing out the bottomless forensic accounting headaches the County will be accepting under the absurd interpretation of County Code section 8-2.306(k) which Field & Pond now advances.

operations can be left for another day – after Field & Pond has proven itself able to live within the pattern of zoning and land use in the County’s unincorporated areas, and after Field & Pond has proven itself amenable to the County’s due enforcement of the same.

II. CEQA Comments on the Initial Study and Mitigated Negative Declaration

Even if the County is prepared to entertain Field & Pond’s use permit application for expanded operations, Farm Bureau believes that the environmental review of the project is fatally flawed. The substantive deficiencies of the MND are as follows:

a. Transportation/Traffic.

As the MND notes, County Road 29 is “a remote, rural, narrow, unlit, and minimally-maintained county road.” (MND, p. 62.) In point of fact, County Road 29 has not even been measured for level of service “since it is not defined in the General Plan as providing countywide roadway function[.]” (MND, p. 61.) It contains several sharp curves between County Road 89 and the project location. It handles very little passenger traffic, and at unpredictable times is heavily-trafficked by large and slow-moving agricultural vehicles – trucks and tractors – serving the surrounding farms and ranches.⁴ (MND, p. 62.) As the MND states, under Circulation Policy CI-3.13 of the County’s General Plan, the primary function of this road is to serve “local and agricultural traffic.”

Yet the project, as proposed, would introduce vehicle traffic corresponding with a total of 20 events per calendar year, most of which may generate as many as 100 vehicle trips and 150 guests – and some of which will be permitted to have up to 300 guests. (MND, p. 19.) The MND states that “peak road usage” will not increase from the current use at the site – which allows up to 150 attendees or 100 vehicle trips for each of the 8 annual events which are currently allowed for by right – and postulates (with some circularity) that the new limitation of 20 events (Mitigation Measure AG-2) will reduce overall impacts of the increase in total traffic to less than significant levels. (MND, p. 62.) It is a strange mitigation measure indeed which calls an incremental impact one and the same as its own mitigation!

Beyond the expanded operations mitigating themselves by virtue of their (purported) limitation, the MND provides for several other mitigation measures for the traffic problem, none

⁴ Currently, one of the major commodities that is grown on the farms adjacent to County Road 29 is tomatoes, which are harvested intensely on a 24-hour basis at intervals which depend on the schedules of the canneries to which the tomatoes are shipped. Farmers are contractually bound to deliver a certain number of loads within a certain time frame, and only the cannery can modify the time schedule. (Failure to meet a cannery’s timeline can lead to no contract the following year.) During these times, which cannot be scheduled or predicted more than a few days in advance, there is intensive truck traffic on County Road 29, frequently at night, and farmers are unable to modify their harvest or delivery schedules to accommodate “urban events” at the Field & Pond facility as requested.

of which are reasonably calculated to reduce public risk on County Road 29 in its totality. Mitigation Measure PS-1 calls for a parking attendant on-site. Mitigation Measure TR-1 requires a “Road Narrows” sign. Mitigation Measure AG-2, discussed below, requires a “notification process” for events and adjacent landowners. Mitigation Measure AG-2 also appears to require shuttle buses for a few of the largest events.⁵ All of those are just sand against the tide of a proposed land use which is essentially industrial or commercial in scope, which will be occurring at the end of a remote, unlit, and minimally-maintained county road.

The MND simply does not provide for mitigation of the traffic impacts involved in the proposed use, and therefore is legally flawed. The County should not move forward on this basis.

b. Agricultural Resources.

As noted in the MND, the proposed expanded operations of the Field & Pond facility will take place within the context of a very rural and intensively-farmed area of the unincorporated County, at the end of a couple of miles of minimally-maintained road which is principally used to support agricultural operations and the local residents that are involved in those operations. With respect to that fabric of agriculture, the application for the use permit conflicts directly with the Williamson Act, being incompatible with agricultural use within the meaning of Government Code section 51238.1.⁶ Moreover, under the County Code, discretionary review of an event center such as the one proposed by Field & Pond in this application must consider – among other things – the compatibility of the proposed project with agriculture. As set forth below, there are a number of reasons that the proposed project is incompatible with agriculture.

i. Parcel Not Devoted to Agricultural Use.

