

Fwd: CCUP21-0004/Single Source - an example where fair argument was not met

Michael Pinette <michaelpca@gmail.com>

Wed 4/24/2024 9:09 AM

To: Planning Department <planning@edcgov.us>; Lee Tannenbaum <lee.tannenbaum@gmail.com>; David Harde <davidharde123@gmail.com>; Jay Windhill <jaywind855@gmail.com>; tslmeds <tslmeds@gmail.com>; Kevin McCarty <kevinwmccarty@pm.me>

04/25/24  
Item # 4  
9 Pages

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Dear Planning Dept, please review and distribute this published legal summary of a Third Court of Appeals case with respect to CEQA, relevant to this CCUP permit for the meeting Thursday April 25, 8:30, Single Source Solutions.

Best

Mike

----- Forwarded message -----

From: **Jim Brunello** <jlb87@aol.com>

Date: Sat, Mar 30, 2024 at 9:56 AM

Subject: Re: CCUP21-0004/Single Source - an example where fair argument was not met

To: <michaelpca@gmail.com>

<https://www.jdsupra.com/legalnews/flunking-ceqa-s-fair-argument-test-3031993/>

**Flunking CEQA's "Fair Argument" Test: Third District Affirms Judgment Upholding MND for El Dorado County**

**Bridge Replacement Project, Rejects Arguments Based on Alleged Significant Impacts on Fire Evacuation**

**Routes During Construction As Insufficient To Require EIR**

June 21, 2021

## Flunking CEQA's "Fair Argument" Test: Third District Affirms Judgment Upholding MND for El Dorado County Bridge Replacement Project, Rejects Arguments Based on Alleged Significant Impacts on Fire Evacuation Routes During Construction As Insufficient To Require EIR

Arthur F. Coon

Miller Starr Regalia

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In a partially published unanimous opinion filed June 16, 2021, authored by a jurist who is also a noted CEQA expert (Acting Presiding Justice Ronald Robie), the Third District Court of Appeal affirmed the trial court's judgment denying a writ petition challenging El Dorado County's mitigated negative declaration (MND) for and approval of the Newtown Road Bridge at South Fork Weber Creek Replacement Project. *Newtown Preservation Society, et al. v. County of El Dorado, et al.* (3d Dist. 2021) \_\_\_\_ Cal.App.5th \_\_\_\_\_. In the published portion of its opinion, the Court of Appeal held that petitioners/appellants erroneously framed the "fair argument" test in terms of the project having "potentially significant impacts on resident safety and emergency evacuation," whereas the correct test is "whether the record contains substantial evidence that the project may have a significant effect on the environment."

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or may exacerbate existing environmental hazards.” It held appellants “failed to carry their burden of showing substantial evidence supports a fair argument of significant environmental impact in that regard.” (In the *unpublished* portion of its opinion, which won’t be analyzed in further detail in this post, the Court held the County did not impermissibly defer mitigation, and it declined to consider two other arguments because they added nothing to the fair argument analysis and/or constituted new theories or arguments raised for the first time on appeal.)

### **The County’s MND and Fire Hazards Analysis**

The County’s adopted final MND, in its hazards and hazardous materials section, stated the bridge replacement project would impair or physically interfere with an adopted emergency response or evacuation plan, and expose people or structures to a significant risk of loss, injury, or death involving wildland fires, but that such impacts would be less than significant. While the small bridge’s construction would temporarily close Newtown Road to through traffic at the project site, County’s contingency plans involving numerous alternative emergency evacuation routes under various scenarios, all to be coordinated with the County Sheriff’s Emergency Services Office and the County’s Fire Protection District (both of which expressed they were “comfortable” with the options), were determined to reduce adverse impacts to a less-than-significant level.

A significant contingency in the alternative evacuation scenarios involved the possible construction of a temporary emergency access route across South Fork Weber Creek just west and downstream from the proposed bridge, which would connect up again with Newtown Road just upstream (and east) from the project area. This potential temporary emergency access route, which would require the County to acquire a temporary construction easement costing taxpayers tens of thousands of dollars and would impact a private owner’s land, was contemplated to be constructed only if various conditions and factors occurred – the primary factor being the timing of the start of construction and whether it would extend into the fire season. In other words, if bridge construction – anticipated to take several months – started early enough in the year to be sufficiently complete to allow emergency access through the project site when potentially needed during the fire season, construction of this temporary

emergency access route would be less likely to be needed, whereas the opposite would be true if bridge construction started later in the year and would not allow emergency access through the site during fire season.

At issue was potential impairment of access for evacuation purposes to the easterly intersection of Newtown Road and Fort Jim Road for 47 developed parcels along Newtown Road, east of its westerly intersection with Fort Jim. The County determined that numerous evacuation options existed for its Emergency Services Office to evacuate those parcels should a fire occur and block Newtown Road east of its westerly intersection with Fort Jim. In addition to the possible access through the project site to the easterly intersection (should construction be sufficiently advanced) and the potential temporary emergency access route (should it be constructed), no fewer than five other evacuation route options leading to numerous other roads (for egress leading to destinations including Pleasant Valley and Placerville), as well as a large clear space area allowing for nearby sheltering in place, would be available.

### **The Petitioners/Appellants' Litigation**

Dissatisfied with the County's MND and its mitigation in this regard, appellants sued. They essentially argued (as relevant to their appeal) that substantial record evidence supported a fair argument of significant impacts on public safety requiring an EIR. More specifically, they asserted that the MND failed to adequately address the significant impact of closing the bridge without committing to construction of the temporary evacuation route in the event of fire, and that in the absence of such a commitment, the many alternative evacuation plans were insufficient to mitigate the impact of area residents' exposure to wildfire dangers to a less-than significant level.

After issuing a detailed and extensive tentative ruling rejecting appellants' arguments, the trial court denied their writ petition, and the Court of Appeal affirmed that judgment on appeal.

### **The Court of Appeal's Opinion and Fair Argument Analysis**

The Court of Appeal first rejected appellants' argument that the various evacuation options discussed in County's master response to comments number 3 were not



properly incorporated into the MND, because that argument was not raised either in the trial court or appellants' opening brief on appeal. The Court of Appeal then set forth the applicable legal principles governing CEQA's "fair argument" test, and quoted at length from the trial court's detailed final ruling analyzing appellants' proffered evidence and whether it constituted the requisite "substantial evidence" supporting a fair argument that the project would have significant unmitigated environmental impacts.

Preliminarily, and before addressing appellants' evidence in detail, the Court of Appeal observed that they had erroneously framed the applicable fair argument test as whether the project would have significant impacts on *resident safety and emergency evacuation*. The correct question was instead whether the project may have a significant effect on the *environment*. The CEQA Guidelines Appendix G checklist questions, including whether the project would expose people or structures to a significant risk of loss, injury, or death involving wildland fires, do not extend the EIR requirement to situations where the environment affects the project, rather than the other way around (citing *South Orange County Wastewater Authority v. City of Dana Point* (2011) 196 Cal.App.4th 1604, 1616); and CEQA does not *generally* require analysis of how *existing* hazards or conditions might impact project users or residents *unless* the project might *exacerbate* existing environmental hazards. (Citing *California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 392.) Accordingly, the issue was whether appellants had presented "substantial evidence supporting a fair argument that the project may have a significant effect on the environment or may exacerbate existing environmental hazards." The Court concluded they had not.

The Court held that the testimony of several area residents relating to their past experiences with wildfires related to *existing* hazards that might affect them during construction, not impacts caused or exacerbated by the project, and also constituted non-expert opinion without any identified factual foundation. As such, it did not constitute substantial evidence supporting the required fair argument. (Citing *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677, 691.)

Similarly, the letter of a retired CalFire aerial firefighter, expressing concerns with the “lack of an emergency evacuation route during project construction” and opining evacuation would be “problematic” and likely trap residents by “block[ing] one of the primary escape routes,” lacked any identified factual foundation in the record “given the existence of the evacuation routes and options identified in the record.”

Accordingly, it was mere speculation rather than substantial evidence supporting a fair argument that the project may cause new or exacerbate existing environmental hazards; further, nothing in the letter set forth facts establishing that the ex-firefighter was an expert in ground evacuation routes, a technical area the Court held requires expertise rather than mere lay opinion to constitute substantial evidence. (Citing *Joshua Tree*, at 690-691.) By contrast to appellants’ failure to point to any record evidence showing the ex-firefighter had any “experience in determining, directing, or effecting evacuation routes[,]” the County had consulted with the Emergency Services Office and County Fire, agencies with expertise that expressed they were comfortable with the County’s project and evacuation options.

The comments of another resident – the owner of the property through which the potential temporary emergency access route would be constructed – and those of the appellants’ attorney likewise did not amount to substantial evidence under the fair argument test. They failed to explain the alleged relevance of comments that area fires historically moved from west to east in relation to the numerous evacuation options identified, and they were unsubstantiated to the extent they asserted – in the face of the numerous identified routes – that residents would lack any emergency evacuation route. Comments regarding a prior, allegedly similar project’s limitation of residents’ fire season evacuation routes failed to explain how that alleged limitation constituted a significant impact, or how it was a relevant comparison to this project with all of its specifically identified evacuation routes. None of the comments explained how the project may cause any new or exacerbate any existing environmental hazards. And while Nagel was also an experienced firefighter, she, too, lacked demonstrated experience in determining, directing or effecting evacuations, and her lay opinions in a technical area requiring expertise thus failed to constitute substantial evidence.

The Court of Appeal distinguished three prior cases cited by appellants, in which courts relied on local residents’ lay testimony to support a fair argument, as standing

for the proposition that “lay testimony may constitute substantial evidence when the personal observations and experiences directly relate to and inform on the impact of the project construction. In contrast to the public comment in those three cases, here, the comments lacked factual foundation and failed to contradict the conclusions by agencies with expertise in wildfire evacuation with *specific* facts calling into question the underlying assumptions of their opinions as it pertained to the project’s potential environmental impacts.” Nothing in the comments or record supported the argument that using the Newtown Road Bridge was the only viable evacuation route for fires starting west of the project site.

The Court of Appeal found no need to address appellants’ argument that the County failed to properly reject the public comments for lack of credibility because it did not first identify the evidence it found non-credible with sufficient particularity. (See, *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 208.) In light of its conclusion that appellants had failed to identify substantial evidence supporting a fair argument that the project may have a significant impact on the environment or may exacerbate existing environmental hazards, addressing the credibility issue was unnecessary.

### **Conclusion and Implications**

The Court of Appeal’s opinion is significant and enlightening in several respects. First, it serves as a good general reminder that while the “fair argument” test presents a *low* threshold, that does not equate to *no* threshold, and where petitioners fail to carry their burden to point to *substantial evidence* in the record supporting the requisite fair argument, a negative declaration will be upheld. Second, to constitute substantial evidence, testimony must have an adequate factual foundation (so as not to be speculative), and lay opinion will not suffice in technical areas requiring expertise (such as adequacy of wildfire evacuation routes). Third, petitioners must be mindful of the limits of CEQA analysis – i.e., it is generally concerned only with the project’s impacts on the environment, not vice versa – and how that affects the framing of the project “impact” to which substantial evidence and a fair argument must be directed. Given the recent increase in CEQA litigation challenging lead agencies’ analysis of projects’ wildfire-related impacts, the Court’s opinion provides helpful guidance to

litigants by reminding them that the relevant potential project impacts to be analyzed under CEQA are not impacts to public safety or evacuation routes, but to the existing environment and exacerbation of existing environmental hazards. Appellants' evidence here failed to squarely address the relevant impacts and came up short as a matter of law.

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- [AB 819 Revises Statutory Procedures For Submitting Lead Agency CEQA Documents And Notices To OPR's State Clearinghouse, Expands Requirements/ Options For Electronic Posting Of Notices By Lead Agencies And County Clerks](#)
- [First District Addresses CEQA Statute of Limitations And Tolling Agreement Rules In Affirming Judgment Upholding EBRPD's Approval of Tree Removal MOU With PG&E](#)
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- [Sixth District Affirms Judgment Dismissing CEQA Action For Failure To Timely Join Indispensable Real Party Within Limitations Period Triggered By Filing of Second, Valid NOD; Court Rejects Plaintiff's Arguments Based On Relation Back, Estoppel, and City's Violation of Statute Requiring It To Mail Operative NOD](#)
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DISCLAIMER: Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations.

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**WRITTEN BY:**



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**MILLER STARR REGALIA ON:**



Fwd: odor/carbon air filters

Michael Pinette <michaelpca@gmail.com>

Wed 4/24/2024 10:48 AM

To: Planning Department <planning@edcgov.us>; Evan R. Mattes <Evan.Mattes@edcgov.us>; Christopher J. Perry <Christopher.Perry@edcgov.us>  
Cc: Lee Tannenbaum <lee.tannenbaum@gmail.com>; Kevin McCarty <kevinwmccarty@pm.me>; David Harde <davidharde123@gmail.com>; tsImeds <tsImeds@gmail.com>; Jay Windhill <jaywind855@gmail.com>

4 attachments (10 MB)

Annapolis Presentation Odor Modeling.pptx; ccup21-004-6920 flatcreek-16000 feet.pdf; 5069dagostini-5.5inches-16000'plus.pdf; 4881 D'Agostini -1600'.pdf;

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Dear Planning Dept Staff,

Planning Dept, please review and attach the following document to the Planning Commission Agenda Item 24-0520, Single Source Solutions CCUP21-0004, set to meet April 25 at 8:30 in Fairlane Placerville HQ. This email and set of links shows the hoop houses and charcoal filtration systems that will be used on the grow site. I have also attached google map images showing the relative location of each adjoining home and its distance from the closest edge of the grow site. As these hoop houses will be used on the east and west portions of the grow site for odor mitigation, the distances are as follows:

- 5069 D'agostini Dr ~1650'
- 5881 D'agostini Drive ~1350'
- Jessica Rodgers home, ~1350'
- 6920 Flat Creek Dr -- ~1800'

No other homes are located closer with the exception of my home, 4941, where the home sits approximately 1000' from the South gate of the grow site as per our site plan, and from my home there is a 200' vertical drop to the midpoint of the grow site at 1750 elevation. About 290' lower at the lowest point in the Northeast corner of the grow site. 5069, 5881, and the Rodgers home sit on average at about 2100', or 350' above the grow site, which materially affects odor mitigation.

Per the Yolo County report provided in Ray Kapahi's Odor Study, actual data measurements, approximately 82% of any odor is mitigated from the grow site at 500'. All these houses sit well beyond 500' and should have no odor impact. Especially consider Ray and Jesse Levin's published odor modeling paper presented in Annapolis Maryland focused on landfill gases and impact on homes. Wind speed, density of surrounding landscape, vertical drop, prevailing winds (SW to Northeast as evidenced in the recent Caldor, Mosquito, and Fairplay fires) -- so away from any concentration of homes from our grow site, distance -- all have to be taken into account for odor. Odor does not just magically flow in one direction with vertical changes and swirling winds plus distance. Add 300 feet to any measurement of house locations to the midpoint of the grow site as the hoop houses will cover the West and East slopes.

