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APR 13 2017

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April 7, 2017

VIA EMAIL AND U.S. MAIL

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Via Email Only

Stephanie Stowers, [sstowers@sjgov.org](mailto:sstowers@sjgov.org)

**Re: Request for Extension of Public Comment Period for Delicato Vineyards Project (PA-1700032 (UP))**

Dear Ms. Duzenski, Ms. Sullivan and Ms. Stowers:

We are writing on behalf of San Joaquin County Residents for Responsible Development ("San Joaquin Residents") to request a 30-day extension of the public comment period for the Negative Declaration ("ND") prepared by the San Joaquin County Community Development Department ("County") for the Delicato Vineyards Project, Use Permit Application #PA-1700032 (UP), ("Project"). The Project site is located on the west side of South State Route 99 West Frontage Road, 378 feet south of East French Camp Road, north of Manteca.

3815-001acp

The purpose of this request is to allow sufficient time to review supporting documents referenced in the ND, but not included in the ND's attachments, as required by State law.

San Joaquin Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. San Joaquin Residents includes Plumbers & Pipefitters Local 442, International Brotherhood of Electrical Workers Local 595, and Sheet Metal Workers Local 104, and their members and their families who live and/or work in San Joaquin County. San Joaquin Residents have a strong interest in enforcing the State's environmental laws that encourage sustainable development and ensure a safe working environment for its members.

The ND was first noticed for public review on March 20, 2017. On March 29, 2017, we requested *immediate access* to any and all documents related to the Delicato Vineyards Projects. The County responded to our request on March 30, 2017, however, we did not receive responsive documents until April 4, 2017. Upon review of the files, we found references to Use Permit Application #PA-1100224, which the Planning Commission approved on July 19, 2012.<sup>1</sup>

Use Permit #PA-1100224 set Conditions of Approval, which are incorporated by reference for this Project.<sup>2</sup> Moreover, some of the equipment included in Exhibit "1" of the Project Description indicate that the items were previously approved in "2011 Phase 2 on Application PA-1100224" or "2011 Phase 3 on Application PA-1100224."<sup>3</sup> Without Use Permit #PA-1100224 and its supporting environmental review document, we cannot fully analyze the environmental impacts of this Project.

Not only is Use Permit #PA-1100224 and its environmental review document missing, but also there are other records that are referenced but not provided, including: PA-1100069 (LA); 2-77-63; LA-85-7; RW-85-5; UP-1581; UP-5248; UP-4631; DL-73-214; LA-88-3; LA-88-7.<sup>4</sup>

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<sup>1</sup> Email from S. Stowers to J. Laurain (Apr. 4, 2017) PRA Response, pdf. p. 15.

<sup>2</sup> *Id.*, pdf. p. 18 ("These Conditions of Approval are in addition to the Conditions of Approval for Use Permit application No. PA-1100224 (UP).")

<sup>3</sup> *Id.*, pdf. p. 60.

<sup>4</sup> *Id.*, pdf. p. 48.

Our request for *immediate access* to review the above records was made pursuant to section 6253(a) of the Public Records Act, which requires public records to be “open to inspection at all times during the office hours of the state or local agency” and provides that “every person has a right to inspect any public record.”<sup>5</sup> The County’s failure to provide us with these documents has delayed our review of the ND and the Project.

This request for an extension is warranted because the County has failed to provide the public with all documents referenced or relied upon in the ND for the *entire* public comment period, as required by the California Environmental Quality Act (“CEQA”).<sup>6</sup> The County’s failure to provide us access to all documents referenced or relied upon in the ND is not a mere inconvenience. Our environmental consultant needs to review the supporting documents in order to determine if the ND accurately reflects the Project’s environmental impacts. Thus, in light of the County’s failure to produce these records, we have been unable to fully evaluate the ND.

Courts have held that the failure to provide even a few pages of a CEQA document for a portion of the CEQA review period invalidates the entire CEQA process.<sup>7</sup> As noted by leading CEQA commentators:

[CEQA] appears to compel agencies to make available for public review all documents on which agency staff or consultants expressly rely in preparing a negative declaration. In light of case law emphasizing the importance of ensuring that the public can obtain and review documents on which agencies rely for the environmental conclusions (*see, e.g., Emmington v. Solano County Redevelopment Agency* (1st Dist. 1987) 195 Cal.App.3d 491, 502-503), agencies, to be prudent, should ensure that they comply literally with this requirement.<sup>8</sup>

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<sup>5</sup> Gov. Code § 6253(a).

<sup>6</sup> See Pub. Resources Code, § 21092, subd. (b)(1); CEQA Guidelines, § 15072, subd. (g)(4).

<sup>7</sup> *Ultramar v. South Coast Air Quality Management Dist.* (1993) 17 Cal.App.4th 689.


<sup>8</sup> Remy, Thomas, Moose and Manley, *Guide to the California Environmental Quality Act*, p. 300 (Solano Press, 2007).

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Because the City has not yet provided all documents referenced or relied upon in the ND, we hereby request that the comment period be extended to 30 days. **Please provide your response to our request for an extension by the close of business on April 10, 2017.**

I can be reached at (650) 589-1660 if you have any questions regarding this request. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Linda Sobczynski".

Linda T. Sobczynski

LTS:acp