First, there is much discussion in the MND about agricultural education and agricultural production on the Field & Pond property, but 120 fruit trees on an 80-acre parcel is not much of an agricultural use of the property, nor is promise of a “resident farmer” to support menu planning and management and harvesting of unknown future “orchards, row crops, and herb gardens[.]” These features and promises are no more than window dressing on a project that otherwise appears mostly centered on the business of regular, large events involving day visitors; they do not make the Field & Pond facility an agricultural concern.

⁵ The use of shuttle vans or buses for events as large as 300 guests will itself create a lot of traffic, and there appears no discussion in the MND about where those vans or buses will pick up guests, and what the (displaced) traffic and parking problems will be at *that* site.

⁶ See correspondence dated March 17, 2016, from Molly Penberth, Division of Land Resource Protection, Department of Conservation, to Stephanie Cormier, County of Yolo Planning and Public Works Department.

ii. Ineffective Mitigation Measures.

Second, the mitigation measures to compensate for impacts to agricultural resources are not mitigation measures at all. Mitigation Measure AG-1, the prohibition of additional construction – including stand-alone cottages – is not at all a voluntary mitigation measure designed to lessen project impacts. *It is required by law.* With an executory Williamson Act contract in place, it is simply *not legal* for the project proponents to start building stand-alone cottages, because it is incompatible with the Act within the meaning of Government Code section 51238.1. And, *accepting the force of law is not mitigation.*

Similarly, as discussed above, Mitigation Measure AG-2's limitation of 20 events per calendar year is not a mitigation measure – it is a limitation of 20 events per calendar year.⁷ Those 20 events – and the impacts associated with events that include up to 300 attendees, including impacts to agriculture and in terms of traffic and safety – still require feasible mitigation measures designed to lessen or avoid those impacts, under CEQA.

Moreover, the “notification process” described in Mitigation Measure AG-2 probably has very little practical effect, at least as to the potential clients of Field & Pond's facility. One finds it very hard to believe that your average transient wedding guest will find notice of the County's Right-to-Farm Ordinance relevant to his or her decision to attend an event at Field & Pond, or find much disappointment in knowing that under that ordinance, his or her right to sue adjoining agricultural operators for nuisance is limited. At the same time, as far as farmers are concerned, the “notification process” is not particularly meaningful because weather, crop condition, and equipment availability are among the critical factors that determine agricultural scheduling; this “notification process” is actually unhelpful because it seems to suggest that local farmers have to modify crop decisions in response to Field & Pond events, which in most cases is impossible.

Finally, Mitigation Measure AG-3, which relates to the maintenance of a 500-foot buffer from adjacent agricultural operations, is unclear and uncertain. The Yolo County Agricultural Commissioner has recommended this mitigation measures, which Farm Bureau supports. Yet at the time the MND was written, the project applicant had secured no voluntary agreements from adjacent farm operators to establish such a buffer. Moreover, it is our understanding that this requirement will effectively prevent the applicants from building *any* guest cottages if the buffer is to be observed entirely on-parcel. In addition, beyond restricting the construction of guest cottages, the buffer should actually be applied to restrict open-air congregations of persons on

⁷ Really, the limitation to 20 events per year is more in the nature of a project description, identifying a use permit of this scope as a potential *project alternative*. Of course, as a matter of CEQA theory, there is also the no-project alternative, and a number of other project alternatives of varying intensity – all of which would be useful in the project alternatives analysis in an Environmental Impact Report, if one were prepared here. But, in and of itself, in the context of a MND the limitation to 20 events in the present case can be no more than a project description – as a legal matter – and is certainly not “mitigation” as held up against the theoretical implication of a larger (but not described) project here. *Bottom line: don't call it a mitigation measure.*

Eric Parfrey, Principal Planner
Field & Pond Use Permit – Zoning Violations and CEQA Review
July 26, 2016
Page 6

the parcel, or should start at the outside margins of areas where people congregate since the purpose of the 500-foot limitation is the protection of human health & safety. Given that adjacent agricultural operations must apply farm chemicals and pesticides in the ordinary course of business, clarity as to this conflict and its mitigation is essential; the MND leaves much to be understood in this regard. It is therefore fatally deficient.