- See attached google maps imagers and proximity to grow site.
- See and review RAY's advanced odor modeling techniques. Also, Ray's initial Odor Study used real data, real wind patterns from the national weather service, as well as approved odor modeling technique approved by the ED County Air Quality Board.

Regards,  
Mike Pinette

----- Forwarded message -----

From: Michael Pinette <michaelpca@gmail.com>

Date: Wed, Apr 24, 2024 at 8:34AM

Subject: Fwd: odor/carbon air filters

Grow span is what the team uses. Two 6 mil ply impermeable plastic sheeting, one white for daytime and one black for night. I will send you two more links from their web site where they break down the various sizes. I believe ours are in the 130' long by 30' wide... they will be armed with solar powered charcoal fans, whisper quiet... so far four in all, two for the west facing, two for the East. which puts the mid point for the outdoor grow about 350' from the neighbors property line on both sides. FYI

<https://www.growspan.com/>

<https://www.growspan.com/case-studies/cascade-growers-llc/> customer case study

charcoal filters/odor mitigation: <https://www.growspan.com/greenhouse-environmental-control/odor-mitigation/>

## ODOR MITIGATION

As local ordinances and regulations make odor mitigation and control a more crucial component of greenhouse growing, GrowSpan is ready to provide growers with effective odor mitigation systems. To avoid becoming a nuisance to neighbors and impacting the local environment, growers should work with GrowSpan Greenhouse Specialists to ensure proper odor

GrowSpan has  
been providing



control. GrowSpan Greenhouse Specialists help operations mitigate unwanted odor through air movement, filtration and structural design.

#### THE GROWSPAN ODOR MITIGATION ADVANTAGE INCLUDES:

- Eliminate odors – Powerful combination of air movement and filtration
- Easily integrated into new and existing structures
- Sealed structural designs – Shield local surroundings from strong smells
- Large variety of equipment and systems available
- Odor control on any scale – From small farms to commercial operations

#### EFFECTIVE ODOR CONTROL WITH GROWSPAN GREENHOUSES AND SYSTEMS

GrowSpan can improve odor mitigation in a greenhouse or grow room with the combination of air movement and filtration. GrowSpan Greenhouse Specialists can design fan and exhaust systems that provide a complete air exchange every few minutes, and with carbon air filters, odors will be neutralized as air exits the structure. With the help of a GrowSpan Greenhouse Specialist, growers can receive powerful odor control systems, so they can grow to their fullest potential without affecting their local surroundings.

GrowSpan Greenhouse Specialists help growers receive a structure that is perfectly suited to their specific needs, and with the right structural design, growers can improve the odors in their greenhouse. GrowSpan greenhouses can be completely sealed to prevent the escape of odors. Plus, GrowSpan structures can be designed to meet any local building codes and regulations.

#### ONE-STOP SHOP FOR COMMERCIAL GREENHOUSE ODOR CONTROL

GrowSpan provides growers with odor control on any scale. Growers appreciate GrowSpan's wide selection of growing solutions, which contains over 30,000 products and supplies. This large variety of equipment, tools and accessories allows growers to approach their greenhouse odor control from multiple angles, ensuring an all-encompassing solution to a difficult challenge.

To learn more about GrowSpan's odor mitigation and control solutions call today.

## RELATED ARTICLES

## AN ADVANTAGE

also take advantage of several convenient in-house services, which include consultation and design, engineering, financing, installation and post-construction support.

As local ordinances and regulations make odor mitigation and control a more crucial component of greenhouse growing, GrowSpan is ready to provide growers with effective odor mitigation systems. To avoid becoming a nuisance to neighbors and impacting the local environment, growers should work with GrowSpan Greenhouse Specialists to ensure proper odor control. GrowSpan Greenhouse Specialists help operations mitigate unwanted odor through air movement, filtration and structural design.



Image of green houses with charcoal filters in place...

growers across the horticulture industry with high quality growing structures and outstanding customer service for over 40 years. Throughout the years, GrowSpan has cemented itself as a one-stop shop for the finest growing structures and systems. Customers quickly discover the GrowSpan Advantage when working with their dedicated Greenhouse Specialist. GrowSpan's Specialists work closely with customers through the entire design and purchase process. Besides working with a dedicated specialist, customers can

#### **GROWSPAN ODOR MITIGATION ADVANTAGE INCLUDES:**

- Eliminate odors – Powerful combination of air movement and filtration
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## **RELATED ARTICLES**

#### **VENTILATION METHODS:**

##### **LOW-TECH TO**

##### **AUTOMATED HIGH-TECH**

Greenhouse humidity and temperature can quickly become the enemy of production if growers do not implement proper ventilation within their system.

#### **GREENHOUSE EVAPORATIVE COOLING**

Whether growers need a smaller, portable evaporative cooler or a large-scale evaporative cooling wall, GrowSpan provides the best in grow room and greenhouse evaporative cooler solutions. By taking advantage of natural cooling principles, GrowSpan Greenhouse Evaporative Coolers offer powerful cooling to control high temperatures and to maintain an environment where plant growth can excel. With GrowSpan, growers also have the unique opportunity to design a custom greenhouse evaporative cooling system with the help of an expert Greenhouse Specialist.

#### **THE GROWSPAN GREENHOUSE EVAPORATIVE COOLING ADVANTAGE INCLUDES:**

- Create the optimal growing environment – Manage high greenhouse temperatures
- Industry experts on staff – Easy greenhouse and grow room integration
- Energy-efficient designs and options
- One-stop shopping experience – Products and expertise for any growing need
- Automated or manual options
- Custom designs – Systems can meet any necessary requirements

#### **A GREENHOUSE EVAPORATIVE COOLING SYSTEM IS THE NATURAL COOLING METHOD**

GrowSpan Greenhouse Evaporative Coolers take advantage of the natural relationship between evaporation and humidity to provide robust cooling. When water evaporates, it has a cooling effect, but the amount of cooling that can be achieved is dependent on the relative humidity level within the structure. In the proper conditions, evaporative cooling can be strong enough to cool an entire room or greenhouse.

This also makes it crucial to size an evaporative cooling system for a greenhouse correctly, as growers need to know how many square feet of space they want to cool effectively. Regardless of the structure's size or a grower's needs, GrowSpan can help design a custom end wall or entire wet wall that provides efficient, powerful cooling.

#### **CONTROL HIGH TEMPERATURES WITH A GREENHOUSE WATER WALL OR GREENHOUSE SWAMP COOLER**

GrowSpan's Evaporative Cooling Walls consist of porous, cellulose evaporative pads that are mounted into either an end wall or sidewall of the greenhouse or grow room. Unlike traditional air conditioning methods, which treat the air that already exists

inside a structure, these systems work by bringing a constant stream of fresh air into a growing space. Exhaust fans opposite the wall pull water-saturated air through the cooling pads and across the structure. The water evaporates as the air is pulled along the length of the growing area, supplying cool air as the hot air is expelled by the fans, effectively cooling the whole structure.

**GROWSPAN GREENHOUSE SPECIALISTS HELP GROWERS DESIGN AN EVAPORATIVE COOLER THAT IS BEST FOR THEIR OPERATION'S SPECIFIC NEEDS. WITH MULTIPLE DESIGNS AND SIZES FOR BOTH GREENHOUSE SWAMP COOLERS AND EVAPORATIVE COOLING WALLS AVAILABLE, GROWERS CAN FIND THE RIGHT EQUIPMENT FOR THEIR OPERATION, NO MATTER THE REQUIREMENTS OR NUMBER OF SQUARE FEET THEY NEED TO COVER. GROWERS CAN ALSO WORK WITH A GREENHOUSE SPECIALIST TO DESIGN A CUSTOM EVAPORATIVE COOLING SYSTEM, STRONG ENOUGH TO MANAGE TEMPERATURES ON ANY SCALE.WHY GROWERS NEED A CUSTOM GREENHOUSE**

A custom greenhouse takes out the guesswork for growers attempting to set up their own structure with minimal guidance.greenhouse odor control from multiple angles, ensuring an all-encompassing solution to a difficult challenge



# **NUMERICAL MODELING OF MIGRATION OF LANDFILL GAS AND ODORS TO NEARBY HOMES**

Ray Kapahi

Jesse Levin

NCM Environmental Solutions

Malibu, California, USA

With Support From ACRI, Bangalore, India

Dr. Madhukar Rao

Mr. Chakrapani Addaguduri

# What We Will Cover Today

1. The challenge of Predicting and Controlling Odors
2. Existing Tools Available for Modeling Transport and Dilution of Odors
3. Description of Advanced Modeling Tools
4. Case Study at an Existing Landfill
5. Questions/Comments



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### Residents complain of landfill odor near The Palace of Auburn...

<https://www.clickondetroit.com/.../residents-complain-of-landfill-odor-near-the-palace...> ▼

Apr 18, 2017 - AUBURN HILLS, Mich. - The state of Michigan is ordering a Metro Detroit landfill to give its neighbors some relief. The odor emanating from Oakland Heights Landfill got so bad, it's requiring a change to daily business. Ronald Schroeder's 1954 Plymouth Belvedere is his pride and joy. Rain or shine, snow ...

### Can Perinton residents blame NYC trash for stench?

<https://www.democratandchronicle.com/story/news/2018/01/17/.../1038194001/> ▼

Jan 17, 2018 - Residents expressed grievances with the landfill in Perinton, including: New York City trash intake, odors' effects on schools and health. ... Members started compiling complaints with emails, then a spreadsheet, a Google form and now an app designed specifically for the cause. The @facebook group that ...

### Residents voice complaints over landfill odor | SCT Online

[www.sctonline.net/news/residents-voice-complaints-over-landfill-odor](http://www.sctonline.net/news/residents-voice-complaints-over-landfill-odor) ▼

Nov 1, 2017 - Residents in the vicinity of North Homewood Road and Highway 501 in Forest are having an odorous experience due to a bad bouquet on the breezes blowing their way. Waste Management Clearview Landfill, located about five miles away on Mudline Road in Lake, is apparently having some challenges ...

### Residents take landfill odor complaints to Board of Supervisors - News ...

[www.progress-index.com/.../residents-take-landfill-odor-complaints-to-board-of-supe...](http://www.progress-index.com/.../residents-take-landfill-odor-complaints-to-board-of-supe...) ▼

Mar 3, 2017 - PRINCE GEORGE — Work on stopping foul odors and contaminated water from escaping a massive landfill in Sussex County may have worsened the problem, but an official from the company that operates the waste dump assured area residents that a long-term solution is coming soon. Six



# City Says Landfill Odor Complaints Don't Pass the Smell Test

The county's Air Pollution Control District says an air analysis shows that odors are wafting into surrounding neighborhoods from the Miramar Landfill. The city did its own review of the county's study, and that determined the origin of the odors to be inconclusive.



# The Challenge of Predicting and Controlling Odors



# The Challenge of Predicting and Controlling Odors





# The Challenge of Predicting and Controlling Odors

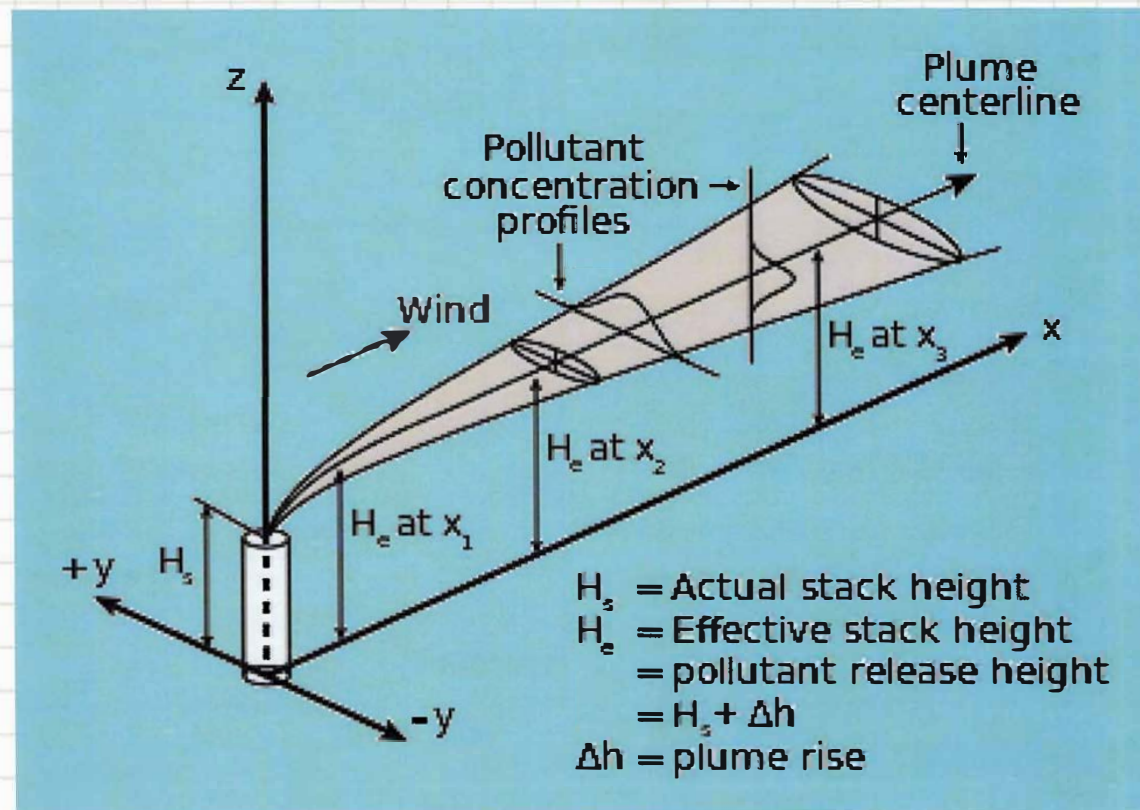
## Low Thresholds of Detection

For example: H<sub>2</sub>S Detection Limit is < 1 ppm

## Short Time Scales (seconds-minutes)

## High Spatial Variability (few meters)

# Existing Tools for Predicting Odors



## GAUSSIAN MODEL

Assumption:

