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September 11, 2017

**VIA EMAIL AND U.S. MAIL**

Mimi Duzenski  
Clerk of the Board  
San Joaquin County  
44 North San Joaquin Street  
Sixth Floor Suite 627  
Stockton, CA 95202  
Email: [mduzenski@sjgov.org](mailto:mduzenski@sjgov.org)

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**Via Email Only**

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

**Re: Request for Immediate Access to Public Records, for All Documents Referenced and Relied Upon in the Negative Declaration, for an Extension of the Comment Deadline, and for a Continuance of the Public Hearing – Delicato Vineyards Project (District CEQA Reference # 20170196 & County Use Permit Application # 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 *immediate access* to any and all documents related to the Delicato Vineyards Project, District CEQA Reference # 20170196, ("Project"), *since the date of our last request on August 21, 2017*, and any

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and all documents not previously released. This request includes, but is not limited to,

- (1) the California Emissions Estimator Model ("CalEEMod") output files that the Project Applicant (Quartaroli & Associates) and/or Property Owner (Delicato Vineyards) supplied the Air District<sup>1</sup>;
- (2) the prioritization screening files to determine whether a Health Risk Assessment is required<sup>2</sup>;
- (3) any and all modeling files, materials, correspondence, resolutions, memos, notes, notes of telephone communications, analyses, electronic mail messages, files, maps, charts, and/or any other documents.

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.

This request is made pursuant to the California Public Records Act. (Government Code §§ 6250, et seq.) This request is also made pursuant to Article I, section 3(b) of the California Constitution, which provides a Constitutional right of access to information concerning the conduct of government. Article I, section 3(b) provides that any statutory right to information shall be broadly construed to provide the greatest access to government information and further requires that any statute that limits the right of access to information shall be narrowly construed.

We are also writing to request separately, pursuant to the California Environmental Quality Act ("CEQA"), *immediate access* to any and all environmental document(s) related to the Project, including documents referenced or relied upon to support environmental determinations on this matter.<sup>3</sup> This *includes* the Applicant's CalEEMod (California Emissions Estimator Model) output files and the prioritization screening files referenced in the Initial Study on page 8. As you know, the California Environmental Quality Act ("CEQA") requires that the entire environmental review document and all documents referenced in the environmental review document be made available to the public for the entire comment period.<sup>4</sup> Courts have held that the failure to provide even a few pages of a

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<sup>1</sup> Initial Study/Negative Declaration, p. 8.

<sup>2</sup> Initial Study/Negative Declaration, p. 8.

<sup>3</sup> See Pub. Resources Code, § 21092(b)(1); 14 Cal. Code Regs. § 15072(g)(4).

<sup>4</sup> See Pub. Resources Code, § 21092(b)(1); 14 Cal. Code Regs. § 15072(g)(4).

CEQA document for a portion of the CEQA review period invalidates the entire CEQA process.<sup>5</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 [an environmental document]. 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>6</sup>

Finally, we request a comment deadline extension (currently scheduled for September 19, 2017) and a continuance of the public hearing (currently scheduled for September 21, 2017). These requests for an extension and continuance are warranted because we have not received all records related to the Project, even though we had submitted two records requests in August 2017.<sup>7</sup> The CalEEMod files and the prioritization screening files are an example of this omission. Moreover, despite having requested mailed notice of the availability of any environmental review document,<sup>8</sup> we did not receive notice of the Negative Declaration until August 28, 2017, one week after the start of the comment period.

Janet Laurain will call you so that we can set up an appointment to inspect the records immediately. She and I can be reached (650) 589-1660.

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<sup>5</sup> *Ultramar v. South Coast Air Quality Management Dist.* (1993) 17 Cal.App.4th 689.

<sup>6</sup> Remy, Thomas, Moose and Manley, *Guide to the California Environmental Quality Act*, p. 300 (Solano Press, 2007).

<sup>7</sup> **Attachment 1**, Letter from Janet Laurain to Mimi Duzenski, Kerry Sullivan, and Stephanie Stowers (August 2, 2017) Request for Immediate Access to Public Records – Delicato Vineyards Project (PA-1700032 (UP)); **Attachment 2**, Letter from Janet Laurain to Mimi Duzenski, Kerry Sullivan, and Stephanie Stowers (August 21, 2017) Request for Public Records – Delicato Vineyards Project (PA-1700032 (UP)).

<sup>8</sup> **Attachment 3**, Letter from Janet Laurain to Mimi Duzenski, Kerry Sullivan, and Stephanie Stowers (April 27, 2017) Re: Request for Mailed Notice of CEQA Actions and Hearings – Delicato Vineyards Project (PA-1700032 (UP)).

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Thank you for your prompt assistance with this matter.

Sincerely,

  
Linda Sobczynski

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