In summary, we believe the proposed use permit for an expanded Field & Pond event center should be denied, and enforcement actions undertaken to affirmatively conform Field & Pond to its current zoning limitations and the contractual requirements under its existing Williamson Act Contract. Both the current and proposed operations of Field & Pond are incompatible with the surrounding agricultural landscape and economy, and the proposed mitigation measures to compensate for the obvious traffic and public safety impacts are woefully inadequate.

Very truly yours,



Chris Scheuring
Managing Counsel

CCS/dkc

cc: Oscar Villegas, Supervisor, District 1
Don Saylor, Supervisor, District 2
Matt Rexroad, Supervisor, District 3
Jim Provenza, Supervisor, District 4 (Chair)
Duane Chamberlain, Supervisor, District 5 (Vice-Chair)
John Young, Ag Commissioner
Taro Echiburu, Planning Director
Phil Pogledich, County Counsel
David Bunn, Director, Department of Conservation
Benjamin Turner, Interim Director, Division of Land Resource Protection,
Department of Conservation
Denise Sagara, Executive Director, Yolo County Farm Bureau

Dear Planning Commissioners,

July 26, 2016

We are writing in response to the County's Revised Initial Study regarding Field and Pond.

Rick's grandfather, Albert Rominger, started farming in Yolo County in the early 1920's. With a team of mules he farmed dryland grain, transitioning to gasoline-powered, open-air tractors and ultimately to diesel, air-conditioned tractors and combines. His was a life ripe with change.

Our two daughters grew up on the farm and are the sixth generation to work the land. Along the way, they have learned the value of hard work, perseverance, integrity and have honed a deep respect and love for the land that nurtures and sustains us all. They, too, have seen their fair share of change in farming practices and in the land itself.

They are the generation that has introduced digital technology to farming, utilizing apps, computers and iPhones to promote crop protection and production. Sadly, they are also seeing increasing urbanization and commercialization threaten our family farm and the land we have tended and loved for so many generations and hope to keep in production for generations to come.

This change ... from farmland in Yolo County being protected to being developed for non-ag, commercial businesses such as Field and Pond is a disturbing trend. So let's look back for a minute.

In July 2005, the California Department of Conservation recognized Yolo County for its work to preserve agricultural land, and especially its administration of the Williamson Act. The Yolo County Board of Supervisors were presented a resolution commending its work – the Williamson Act Stewardship Award – praising Yolo County's commitment to creating an environment in which farming and ranching can thrive. Helen Thomson, then Chairwoman of the Board of Supervisors, stated "one of Yolo County's primary goals is to preserve our agricultural heritage. Because of our proximity to a rapidly growing urban area, that's a real challenge. Upholding the Williamson Act is part of the strategy that ensures our success, and we appreciate the state's recognition for a job well done."

Fast forwarding from 2005 to the present, we are witnessing the collapse of Yolo County's commitment to our agricultural heritage and a dismissive attitude toward the Williamson Act. We do not believe this is a wise direction for the county to take.

Because the truth is that only 1/32th of the earth's surface is farmable. Land which has enough water, sun and healthy soil conditions is very limited. Thus we need to be very smart about how that precious resource is used. Farms can only be located on lands that are farmable. Non-ag-related event centers, such as Field and Pond, can be located on lands that do not take away farmable acres or impact negatively on nearby farming practices.

We responded to the county's first version of the Field and Pond Initial Study. The concerns we raised with the first study carry over to the revised Initial Study. We continue to be concerned that Field and Pond violates the Williamson Act and sections of the Yolo County Code. We continue to be concerned with road safety, fire danger, noise and light pollution, environmental degradation and impacts on endangered species, water use and negative impacts on neighboring agricultural operations and rural residences.

Sincerely,

Rick and Patty Rominger

23756 County Road 89 in Winters

Mike Lowrie Trucking, Inc.