- Constant wind speed
- No wind shear
- Flat topography

Gaussian Plume Model

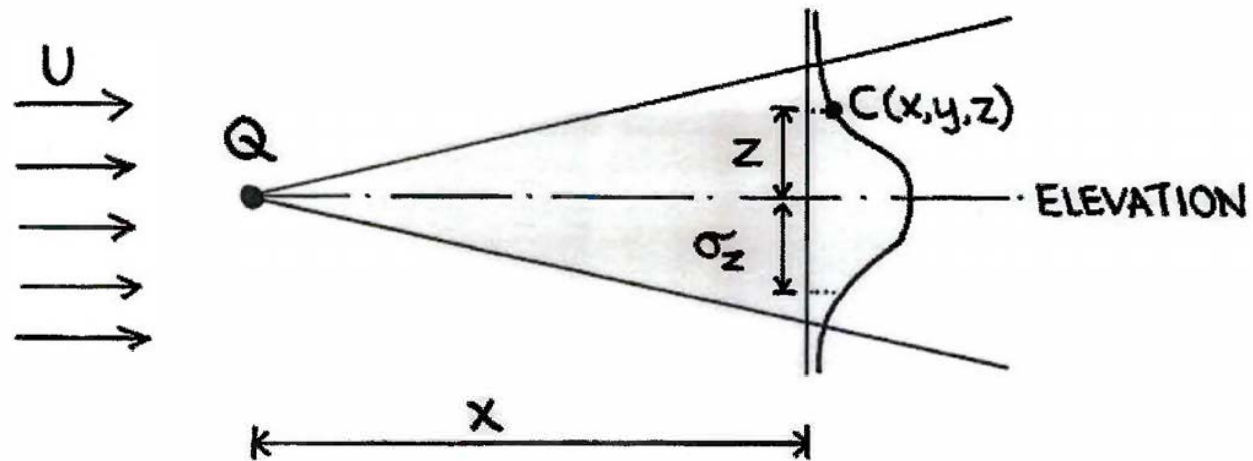
$$C(x,y,z) = \frac{Q}{2U_s \sigma_y \sigma_z \pi} \exp\left[-\frac{1}{2}\left(\frac{y}{\sigma_y}\right)^2\right] \left\{ \exp\left[-\frac{1}{2}\left(\frac{z-h}{\sigma_z}\right)^2\right] + \exp\left[-\frac{1}{2}\left(\frac{z+h}{\sigma_z}\right)^2\right] \right\}$$

where,

$C(x,y,z)$	- Concentration in air at (x,y,z) (gm/m <sup>3</sup> )
$Q$	- Emission rate from the stack (m/sec)
$U_s$	- Wind speed at source height (m/sec)
$\sigma_y$	- Horizontal dispersion coefficient (m)
$\sigma_z$	- Vertical dispersion coefficient (m)
$y$	- Cross - wind distance (m)
$z$	- Vertical distance (m)
$h$	- Effective stack height (m)



# Existing Tools for Predicting Odors



# Limitations of Existing Tools for Predicting Odors

- Minimum Time Scale is 1 hour
- No Time Dependence
- Constant Wind Speed and Direction Over Entire Modeling Domain

# New Tools for Predicting Odors



## Navier-Stokes Equations 3 - dimensional - unsteady

Glenn  
Research  
Center

Coordinates: (x,y,z)	Time : t	Pressure: p	Heat Flux: q
Velocity Components: (u,v,w)	Density: ρ	Stress: τ	Reynolds Number: Re
	Total Energy: Et		Prandtl Number: Pr

**Continuity:** 
$$\frac{\partial \rho}{\partial t} + \frac{\partial(\rho u)}{\partial x} + \frac{\partial(\rho v)}{\partial y} + \frac{\partial(\rho w)}{\partial z} = 0$$

**X - Momentum:** 
$$\frac{\partial(\rho u)}{\partial t} + \frac{\partial(\rho u^2)}{\partial x} + \frac{\partial(\rho uv)}{\partial y} + \frac{\partial(\rho uw)}{\partial z} = -\frac{\partial p}{\partial x} + \frac{1}{Re_r} \left[ \frac{\partial \tau_{xx}}{\partial x} + \frac{\partial \tau_{xy}}{\partial y} + \frac{\partial \tau_{xz}}{\partial z} \right]$$

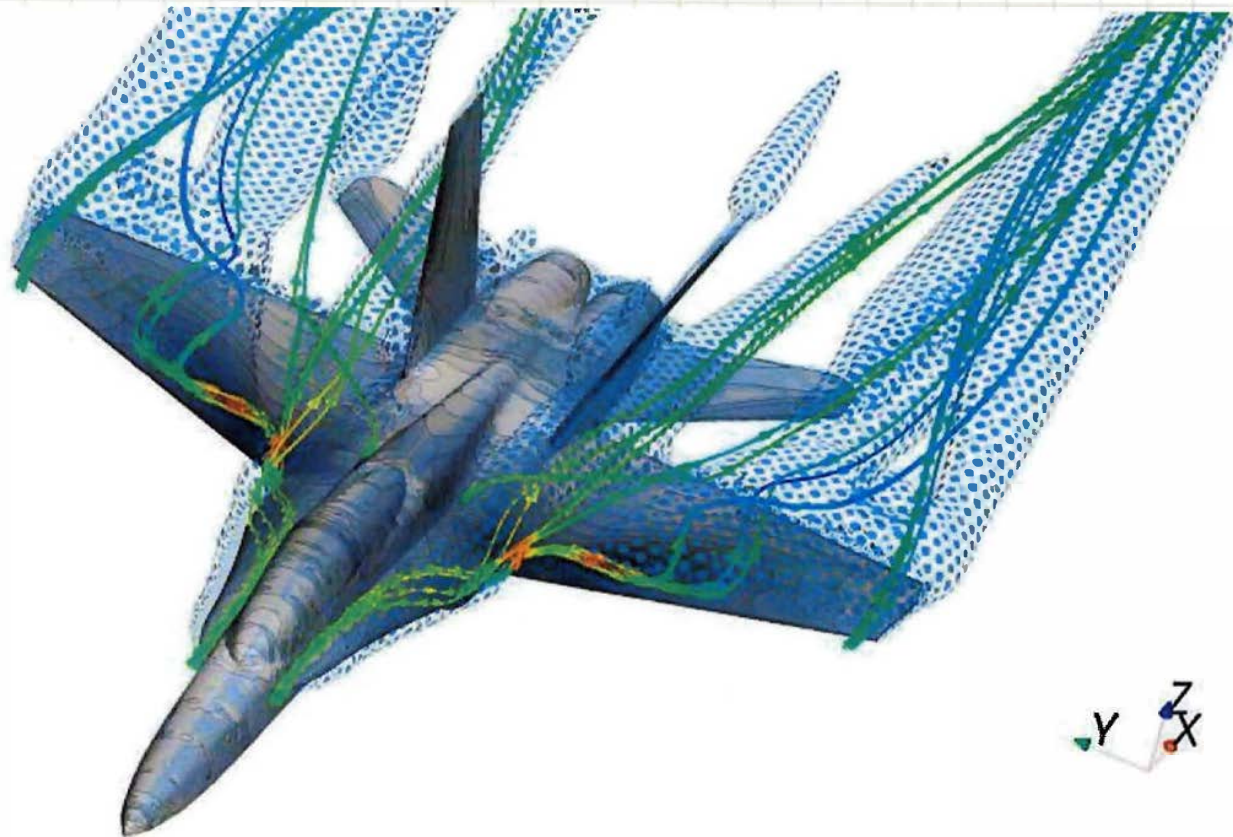
**Y - Momentum:** 
$$\frac{\partial(\rho v)}{\partial t} + \frac{\partial(\rho uv)}{\partial x} + \frac{\partial(\rho v^2)}{\partial y} + \frac{\partial(\rho vw)}{\partial z} = -\frac{\partial p}{\partial y} + \frac{1}{Re_r} \left[ \frac{\partial \tau_{xy}}{\partial x} + \frac{\partial \tau_{yy}}{\partial y} + \frac{\partial \tau_{yz}}{\partial z} \right]$$

**Z - Momentum** 
$$\frac{\partial(\rho w)}{\partial t} + \frac{\partial(\rho uw)}{\partial x} + \frac{\partial(\rho vw)}{\partial y} + \frac{\partial(\rho w^2)}{\partial z} = -\frac{\partial p}{\partial z} + \frac{1}{Re_r} \left[ \frac{\partial \tau_{xz}}{\partial x} + \frac{\partial \tau_{yz}}{\partial y} + \frac{\partial \tau_{zz}}{\partial z} \right]$$

**Energy:** 
$$\begin{aligned} \frac{\partial(E_T)}{\partial t} + \frac{\partial(uE_T)}{\partial x} + \frac{\partial(vE_T)}{\partial y} + \frac{\partial(wE_T)}{\partial z} = & -\frac{\partial(up)}{\partial x} - \frac{\partial(vp)}{\partial y} - \frac{\partial(wp)}{\partial z} - \frac{1}{Re_r Pr_r} \left[ \frac{\partial q_x}{\partial x} + \frac{\partial q_y}{\partial y} + \frac{\partial q_z}{\partial z} \right] \\ & + \frac{1}{Re_r} \left[ \frac{\partial}{\partial x}(u \tau_{xx} + v \tau_{xy} + w \tau_{xz}) + \frac{\partial}{\partial y}(u \tau_{xy} + v \tau_{yy} + w \tau_{yz}) + \frac{\partial}{\partial z}(u \tau_{xz} + v \tau_{yz} + w \tau_{zz}) \right] \end{aligned}$$

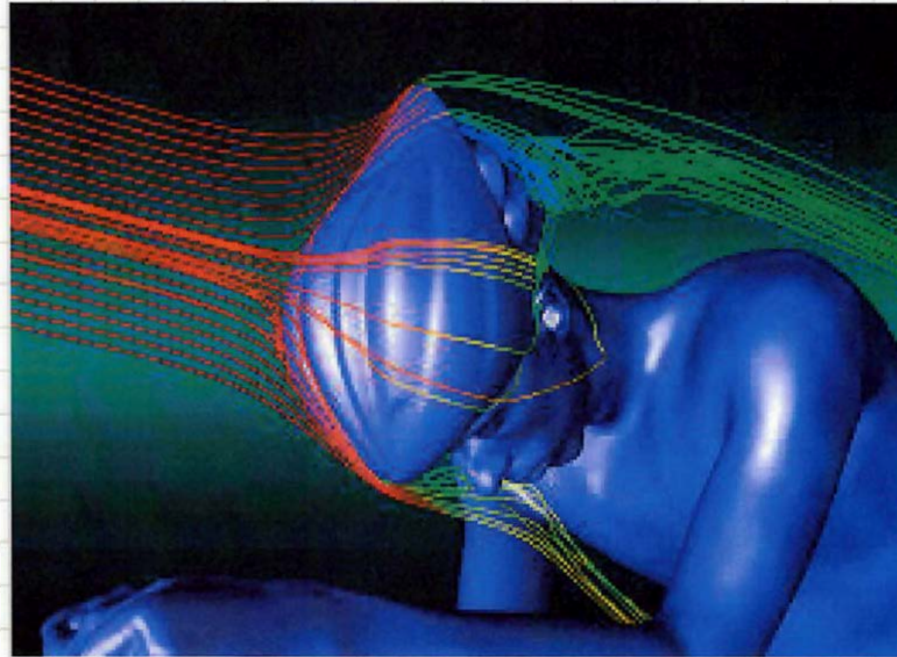
12

# New Tools for Predicting Odors





# New Tools for Predicting Odors

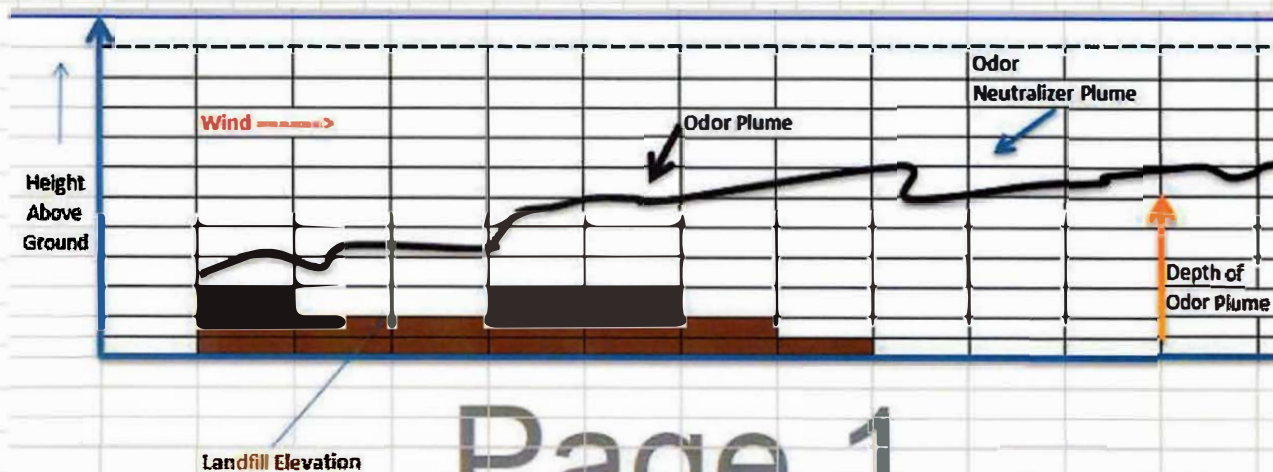


# New Tools for Predicting Odors





# New Tools for Predicting Odors



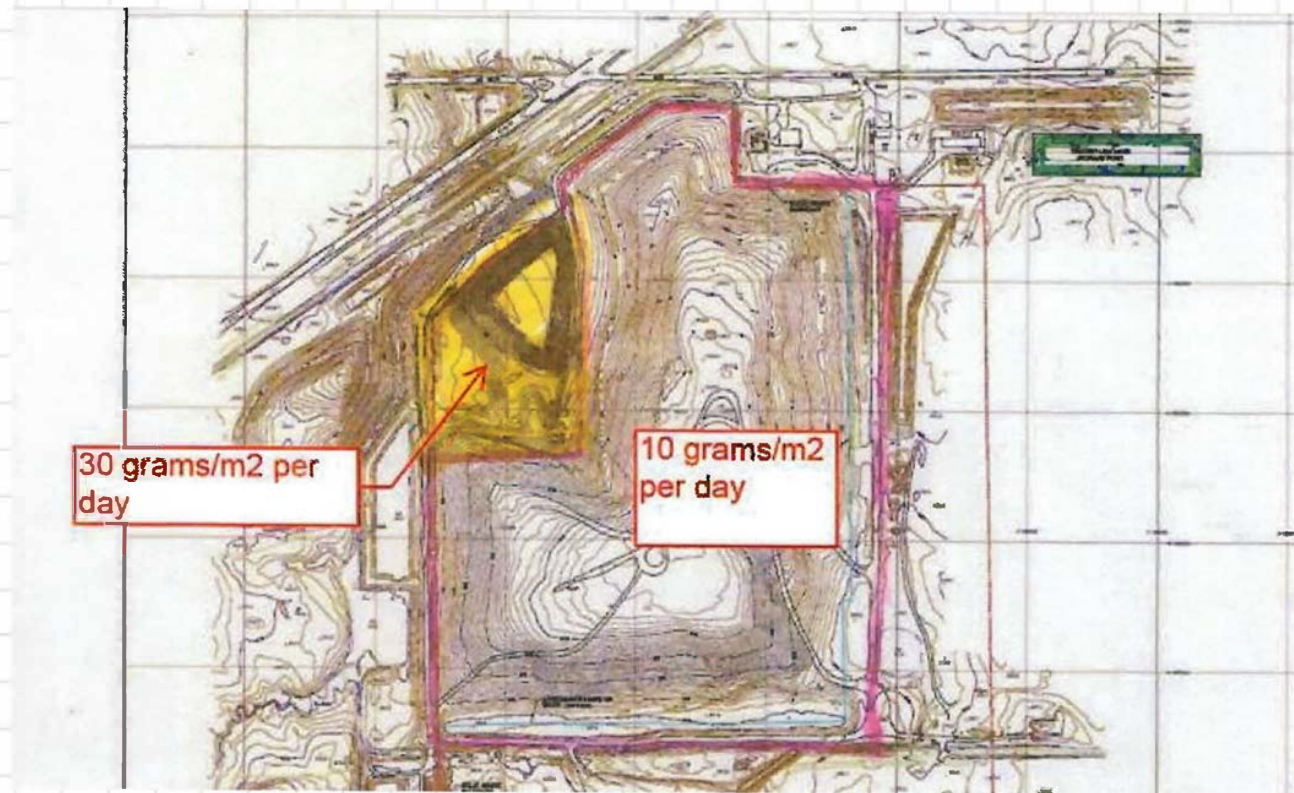
Page 1

Overall Size of Modeling Domain: 1.5 km x 1.5 km x 200 meters  
Cell Size: 20 m x 20 m (horizontal) x 20 meters (vertical)

Key Issue is the depth of the odor plume vs distance under various meteorological conditions and determine how best to inject odor neutralizer so that odors can be effectively controlled

Range of Wind Speeds: 1 to 10 mph

# Emission Rates of Methane



**Table 1**  
**Summary of Wind Speed and Inversion Heights**

<b>Time</b>	<b>Velocity</b>	<b>Inversion height</b>
0300h to 0500h	0.1 mph (calm condition)	50 meters
0500h to 0600h	1 mph	50 meters
0600h to 0700h	2 mph	100 meters
0700h to 0800h	3 mph	150 meters
0800h to 0900h	4 mph	150 meters
0900h to 1000h	5 mph	200 meters



# New Tools for Predicting Odors

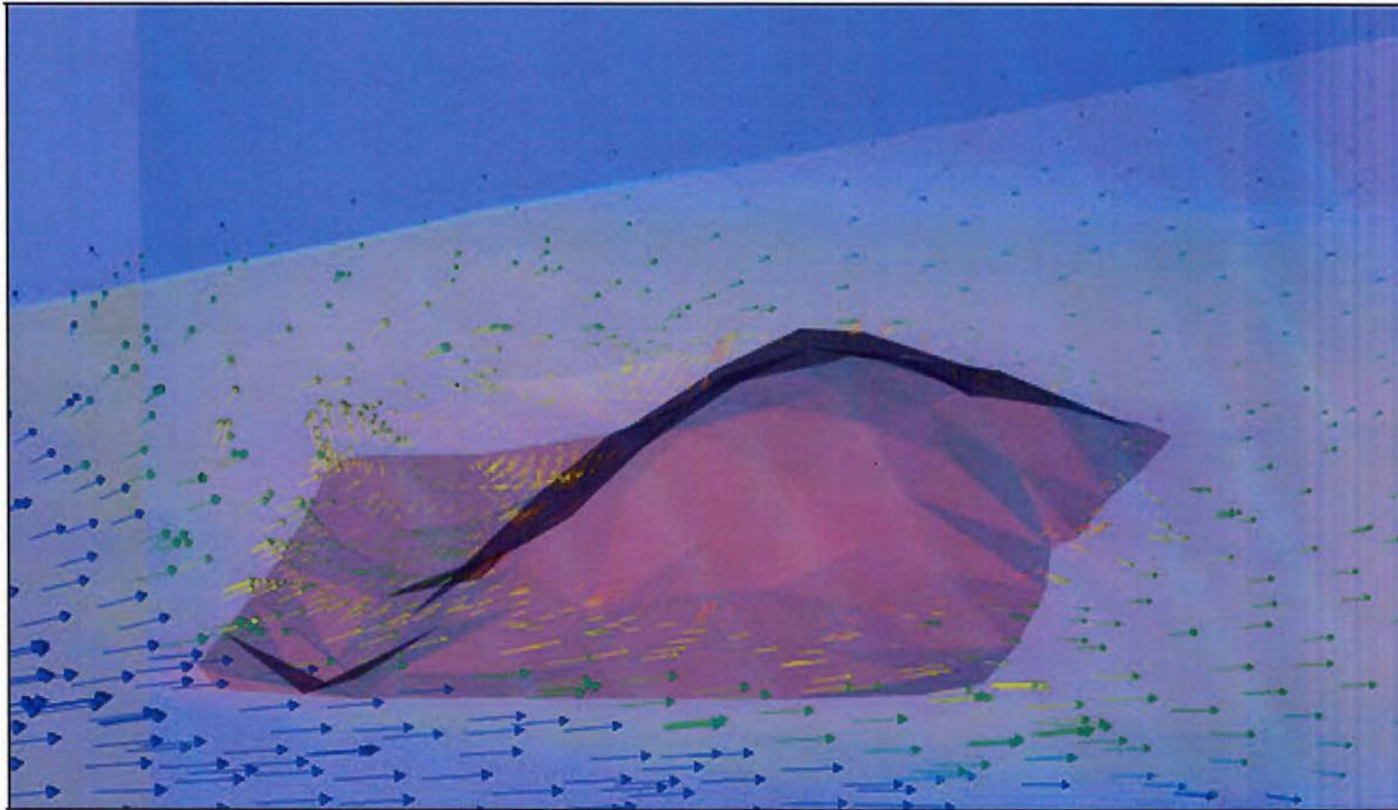
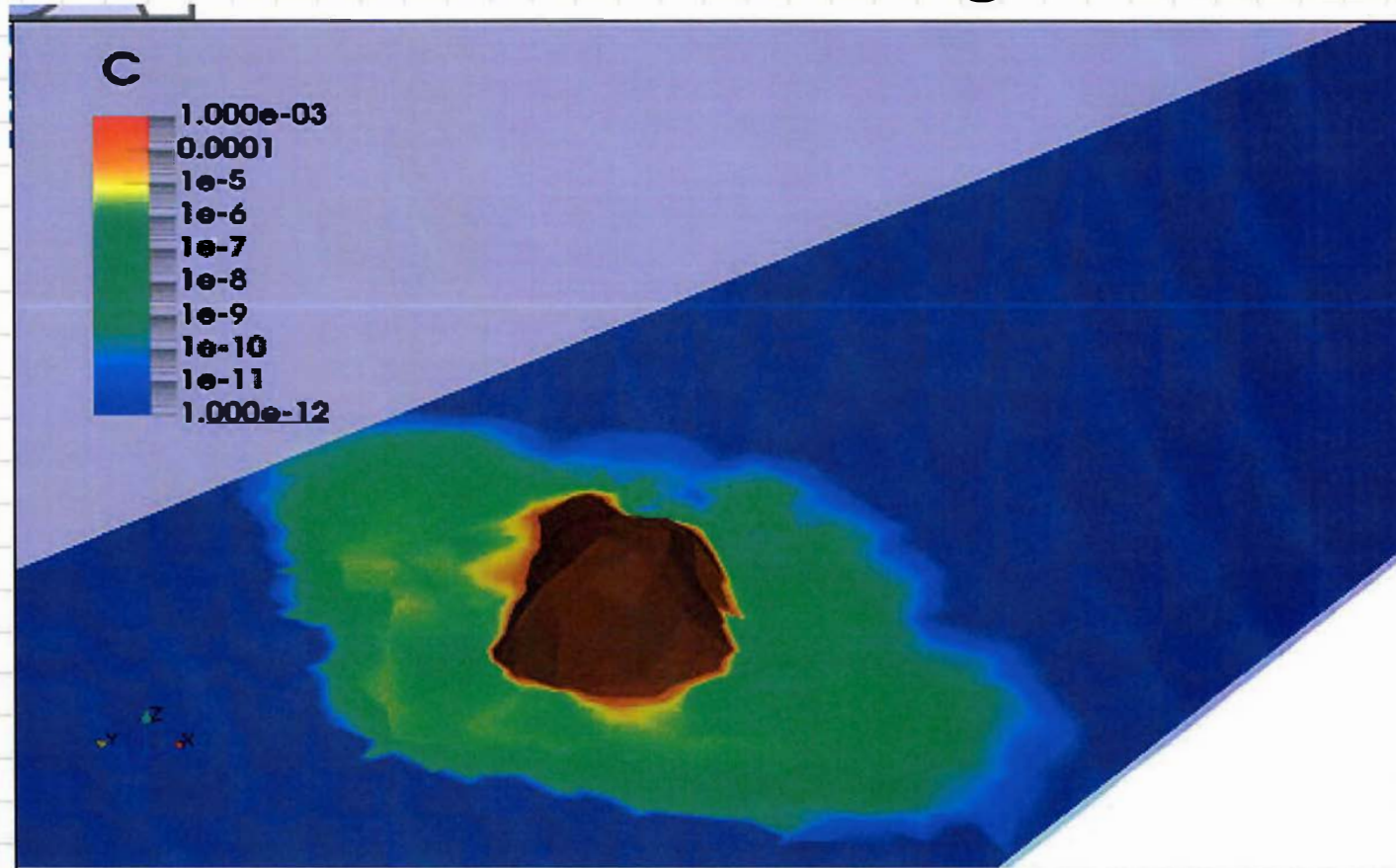


Figure 14: Vector plot near the landfill at 04:00h (Zoomed view)