P.O. Box 207

Dixon, California 95620

(707) 678-3018 • (800) 523-2597

Fax (707) 678-6071

July 26, 2016

To Whom It May Concern:

My name is Mike Lowrie. I own Mike Lowrie Trucking in Dixon, CA, an agricultural hauler for over 35 years in Solano County and Yolo County. We primarily haul processing tomatoes and alfalfa hay from the north side of Winters, CA. These trips, approximately 2,000 of them, are concentrated annually between the months of July through October when we operate 24 hours per day 7 days per week transporting these primary crops to the first point of processing.

It has come to our attention that Yolo County is contemplating approval of an Event/Party Center near the western end of County Road 29. The increase in traffic in this area, because of the Party Center is a danger to my drivers and the people attending activities at the facility. The fact that this is a Party Center means the possibility of consumption of alcohol by drivers leaving the Center which greatly increases the danger to my employees, local agricultural workers, and the general public.

On June 4, 2016, I attended a gathering at a location with an elevated view of Road 29, near the western end, east of County Road 89. As I was about to leave that evening, an event was ending at the Party Center. I saw car after car streaming east along Road 29, many appearing to be traveling much too fast for this narrow, curvy road. My trucks hauling tomatoes 24 hours per day use this same road July through October. Trucks carrying 50,000 pounds of tomatoes on this dangerous road, encountering drivers unfamiliar with the road and possibly having consumed alcohol is an accident waiting to happen. Our concern is for our drivers, the farmers we serve, and those attending activities at the Party Center.

Simply put, that is not the correct location for an Event/Party Center. While other Party Centers within the County are on narrow roads, none of those roads are as heavily used by time sensitive agricultural operations as this western portion of Road 29. Having a Party Center in that spot puts my company at a higher risk, makes farming next to impossible for the nearby intensive agricultural operations on the road, and puts the public in danger. Please deny any permit for this facility.

Sincerely,


Mike Lowrie

1989 Witham Drive
Woodland, CA 95776
July 11 , 2016

Mr. Eric Parfrey. Principal Planner, AICP
Yolo County Community Services Department

Dear Mr. Parfrey:

Re your memo of June 28, 2016, on Revised Mitigated Neg Dec for Field + Pond, we are concerned Yolo County citizens who have the following comments on the:

Initial Study/Mitigated Negative Declaration
Zone File # 2015-0018
Field & Pond Bed & Breakfast and Special Event Facility Use
Permit
Revised and Recirculated SCH # 201603202
June, 2016

This is a document of dire consequences for Yolo County Agriculture. It is a plan to establish a facility which may attract as many as 5,000 to 10,500 visitors per year to an isolated property on a small rural agricultural road. 8 events per year now, then to 35 or 45 in the future—where does it stop!! A small city is being created out there. Specific comments, referenced to pages in the document, follow.

P5 Grazing agreements are being sought with ranchers interested in using the southern 69 acres of the property. What is the water source for the proposed grazing animals?

P14 Create a new source of substantial light or glare. Definitely a Significant Impact, with dozens or even hundreds of vehicles traveling the small country road at night

P17 Fresh Start. How many urban youth, what age groups, how long, what supervision will they receive?

P18 At 35 events per year at 300 people per event, this could bring up to 10,500 additional visitors per year. Unbelievable, where does this end??

P19 Implement a notification process... Good idea to notify those adjacent landowners, etc.

P32 Maintenance of cattail growth should **not** occur during the breeding season. This must be a mistake, delete "not". The birds need the cattail growth for nesting, etc.

P42 To minimize fire and health dangers, the facility should be designated a no-smoking area, as is the increasing custom with other facilities in California, i.e., the University of California, business places everywhere in California. Fire danger increases with every smoker.

P49 Physically divide an established community? Potentially Significant Impact, it already has done this, by placing the local farmers in an us versus them (F & P) situation.

P53 NOISE. Definitely a Potentially Significant Impact. The noise generated by amplified music will travel much further than indicated, especially late at night.

William A. Chapman
24927 Yolo County Road 29
Winters, California 95694-9014

June 27, 2016

Mr. Taro Echiburu, Director
County of Yolo
Planning & Public Works Department
292 West Beamer Street
Woodland, California 95695

RE: Conditional Use Permit application file ZF #2015 – 0018 *- WOODSTOCK - WEST!*
application filed by Dahvie James and Phillip Watt, dba Field and Pond.