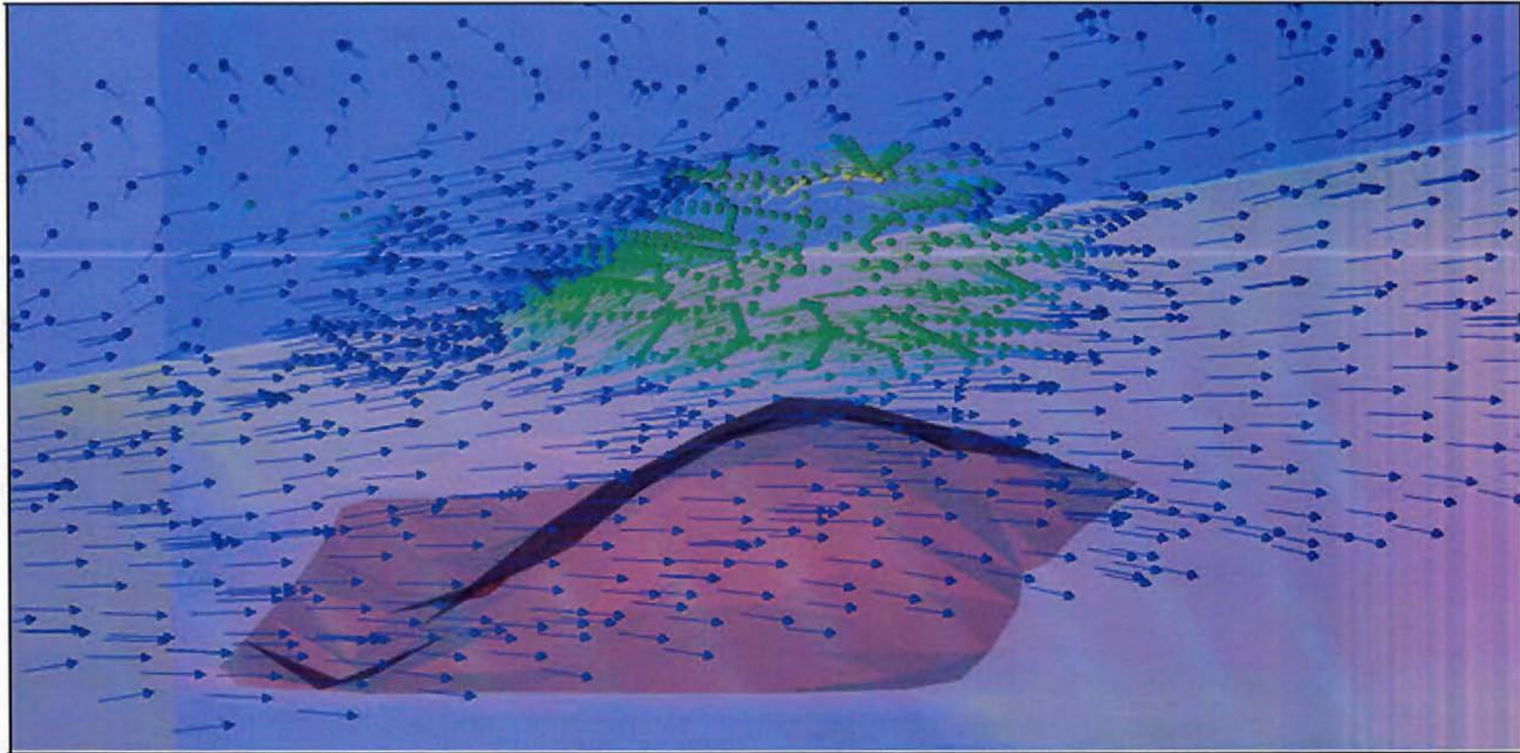
# New Tools for Predicting Odors



Contour of mass fraction of methane at 2 meters height and at time: 04:00h

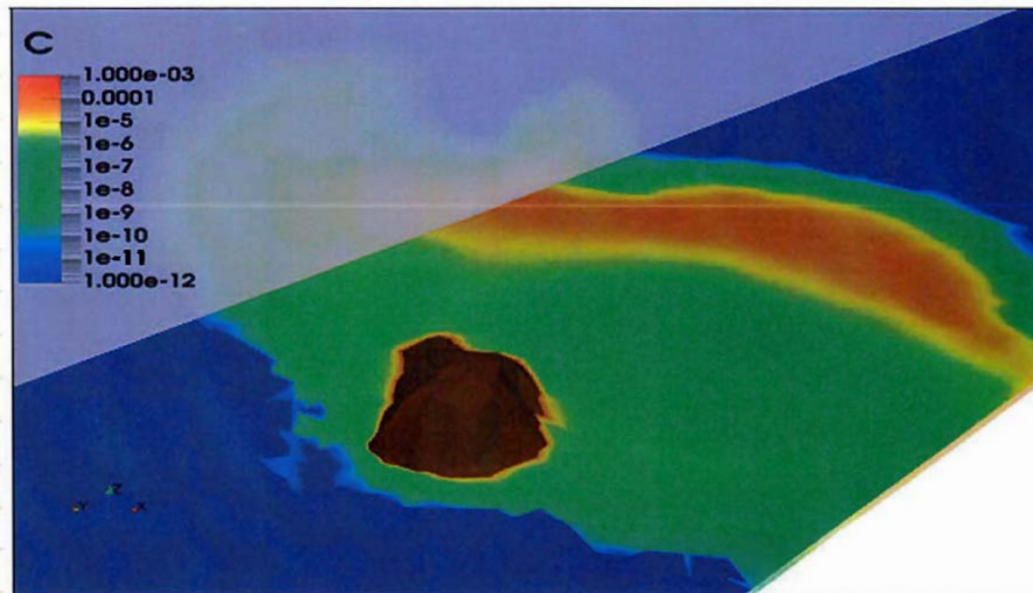


# New Tools for Predicting Odors



Vector plot near the landfill at 06:00h

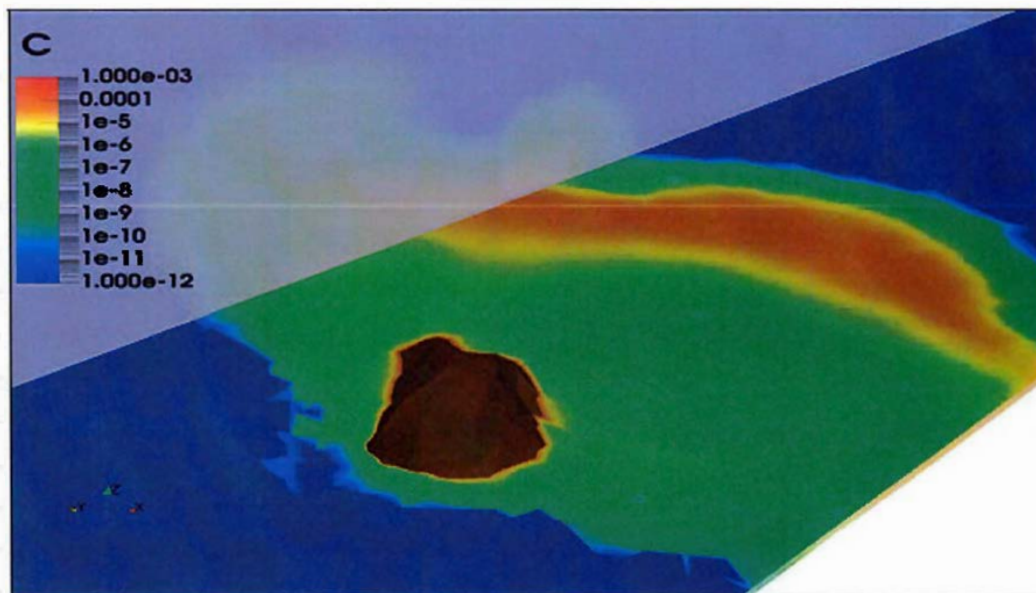
# New Tools for Predicting Odors



Contour of mass fraction of methane at 2 meters height and at time: 08:00h

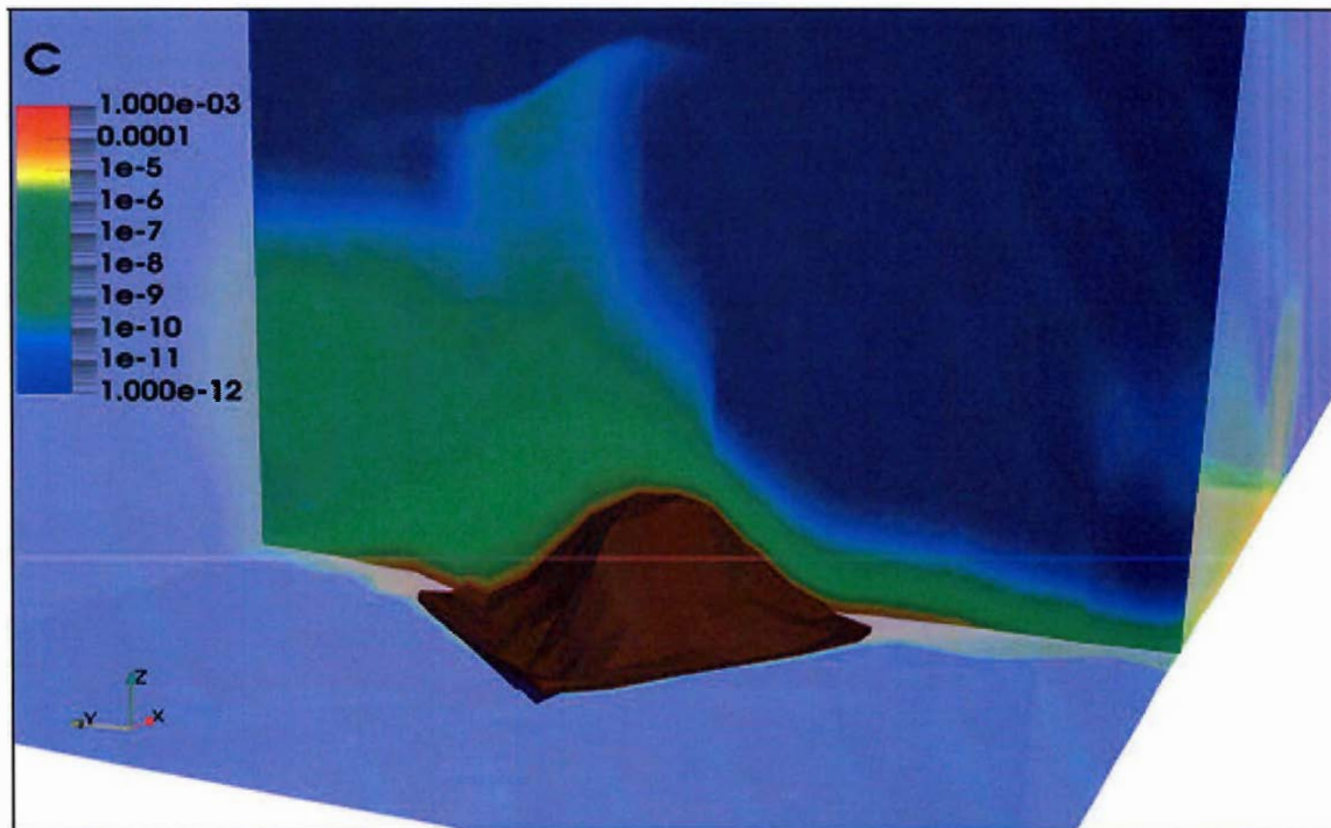


# New Tools for Predicting Odors



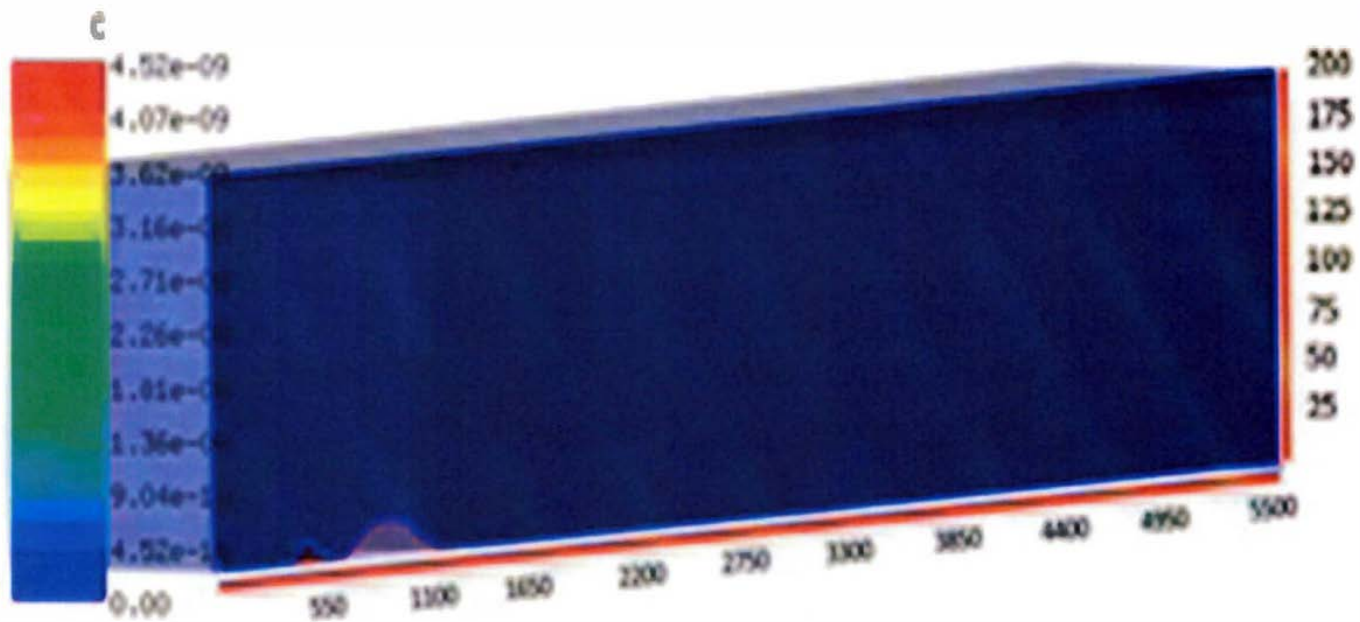
Contour of mass fraction of methane at 2 meters height and at time: 08:00h

# New Tools for Predicting Odors



Contour of mass fraction of methane at the middle section of the landfill at 08:00h

TIME : 0 HRS 10 MIN



# Two Key Findings

- Advanced dispersion models can provide detailed structure and movement of landfill emissions that are not possible with the recommended agency models
- Results from advanced models can be used to design odor control systems





# Contacts

- Ray Kapahi

[Ncmodorcontrol.ray@gmail.com](mailto:Ncmodorcontrol.ray@gmail.com)

Phone: 916-806-8333

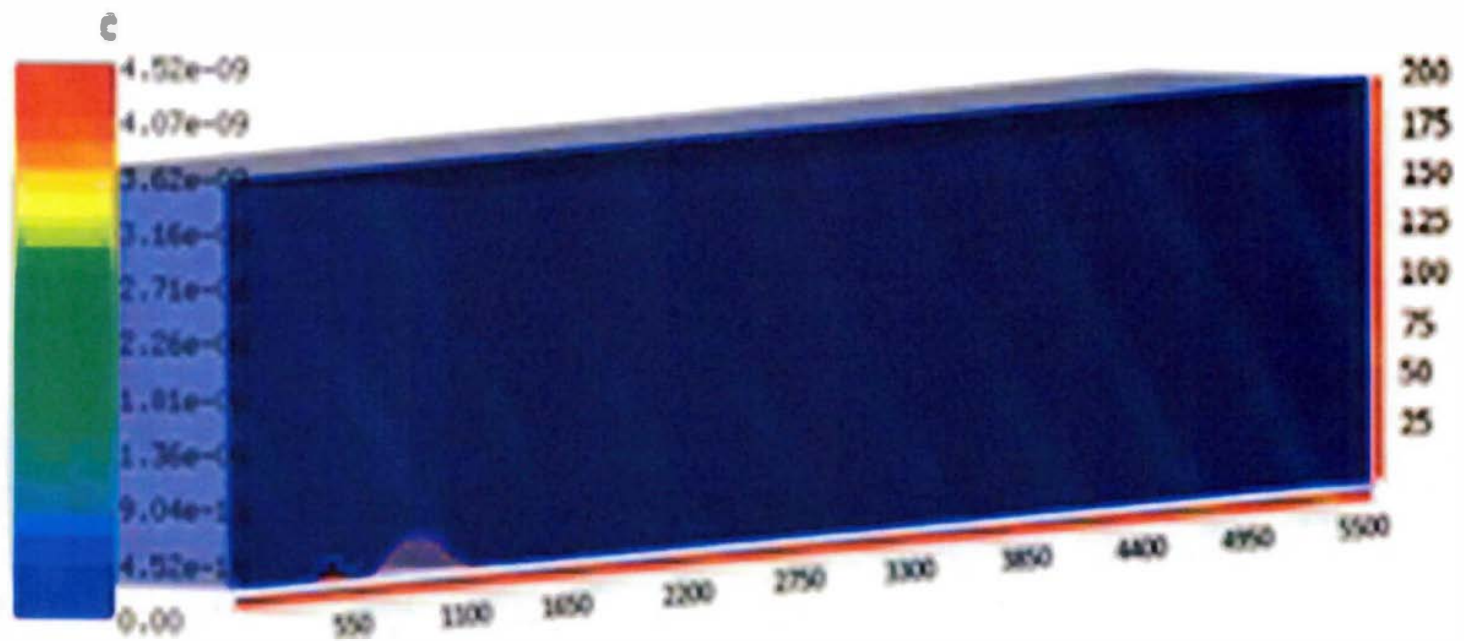
- Jesse Levin

[ncmodorcontrol@gmail.com](mailto:ncmodorcontrol@gmail.com)

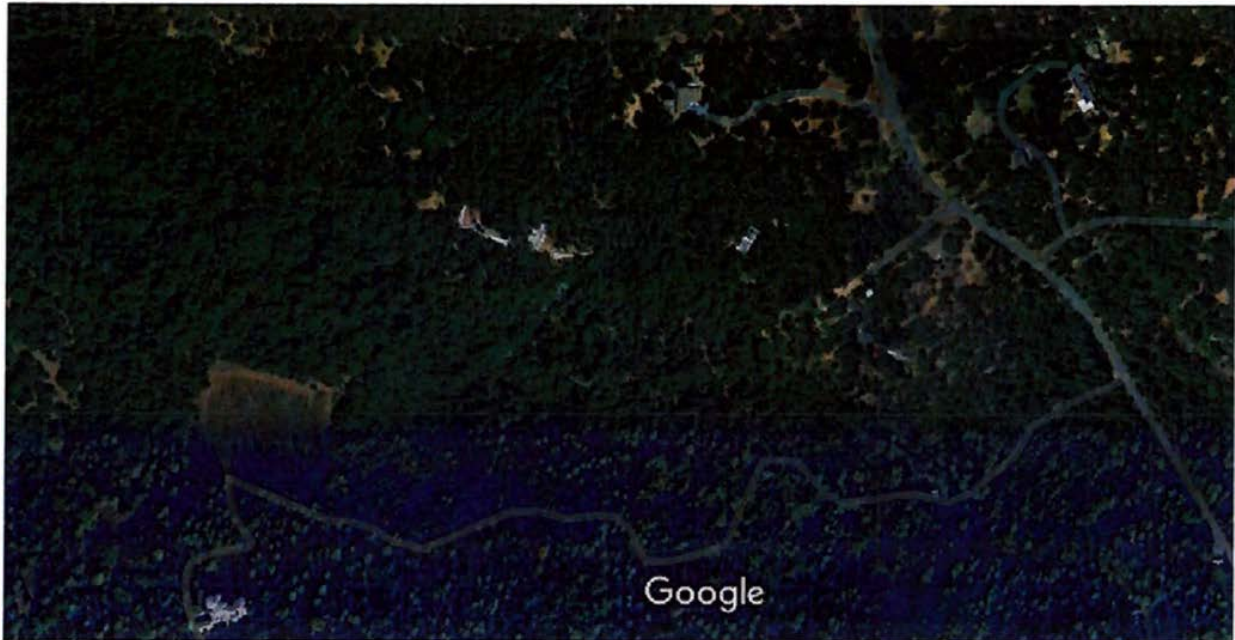
Phone: 570-460-8476



TIME : 0 HRS 10 MIN



Google Maps



Imagery ©2024 Airbus, Maxar Technologies, Map data ©2024 200 ft

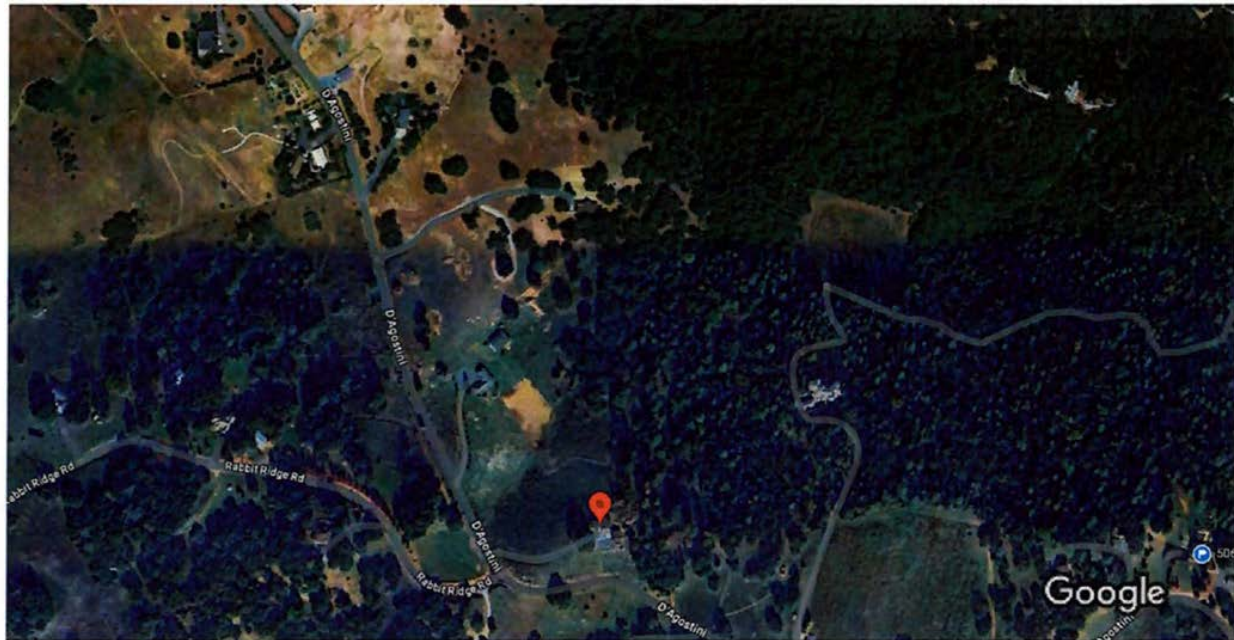
Google Maps



Imagery ©2024 Airbus, Maxar Technologies, Map data ©2024 200 ft



## Google Maps 4881 D'Agostini



Imagery ©2024 Airbus, Maxar Technologies, Map data ©2024 200 ft



### 4881dagostini

Building



Directions



Save



Nearby



Send to



Share

<https://www.google.com/maps/place/4881+D'Agostini,+Somerset,+CA+95684/@38.5644675,-120.7488266,694m/data=!3m1!1e3!4m6!3m5!1s0x809a679a33b4a7fb...> 1/1



**Fwd: FW: Public Records Request :: P006740-032624**

4/25/24  
Item # 4  
3 Pages

Michael Pinette <michaelpca@gmail.com>

Wed 4/24/2024 10:55 AM

To: Planning Department <planning@edcgov.us>; Evan R. Mattes <Evan.Mattes@edcgov.us>; Christopher J. Perry <Christopher.Perry@edcgov.us>

Cc: David Harde <davidharde123@gmail.com>; Jay Windhill <jaywind855@gmail.com>; Kevin McCarty <kevinwmccarty@pm.me>; Lee Tannenbaum <lee.tannenbaum@gmail.com>; tslmeds <tslmeds@gmail.com>

📎 1 attachments (270 KB)

PRR-Response Letter Draft.docx - Response\_Letter (1).pdf;

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**This Message Is From an External Sender**

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Report Suspicious

Dear Planning Dept Staff,

Planning Dept, please review and attach the following document to the Planning Commission Agenda Item 24-0520, Single Source Solutions CCUP21-0004, set to meet April 25 at 8:30 in Fairlane Placerville HQ.

Pursuant to Public Records Request :: P006740-032624 of security, crime issues at legal grow sites or dispensaries vs illegal grow statistics per public records request.

Please see attached for your review; two reports of the relative difference in illegal or criminal activities in the county per Sheriff Lykauf's team. See two files attached.

To net it out, over 445 individual illegal incidents going back to 2021 (180, 128, 137 respectively). Absolutely zero incidents for legal cannabis businesses over the past four years, see attached response letter.

With regards,  
Mike and team

---

**From:** El Dorado County Public Records Center <eldoradocountyca@mycusthelp.net>

**Date:** Tuesday, April 23, 2024 at 10:54 AM

**To:** "lee.tannenbaum@gmail.com" <lee.tannenbaum@gmail.com>

**Subject:** Public Records Request :: P006740-032624

**Attachments:**

Cannabis Statistics PRA.xlsx

Response Letter.pdf

--- Please respond above this line ---

Good Morning Lee,

Please see the attached files in response to your public records request.

Thank you

Veronica Slavik

Sheriff Technician II

Support Services Division

El Dorado County Sheriff

530-621-7513 | [slavikv@edso.org](mailto:slavikv@edso.org)

200 Industrial Drive | Placerville | CA

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To monitor the progress or update this request please log into the [El Dorado County Public Records Center](#).



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**JEFF LEIKAUF**  
**SHERIFF - CORONER - PUBLIC ADMINISTRATOR**  
**COUNTY OF EL DORADO**  
**STATE OF CALIFORNIA**

April 23, 2024

Dear Lee Tannenbaum ,

Regarding your records request for: A) what crimes statistics are involved with illegal cannabis.

I have attached an Excel spreadsheet that lists all the associated cannabis penal codes that were located. As well as the date's associated.

B) What crimes statistics involved with legal cannabis businesses.

We currently have no responsive statistics for legal cannabis businesses within El Dorado County from the last 3 years.

C) From a timing perspective, I'd be interested in a 1 year, 2 year and 3-year time frame.

2021- 180 Illegal Cannabis Related Cases

2022 – 128 Illegal Cannabis Related Cases

2023 – 137 Illegal Cannabis Related Cases

If you have any questions, feel free to contact me via the GovQA Portal.

Sincerely,

Veronica Slavik  
Sheriff's Technician II  
Support Services Division  
El Dorado County Sheriff's Office

Headquarters • 200 Industrial Drive • Placerville, CA 95667 • 530-621-5655 • Fax 530-626-8163  
Jail Division • 300 Forni Road • Placerville, CA 95667 • 530-621-6000 • Fax 530-626-9472  
Tahoe Patrol • 1360 Johnson Blvd., Suite 100 • South Lake Tahoe, CA 96150 • 530-573-3000 • Fax 530-544-6809  
Tahoe Jail • 1051 Al Tahoe Blvd. • South Lake Tahoe, CA 96150 • 530-573-3031 • Fax 530-541-6721

*"Serving El Dorado County Since 1850"*

Fwd: Lee - Mike P memo

Michael Pinette <michaelpca@gmail.com>

Wed 4/24/2024 11:33 AM

To: Planning Department <planning@edcgov.us>; Evan R. Mattes <Evan.Mattes@edcgov.us>; Christopher J. Perry <Christopher.Perry@edcgov.us>

Cc: Lee Tannenbaum <lee.tannenbaum@gmail.com>; David Harde <davidharde123@gmail.com>; Kevin McCarty <kevinwmccarty@pm.me>; Jay Windhill <jaywind855@gmail.com>; tsImeds <tsImeds@gmail.com>; Jim Brunello <jlb87@aol.com>

📎 2 attachments (528 KB)

Mike P summary 2.docx; Archon farms CCUP21-0004 comments.pdf;

4/25/24  
Item #4  
11 Pages

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**This Message Is From an External Sender**

This message came from outside your organization.

Report Suspicious

Dear Planning Dept Staff,

Please review and attach the following document to the Planning Commission Agenda Item 24-0520, Single Source Solutions CCUP21-0004, set to meet April 25 at 8:30 in Fairlane Placerville HQ. The issues in this document show legal, pulished precedent for Mitigated Negative Declarations, EIR issues, Recirculation requirements for an MND, and other case law as it pertains to CEQA.

Single Source Solutions is glad county staff now has reversed position from the amendment made last minute at March 28th meeting for CCUP21-0004. We believe the CEQA MND performed by Helix, a county contractor appointed for CEQA is valid, no substantial evidence exists of an environmental impact, both Paul Schafer and Ray Kapahi odor assessments agreed on the odor study and only suggested an alternative mitigation measure the thresholds in the ordinance be exceeded. There was no conflict. It is reasonable to retain these suggestions should a violation occur, but it is unreasonable to deny this project on the basis of odor concerns.

There were no substantial revisions of the Helix MND. After the fact non-substantiated opinions should not alter the acceptance of the MND for this project. See attached 8 page summary, as well as a repeat of the Archon Farms letter from March 28th's meeting reinforcing these positions.

Regards,

Mike Pinette, SSS Inc

---

From: [jlb87@aol.com](mailto:jlb87@aol.com)

To: [jlb87@aol.com](mailto:jlb87@aol.com)

Sent: 4/19/2024 1:51:47 PM Pacific Daylight Time



## “FAIR ARGUMENT”

The fair argument standard means that if a “fair argument” can be made that a project **may** have a significant effect on the environment, an EIR shall be prepared **even though there may be other substantial evidence that the project will not have a significant effect** (CEQA Guidelines § 15064(f)(1)).

The “fair argument” standard applicable to review of negative declarations and MNDs sets a “low threshold” for preparing EIRs, and the existence of substantial evidence supporting a fair argument of potential impact presents a legal question upon which the agency’s determination receives no deference; the decision not to prepare an EIR can be upheld only where there is no credible contrary evidence. “[T]he fair argument standard purposely sets a low threshold of evidence in order to maximize environmental protections and thereby fulfill the purposes inherent in CEQA.”

Litigation regarding the effectiveness of proposed mitigation measures often involves a battle of expert opinions. In these cases, the survival of the proposed mitigation, and the project’s CEQA clearance, may depend on the type of CEQA document used for the project. An EIR is subject to the deferential “substantial evidence” standard of review, limiting the court’s review to whether there is any substantial evidence in the record supporting the EIR. (*See National Parks & Conservation Assn. v. County of Riverside*, 71 Cal.App.4th 1341, 1364-65 [“Effectively, the trial court selected among conflicting expert opinion and substituted its own judgment for that of the County. This was incorrect.”].) For MNDs, however, courts apply the “fair argument” standard, which **only requires that the petitioner demonstrate there is substantial evidence in the record supporting a fair argument that the proposed project may have a significant effect even after mitigation measures are considered.** (*See, California Native Plant Society v. County of El Dorado*, 170 Cal.App.4th 1026, 1060 (2009) [“Where the views of agency biologists about the ineffectiveness of MND’s plant mitigation measure conflicted with those of the expert who reviewed the project for the developer, the biologists’ views were adequate **to raise factual conflicts** requiring resolution through an EIR.”].)

Substantial evidence includes “facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.” It does not include “argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment.” Further, public controversy over the possible environmental effects of a project is not sufficient reason to require an EIR “if there is no substantial evidence in light of the whole record before the Lead Agency that the project may have a significant effect on the environment” (§ 21082.2).