Dear Sir,

I am writing to express my **strong opposition** to the **LARGE EVENT CENTER** project proposed on an **11 acre parcel** in the above listed permit application (Conditional Use Permit application file ZF #2015 – 0018) because of the serious fire and safety impacts that Field and Pond's **LARGE EVENT CENTER** would inflict on my neighborhood.

Yolo County Road 29 is a narrow rural single lane, dead-end county roadway which terminates at my property – which is landlocked – behind and west of the Field and Pond's proposed **LARGE EVENT CENTER** location.

During the **2016 Memory Day weekend** Field and Pond hosted an event with the use of a **SINGLE** commercial shuttle bus service. Upon exiting the Field and Pond's 'EVENT CENTER' the commercial bus was stuck **ACROSS THE WIDTH** of **YOLO COUNTY ROAD 29**. I was unable to travel to my property on the roadway due to the obstruction caused by the bus. (photograph attached).

As I have stated in previous correspondence – locating a **LARGE EVENT CENTER** project onto a **one lane dead-end county roadway** would impede (if not eliminate) efficiency in controlling range fires (reference the Berreyessa Fire, the Wragg Canyon Fire, the Valley Fire, the Jerusalem Fire, etc.) vacating an injured person from an accident and/or any code enforcement.

How will Field and Pond's **Large Event Center** meet and/or exceed the fire road access conditions and requirements required and set forth in CCR. Title 19, Division 1, Paragraph 3.05(s) Fire Department Access and Egress (Paragraphs 503.2.1 and 503.4)????

Yolo County Road 29 is the deepest entry point into the center of the Berryessa Range. Because of this, Cal/Fire and other emergency crews use the property at the western end of Road 29 as a fire staging area.

Sincerely,


Mr. William A. Chapman
24927 Yolo County Road 29
Winters, California 95694

Page 18, paragraph 6:

“Hosting up to five events per month for nine months out of the year at 300 people per event could conceivably bring up to 10,500 additional visitors per year to the remote rural area which may, at times, hinder or impair adjacent agricultural operations...”

The county assumes that Field & Pond applicants will not exceed 300 people per event, but they advertise on various wedding websites that they can accommodate up to 1,000 people per event, and on their own website it states “perfect for entertaining groups of any size.”

And the county planning director has stated that there is no enforcement mechanism, so it is up to the neighbors to enforce the rules.

How can the county guarantee that there will not be more than 300 people per event? How will the county guarantee that it will enforce the rules that it makes?



A commercial Shuttle Bus at Field and Pond – STUCK and BLOCKING any and all vehicle access along Yolo County Road 29 during the 2016 Memorial Day Weekend. - A tow truck service was required to clear the roadway.



Location for Pedestrian **'Dodge Ball'** on Yolo County Road 29 at Field and Pond.

This ONE LANE BRIDGE is the pedestrian walk-way between and connecting the two parcels owned by Field and Pond.

REGARDING: Conditional Use Permit application file ZF #2015 – 0018
application filed by Dahvie James and Phillip Watt, dba Field and Pond.

P57 Fire Protection-- Potentially Significant Impact. Cigarettes, etc., tossed from arriving and departing vehicles can start grass fires. And with our frequent prevailing winds fire can spread rapidly.

P57 Police Protection. Definitely a Potentially Significant Impact. Self evident, from the masses of people that will be attending, and especially driving after alcohol consumption at the events. Also trespassing on neighboring properties. Local residents undoubtedly will need security measures.

P60 Traffic congestion Potentially Significant Impact, self evident, on that narrow road.

P64. Utilities and Service Systems are inadequate for an 11 acre facility that may receive 5,000 to 10,500 visitors per year. More wells, more sewage systems, needed. Will this impact the creek?

P67 The project definitely will have impacts that are cumulatively considerable. All those events, with alcohol and traffic and trespassing problems, will lead to consequences, none of which will be helpful to the agricultural community.

Thank you for the opportunity to make comments.

Sincerely,

Neil and Peg Rutger

Concerned Yolo County Citizens