A key question for the Lead Agency is: What level of mitigation or project revision is sufficient to avoid or eliminate a potential significant effect? There is no ironclad answer which would apply in every instance. The answer depends upon the specific situation; the Lead Agency must use its own independent and objective judgment, based on the information before it, to determine that “clearly no significant effect on the environment would occur” (§ 21064.5). Further, there must be evidence in the record as a whole to support that conclusion

## Non-Expert Public Testimony

**Newtown Preservation Society v. County of El Dorado** a California appellate court upheld a mitigated negative declaration for a bridge replacement project, and expressed **the minimum standards applicable for non-expert public testimony to be considered “substantial evidence.”** At issue was potential impairment of access for evacuation purposes to the easterly intersection of Newtown Road and Fort Jim Road for 47 developed parcels along Newtown Road, east of its westerly intersection with Fort Jim. The County determined that numerous evacuation options existed for its Emergency Services Office to evacuate those parcels should a fire occur and block Newtown Road east of its westerly intersection with Fort Jim. Objecting party failed to

carry their burden of showing substantial evidence supports a fair argument of significant environmental impact.”The court noted that “predictions” by [REDACTED] regarding the consequences of a project based upon experiences with prior similar projects did not qualify as substantial evidence. It held that the non-expert public testimony (1) did not support a fair argument that the project may have a potentially significant impact on the environment, and (2) was **broadly speculative and lacked factual foundation**. The issue is whether there is adequate factual substance and foundation for the testimony and whether technical expertise is required to identify the type of impacts alleged. [REDACTED], the **letter of a retired CalFire aerial** firefighter, expressing concerns with the “lack of an emergency evacuation route during project construction” and opining evacuation would be “problematic” and likely trap residents by “block[ing] one of the primary escape routes,” **lacked any identified factual foundation in the record “given the existence of the evacuation routes and options identified in the record.”** Accordingly, it was **mere speculation rather than substantial evidence supporting a fair argument** that the project may cause new or exacerbate existing environmental hazards; **further, nothing in the letter set forth facts establishing that the ex-firefighter was an expert in ground evacuation routes, a technical area the Court held requires expertise rather than mere lay opinion to constitute substantial evidence.** (Citing Joshua Tree, at 690-691.) By contrast to appellants’ failure to point to any record evidence showing the ex-firefighter had any “experience in determining, directing, or effecting evacuation routes[,]” **the County had consulted with the Emergency Services Office and County Fire, agencies with expertise that expressed they were comfortable with the County’s project and evacuation options.** The [REDACTED] – the owner of the property through which the potential temporary emergency access route would be constructed – and those of the appellants’ attorney likewise **did not amount to substantial evidence under the fair argument test.** They failed to explain the alleged relevance of comments that area fires historically moved from west to east in relation to the numerous evacuation options identified, and they were unsubstantiated to the extent they asserted – **in the face of the numerous identified routes – that residents would lack any emergency evacuation route.** Comments regarding a prior, allegedly similar project’s limitation of residents’ fire season evacuation routes failed to explain how that alleged limitation constituted a significant impact, **or how it was a relevant comparison** to this project with all of its specifically identified evacuation routes. **None of the comments explained how the project may cause any new or exacerbate any existing environmental hazards.** And while Nagel was also an experienced firefighter, **she, too, lacked demonstrated experience in determining, directing or effecting evacuations, and her lay opinions in a technical area requiring expertise thus failed to constitute substantial evidence**

In Newtown, The Court of Appeal distinguished three prior cases cited by appellants, in which courts relied on local residents’ lay testimony to support a fair argument, as standing for the proposition that “**lay testimony may constitute substantial evidence when the personal observations and experiences directly relate to and inform on the impact of the project construction.** In contrast to the public comment in those three cases, here, the comments **lacked factual foundation and failed to contradict the conclusions by agencies with expertise in wildfire evacuation with specific facts calling into question the underlying assumptions of their opinions as it pertained to the project’s potential environmental impacts.**” **Nothing in the comments or record supported the argument that using the Newtown Road Bridge was the only viable evacuation route for fires starting west of the project site.** The Court of Appeal found no need to address appellants’ argument that the County failed to properly reject the public comments for lack of credibility because it did not first identify the evidence it found noncredible with sufficient particularity. (See, Consolidated Irrigation Dist. v. City of Selma (2012) 204 Cal.App.4th 187, 208.) In light of its conclusion that appellants had failed to identify substantial evidence supporting a fair argument that the project may have a significant impact on the environment or may exacerbate existing environmental hazards, addressing the credibility issue was unnecessary

In **Georgetown Preservation Society v. County of El Dorado** (Simoncre Abbie, LLC, Real Party in Interest) (2018) 30 Cal.App.5th 358. The Court held **lay public commentary on nontechnical issues concerning the project’s size and general appearance** constituted substantial evidence supporting a fair argument that the project may have significant **aesthetic** impacts, and thus required an EIR, notwithstanding County’s findings



that the project complied with its Historic Design Guide. **Consistent with its analysis, the Court refused to “limit the permissible scope of lay opinion” by requiring it to address “technical architectural standards”** in County’s Historic Design Guide; County did not have authority to limit consideration of potential impacts or to force “challengers to abandon claims about other potential impacts” – such as **“the size and overall appearance of the project, non-technical matters that do not require special expertise.”** In a footnote, the Court distinguished *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016) 1 Cal.App.5th 677 (my July 14, 2016 post on which can be found [here](#)), on the ground that it dealt with urban decay (a technical subject requiring expert opinion), rather than aesthetics (a nontechnical subject within the purview of lay opinion). It similarly distinguished the more recent decision in *Jensen v. City of Santa Rosa* (2018) 23 Cal.App.5th 877 (my June 4, 2018 post on which can be found [here](#)), which “found non-expert efforts to recalculate noise impacts did not provide substantial evidence to support a fair argument,” as too factually dissimilar to support County’s position as to aesthetic impacts in the case before it.

- The Court also held **County’s failure to make explicit findings in the record on alleged credibility and foundation issues precluded its “manufacturing after-the-fact findings” to justify its dismissal of the public comments on the ground that they did not constitute “substantial evidence.”** County never made any explicit findings of any kind in the administrative record on the commenters’ credibility, or regarding any lack of foundation for their comments; accordingly, the Court held such attacks were not preserved for judicial consideration and did not allow County to ignore or discount the evidence in applying the fair argument test. Per the Court: “To assist courts in distinguishing between after-the-fact justifications and situations where a question of credibility was legitimate and actually addressed by the agency, this court adopted the following principle: ‘[B]efore an agency may rely on its purported rejection of evidence as incredible, it must first identify that evidence with sufficient particularity to allow the reviewing court to determine whether there were legitimate disputed issues of credibility.’” (Quoting *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 207-208.) In rejecting appellants’ apparent claim that this rule improperly adds a procedural or substantive requirement not explicitly contained in CEQA (see Resources Code, § 21083.1), the Court added: “We do not view this as layering a court-made procedural rule onto CEQA review procedures. Instead, it is a basic rule of administrative review that precludes a party from manufacturing after-the-fact findings that an agency never made.” And the Court further noted that even if it “considered the credibility and foundational objections appellants claim the County sustained at least impliedly,” it would find an abuse of discretion because many “commentators were local residents and therefore capable of giving a lay opinion on the nontechnical aesthetic issues of size and general appearance.” Such commenters are not required to provide a foundation (such as an expert witness at trial might be expected to) or offer their opinions under penalty of perjury, and “imposing such requirements would needlessly muffle legitimate commentary on matters of public interest, contrary to the informative purposes of CEQA.”

#### EXPERT

#### ***Maacama Watershed Alliance v. County of Sonoma*, 40 Cal. App. 5th 1007 (2019)**

**Maacama held that Unsubstantiated opinions from purported experts are not enough to require preparation of an EIR and upheld Sonoma County’s adoption of a mitigated negative declaration for a winery.**

*On January 2, 2019, the California Supreme Court granted a request for depublication of this decision. A Supreme Court order to depublish means the case can no longer be cited or relied upon as precedent but does not reflect the court’s opinion of the correctness of the result of the decision or of any law stated in the opinion. The grounds for the depublication was not a rejection of the reason for the following discussion. It appears the*

SCT was concerned the appellate court used “whether there is substantial evidence to support a fair argument the project **will** have significant effects,” rather than “**may**”, but, did not accept the case for review.

The court’s application of the fair argument standard provides several noteworthy takeaways

The mere presence of conflicting opinions from purported experts is not enough to require preparation of an EIR. To constitute substantial evidence of a fair argument of a significant impact, **an expert opinion must amount to more than unsubstantiated speculation by explaining why a significant impact may occur.** The opponents cited comments from purported experts that criticized the geology impact analysis in the MND and asserted that the project may cause soil erosion and negatively affect water quality in a nearby creek. **The court found that these expert opinions did not explain how the project features and mitigation measures would be inadequate to protect slope stability and prevent soil erosion.** In addition, despite assertions from opponents’ experts that the project’s groundwater pumping might impact a nearby creek, the court found the evidence showed that the aquifer underlying the project was not in contact with the aquifer underlying the creek, **and even if a geologic connection was assumed, there was no evidence the project would have any perceptible effect on the water flowing from one aquifer to the other, and from there to the creek.** **In light of detailed geotechnical reports, erosion claims were speculative, and reliance on best management practices as mitigation was not improper deferral.** **evidence supported water supply claims in light of detailed studies and mitigation, including requirement for no net increase in water use**

**When a project opponent submits expert reports critiquing a mitigated negative declaration (MND), that evidence is often sufficient to raise a fair argument of a potentially significant environmental impact and to trigger the need to prepare an environmental impact report (EIR). In *Maacama Watershed Alliance v. County of Sonoma* (2019) 40 Cal.App.5th 1007, however, iterative revisions to an MND fully mitigated a project’s adverse impacts and overcame the submission of expert reports.** Maacama Watershed Alliance (Alliance) challenged a use permit for a new two-story winery with an adjoining wine cave, wastewater treatment, and storage facilities on a 2.4-acre portion of an existing vineyard. **The county revised the MND several times in response to comments and imposed conditions on the project to address alleged impacts. On appeal, the MND revisions were sufficient to withstand Alliance’s expert opinions on slope stability, erosion and groundwater impacts, and added conditions adequately addressed alleged visual impacts and increased wildfire risk.**

Procedurally, the County staff prepared a revised “2016 MND”. After comments were submitted identifying potential groundwater and water quality impacts, the County engaged in further environmental review and subjected their conclusions to two rounds of peer review by independent investigators. The County then adopted the revised “2017 MND” and approved the Project.

Petitioners retained a variety of independent researchers to support the argument that the County’s review was inadequate and failed to accurately report site conditions. **Petitioners’ researchers disagreed with the County’s geotechnical investigator, and claimed the report did not support the conclusions regarding landslide risk and slope stability. The Court outlined each of researchers’ opinions, and determined that the County was entitled to rely on their report.**

**While the “fair argument” standard indeed sets a low threshold for preparation of an EIR that is often easily satisfied by an expert’s opinion, this case presents a counter-example showing when an MND will be held sufficient under CEQA. To constitute substantial evidence supporting a fair argument, expert opinion must not be speculative or unsubstantiated. Further, it must be directed at the relevant issues and be grounded in fact. Expert opinions that merely critique, or point out immaterial errors in, other technical expert studies – without actually providing or pointing to**



**substantial evidence in the record that significant environmental impacts are reasonably likely to occur as a result of the project – will not suffice to meet the fair argument test.**

Further, as the Court here explained, an MND can evolve and be strengthened through revisions made during the lead agency's administrative proceedings in response to criticisms of project opponents: "[W]e note that a persistent explanation for this outcome [i.e., denying plaintiffs judicial relief] is the success appellants already achieved in getting modifications to the project and the analysis of its environmental effects. In response to early concerns raised by appellants and others, [real party] Knights Bridge and its consultants made important concessions, for instance by reducing the project's water demand, agreeing not to increase net groundwater use on the project site, and developing a plan for the cave spoils. The record lacks substantial evidence to support a fair argument that, as now mitigated, the project is reasonably likely to cause significant environmental effects."

### **RECIRCULATION OF MND**

**Following from OPR which may be outdated in parts but shows process.**

Section 15073.5 - **Recirculation of a Negative Declaration Prior to Adoption** (a) A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption. The Lead Agency must consider the comments it receives during the review period prior to adopting a MND. **If these comments include substantial evidence that a potential environmental effect may occur despite the project revisions or mitigation measures included in the MND, the Lead Agency must either require further revisions to the project which would effectively avoid or mitigate that effect, or if that is not possible, prepare an EIR.** Although not explicitly required by CEQA, OPR recommends that under the first circumstance the Lead Agency re-circulate the revised MND for review prior to acting on the project and adopting the MND. This ensures that the public will have been afforded the chance to review the new mitigation measures as well as the revised project (Leonoff v. Monterey County Board of Supervisors (1990) 222 Cal.App.3d 1337 and Perley v. County of Calaveras (1982) 137 Cal.App.3d 424). As before, the proponent must have agreed to or made the additional project changes before the MND is re-circulated. If the Lead Agency concludes prior to approval of a project that one or more of the mitigation measures identified in the MND are infeasible or otherwise undesirable, § 21080(f) provides that the Lead Agency may delete those measures and substitute other equivalent or better measures without having to re-circulate the MND for review. The Lead Agency must: (1) hold a public hearing on the matter before substituting new mitigation measures; (2) impose the new measures as conditions of project approval or otherwise make them a part of the project approval; and (3) find that the new measures will effectively reduce potentially significant effects to a less than significant level and will not cause any potentially significant effects of their own. (b) **A "substantial revision" of the negative declaration shall mean:** (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

### **Other resources**

Examples of recirculated MND

<https://dpw.lacounty.gov/wrd/projects/pacoimasg/files/Recirculated-IS-MND.pdf>

(b) **A "substantial revision" of the negative declaration shall mean:** (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to



insignificance, or (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

Under CEQA, an Environmental Impact Report (EIR) is required when there would be impacts that would not be avoided or reduced to a less than significant level with project changes or with mitigation measures (Section 15064(a)(1) of the State CEQA Guidelines). **The Recirculated IS/MND discloses the environmental impacts that would result from the revised Project and Pacoima Spreading Grounds Improvement Project Recirculated Initial Study/Mitigated Negative Declaration** R:\Projects\!PAS\CoLADPW

(DPW)\J272\Recirculated MND\Draft Recirc MND-092618.docx **1-3 Project Description describes new mitigation measures that would reduce all new and/or increased impacts to a less than significant level. As discussed in the Recirculated IS/MND, and affirmed by the revised technical studies prepared based on the redefined haul routes and schedule, there would be less than significant impacts after changes to the Project and/or implementation of mitigation measures. Therefore, an MND is the appropriate CEQA documentation for the Project. The changes identified in the Recirculated IS/MND and its associated technical appendices replace and supersede both the 2014 Initial Study and the 2016 IS/MND. A Notice of Intent to Adopt a Recirculated Mitigated Negative Declaration (NOI) was mailed to the State Clearinghouse and affected responsible and trustee agencies and interested organizations and individuals, and it is on file at the Los Angeles County Registrar-Recorder/County Clerk in the City of Norwalk.** A summary of the NOI was published

in the Los Angeles Times on November 14, 2018 to announce the public review period. The Recirculated IS/MND and associated technical reports are available online at <http://dpw.lacounty.gov/wrd/Projects/PacoimaSG>. Hard copies are available for public review during business hours at the Los Angeles County Department of Public Works (LACDPW) Headquarters (900 South Fremont Avenue, 11th Floor, Alhambra, California) and at the Pacoima Branch Library located at 13605 Van Nuys Boulevard in Los Angeles, California, during business hours. **There will be a 45-day public review period for the Recirculated IS/MND, meeting and exceeding the requirements of Section 15073 of the State CEQA Guidelines. In reviewing the Recirculated IS/MND, the reviewer should focus on the sufficiency of the document in identifying and analyzing the potential impacts on the environment and ways in which the potentially significant effects of the Project are avoided or lessened. Comments or questions on this Recirculated IS/MND must be postmarked by 5:00 PM on Thursday, December 13, 2018 and can be sent in writing, either by U.S. mail to the LACFCD at the address below; via email to [SpreadingGrounds@dpw.lacounty.gov](mailto:SpreadingGrounds@dpw.lacounty.gov); or by facsimile to (626) 457-1526. Please include "Pacoima Spreading Grounds Improvement Project" in the subject line. Comments can be mailed to the following address:**

#### **SUMMARY OF CHANGES TO THE 2016 IS/MND example of process**

**Information Presented in 2016 IS/MND** Three Vulcan-owned facilities in Sun Valley area to be used for 5,000 tpd of sediment disposal: • Cal-Mat Pit • Boulevard Pit • Sheldon Pit

**Revisions in Recirculated IS/MND** Four sediment disposal locations: • same three Vulcan-owned facilities for a total 2,800 tpd of sediment • addition of Sunshine Canyon Landfill located approximately 5.5 miles to the northeast of the Project site for a total of 2,200 tpd of sediment

**Primary Section(s) Addressing the Change** 2.4 Project Description 3.3 Air Quality 3.7 Greenhouse Gas Emissions 3.12 Noise 3.16 Transportation/Traffic

Example 2

### **RESPONSE TO COMMENTS**

[https://www.tustinca.org/DocumentCenter/View/8696/Ch-2-Response-to-Comments\\_12-2-22?bidId=](https://www.tustinca.org/DocumentCenter/View/8696/Ch-2-Response-to-Comments_12-2-22?bidId=)

Although State CEQA Guidelines Section 15088 does not require a Lead Agency to prepare written responses to comments received, the City of Tustin has elected to prepare the following written responses with the intent of providing a comprehensive and meaningful evaluation of the propo

Chapter 2. **Response to Comments** on the Public Review MND This chapter of the Final Mitigated Negative Declaration (MND) contains responses to the comments that the City of Tustin (Lead Agency) received on the Public Review MND (SCH No. 2022090269) (Chapter 1) for the 17802 Irvine Boulevard Residential Project during the public review period, which began September 15, 2022 and originally was noticed to close October 5, 2022 but was extended and concluded on November 10, 2022. This document has been prepared in accordance with California Environmental Quality Act (CEQA) as amended (Public Resources Code Section 21000 et seq.) and the Guidelines for Implementation of the California Environmental Quality Act (State CEQA Guidelines) (Cal. Code Regs., tit. 14, § 15000 et seq.) and represents the independent judgment of the Lead Agency. This document, together with the Public Review MND, the Revisions to the Public Review MND, and the Mitigation Monitoring and Reporting Program comprise the Final MND. The following public comments were submitted to the City of Tustin during the public review period: 1. Anita Storck, September 21, 2022 (2 pages) 2. Orange County Transit Authority, October 5, 2022 (2 pages) 3. Robert Duffy, October 5, 2022 (2 pages) 4. Tiffany Lin, City of Irvine, October 7, 2022 (1 page) 5. Orange County Sanitation District, October 10, 2022 (2 pages) 6. Prospect Park Homeowners Association, October 10, 2022 (3 pages) 7. Commenter #1, October 12, 2022 (1 page) The public comments and responses to comments are included in the public record and are available to the Lead Agency decision-makers for their review and consideration prior to making their decision whether to approve the proposed Project. Pursuant to State CEQA Guidelines Section 15074(b) Consideration and Adoption of a Negative Declaration or Mitigated Negative Declaration, none of the comments provide substantial evidence that the Project will have significant environmental effects which would require preparation of an Environmental Impact Report. Further, none of the information in the letters or responses constitute the type of significant new information that requires recirculation of the MND for further public review under State CEQA Guidelines Section 15073.5 Recirculation of a Negative Declaration Prior to Adoption. None of this new material indicates that the Project will result in a significant new environmental impact not previously disclosed in the 17802 Irvine Boulevard Residential Project MND. Additionally, none of this information indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in State CEQA Guidelines Section 15073.5. This Response to Comments includes revisions to the Public Review Draft MND based upon: (1) clarifications required to prepare a response to a specific comment; and/or (2) typographical errors. These revisions do not alter any impact significance conclusions as disclosed in the MND. Changes made to the MND are identified as ~~strikeout text~~ to indicate deletions and in underlined text to signify additions within Chapter 1 of this document.

#### Example of response

RESPONSE TO COMMENT LETTER 1: Anita Storck, September 21, 2022 Response to Comment 1.1: The commenter states that they live in Prospect Park near the Project site. The commenter indicates that the density of the proposed Project is too large for the size of the Project site. The Project would require a General Plan Amendment to change the existing land use designation from Professional Office (PO) to High Density Residential (HDR). The HDR designation provides for residential uses at a density of between 15 and 25 dwelling units per net acre. The proposed Project would result in a density of 19.3 dwelling units per acre, which would not exceed the allowable density for the proposed land use designation. The Project would require a zone change from Retail Commercial (C1) with a Parking (P) overlay to Multiple Family Residential (R-3). The proposed R-3 zoning would allow for multiple family dwellings with a minimum lot area of 1,750 SF per dwelling unit and a maximum lot development of 65 percent. The Project proposes approximately 2,250 feet per dwelling unit and would result in 36.7 percent of lot coverage. The comment does not contain any information requiring changes to the MND. No further response is warranted. Response to Comment 1.2: The commenter states that the Project would provide 11 guest parking spaces, which would be too few for the number of dwelling units proposed. The Project would include 90 parking spaces, inclusive of 80 garage spaces and 10 head-in spaces. Per Tustin Municipal Code Section 9263, the Project is required to provide two covered spaces



for each dwelling unit, plus one unassigned guest space for every 4 units. The Project would comply with the City parking requirements. The comment does not contain any information requiring changes to the MND. No further response is warranted.

### WHAT ABOUT A LIMITED EIR

In a partially published opinion filed on November 3, 2021, involving the CEQA review for a bed and breakfast/commercial event project proposed on property within a Yolo County agricultural zone, the Third District Court of Appeal (in a unanimous opinion authored by Justice Robie) reaffirmed the basic CEQA principle that a “full EIR” must be prepared whenever a project **may** have **any** significant environmental effect; it thus reversed the trial court’s judgment that had allowed a deficient revised Mitigated Negative Declaration (MND) and its mitigation measures to remain intact while ordering Yolo County to also prepare an EIR limited to addressing *only* the project’s impacts on three species of concern (tricolored blackbird, valley elderberry longhorn beetle, and golden eagle). The Court of Appeal reversed and remanded with instructions to issue a peremptory writ directing the County to set aside its MND approval and to prepare a full EIR instead. *Farmland Protection Alliance v. County of Yolo* (2021) 71 Cal.App.5th 300. (In the *unpublished* portion of its opinion, which won’t be further discussed in this post, the Court of Appeal held the trial court was correct in finding that substantial evidence supported a fair argument that the project may have a significant impact on the beetle, thus requiring an EIR, and also concluded the trial court did not err in upholding the County’s determinations that the project was consistent with the Williamson Act and County’s zoning code.)



Archon Farms, Inc.  
701 12<sup>th</sup> St, Ste 202  
Sacramento, CA 95814

March 26, 2024

El Dorado County  
Planning Commission  
2850 Fairlane Court, Building C  
Placerville, CA 95667

ATTN: El Dorado County, Planning Commissioners:

This message is regarding Agenda Item #24-0520 related to Single Source Solutions (Commercial Cannabis Use Permit CCUP21-0004) request for the construction and operation of a cannabis cultivation facility for medical and adult-use recreational cannabis.

We would like to address some of the other public comments made by community members pertaining to this project and several other similar projects over the last year. There exists a great deal of misinformation regarding potential impacts from legal, regulated commercial cannabis operations, and many residents' fears are the result of falsely conflating them with their illegal, unregulated counterparts.

First, water usage has been a consistent concern expressed by residents. Two aspects which introduce a confusion are A) indoor versus outdoor cultivation facilities, and B) use rates per plant versus per square foot of canopy. Some facilities do in fact have heavy water consumption compared to other crops. However, these are all indoor hydroponic operations utilizing porous growth media, designed to intake high levels of nutrients and induce greater biomass and cannabinoid yield. Soil medium, on the other hand, absorbs water and an outdoor project such as Single Source will consume water on par with many other agricultural crops which are grown by-right in our county, including apples and wine grapes.

Analyzing water use based on plant quantity versus square feet of canopy also distorts perception of demand for a cultivation facility. Cannabis plants can be grown with a large footprint at smaller quantities, or with a small footprint at greater quantities. Obviously, a baseline rate of gallons per plant is inappropriate as a "one size fits all" metric. On March 25<sup>th</sup> a resident submitted an article (Zheng et al, 2021) referencing outdoor rates at peak demand months (August, September) of 0.17 to 0.24 gallons per square foot of canopy. Mr. Tannenbaum submitted a separate study with monthly demand profiles showing an average of 0.17 to 0.21 gal / sq. ft. for the same peak months. Average demand over the course of the growth cycle (150 – 160 days) ranges 0.1 – 0.15 gallons per square foot per day. For this project, 0.12 gallons x 160 days x 87,120 sq. ft. = 1.67 million gallons per year. As noted by Mr. Tannenbaum, wine grapes currently consume over 3 billion gallons per year, and this project is relatively insignificant even though it is the largest cultivation premises (2 acres) currently authorized under the County ordinance.



Second, the notion of decreased residential property values. This is a common concern by residents in jurisdictions opening to legal cannabis production. It is easy to understand, as one's home is the primary vehicle for financial equity for most Americans. With that said, the Sacramento Comprehensive Cannabis Study published in 2022 by Economic & Planning Systems (aka "EPS Report") studied this aspect in detail and found no statistical correlation between cannabis production and home values. To quote, "overall, the analysis found that homes within one-quarter mile did not suffer any decrease in home value relative to their neighbors slightly farther away." (EPS, page 114) Without any basis other than fear-based speculation, the Commission ought to dispense with this objection in rendering its judgment.

Third, the notion of increased crime. As with the above point regarding home values, this is one of the most common concerns and unsupported by any scientific analysis. The criminal nature of illegal grow sites should not be superimposed upon legal operators spending exhaustive time and resources ensuring compliance with the myriad applicable local and State laws. While cannabis businesses can present an attractive target for thieves, the coordination among operators and local law enforcement agencies has proven an effective deterrent for crime even in urban environments such as Sacramento. Per the EPS report, "the proliferation of cannabis businesses in Sacramento has not generated a proportional increase in crimes targeting these businesses, suggesting that the enhanced security measures employed by these businesses are a strong deterrent to crime." (EPS, page 125) Since the applicant has met all the strict standards set by our Sheriff's Office, the Commission ought to set aside this objection as well.

Lastly, some concerned residents reference the River Pines Estates ("RPE") Covenants, Conditions and Restrictions (CC&R) prohibiting the presence of any commercial use within the subject parcels. They reference Article IV, Section 4.1, yet the text clearly qualifies the restriction to allow the use under consideration today: "No other use is allowed except as specifically permitted by Declarant and local ordinance." The residents also claim restriction based on the project being "noxious, harmful, or unreasonably offensive to other owners" however the evidence is presented is largely conjectural and speculative. The odor study completed by Paul Schafer of SCS Engineers does not in fact contradict the odor study included with the application, but merely questions some of its assumptions and offers additional mitigation measures should the thresholds in the county's ordinance be exceeded. It is reasonable to retain these suggestions should this violation occur, but it is unreasonable to deny this project on the basis of odor concerns.

In summary, this project is well-presented and exhaustively studied, with more than adequate measures included to address the community's valid concerns. It is a discretionary use categorically permitted in the Limited Agriculture (LA-20) zone, and fully compliant with applicable County ordinance. We advise the Commission to honor its Planning staff recommendation and approved the Mitigated Negative Declaration (MND) and Commercial Cannabis Use Permit (CCUP) as presented today.

Thank you for your time and consideration.

Regards,



Kevin W. McCarty  
CEO / President, Archon Farms, Inc.  
Member, El Dorado County Growers Alliance

## Fwd: Fractured wells on neighbors

Michael Pinette <michaelpca@gmail.com>

Wed 4/24/2024 11:48 AM

To: Planning Department <planning@edcgov.us>; Evan R. Mattes <Evan.Mattes@edcgov.us>  
Cc: David Harde <davidharde123@gmail.com>; Kevin McCarty <kevinwmccarty@pm.me>; Lee Tannenbaum  
<lee.tannenbaum@gmail.com>; tslmeds <tslmeds@gmail.com>; Jim Brunello <jlb87@aol.com>

📎 1 attachments (5 MB)

water\_fact\_1\_2011.pdf;

4/25/24  
Item # 4  
5 Pages

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### This Message Is From an External Sender

This message came from outside your organization.

Report Suspicious

Dear Planning Dept Staff,

Please review and attach the following document to the Planning Commission Agenda Item 24-0520, Single Source Solutions CCUP21-0004, set to meet April 25 at 8:30 in Fairlane Placerville HQ.

Subject: Fractured wells on neighbors == Resource Paper written by the California Water Resources Board

Point of fact, Alluvial soil retains 25% more water than plain fractured rock. 4942 D'agostini farm has considerable Alluvial soil in both the upper and lower vineyards, hence retains more water, and provides consistent water flow year to year.

From the EDC Ag Dept web site. Fact: 2600 wineries operating in EDC consume approximately 3 Billion gallons of water per year. Vineyard sizes can be quite large as opposed to cannabis grows which are limited to two acres. On average, cannabis consumes less than half the water of a mature grapevine. In total, legal cannabis consumed under 1 Million gallons (per Lee Tannenbaum's gauge readings) and is estimated to stay below 3 million in 2024, estimate. Orders of magnitude different.

CCUP21-0004 for medical marijuana will consume far less water, have absolutely no pesticides, herbicides or any chemicals that would make the yield not pass testing and certification. Further cannabis is known to remove any heavy metals in soils. One of our contracts with Dosist, a medical cannabis subscription service requires three things of its providers: cannabis product has to be legal, certified and tested, and organic. See attached report.

[https://water.ca.gov/-/media/DWR-Website/Web-Pages/Water-Basics/Drought/Files/Publications-And-Reports/water\\_fact\\_1\\_2011.pdf](https://water.ca.gov/-/media/DWR-Website/Web-Pages/Water-Basics/Drought/Files/Publications-And-Reports/water_fact_1_2011.pdf)





[water.ca.gov/publications](http://water.ca.gov/publications)

California Department of Water Resources  
Attn: Publications Office  
P.O. Box 942836  
Sacramento, CA 94236-0001  
(916) 653-1097  
[imr-publications@water.ca.gov](mailto:imr-publications@water.ca.gov)

Free  
01/11



*In mountainous areas of California, groundwater can be found in the cracks or fractures of hard rocks, such as granite, greenstone, and basalt*

*The water does not actually penetrate the rocks, because there is no pore space between the grains of the rock. However, some of these rocks have fractures in them. These fractures store water and yield small amounts of water to wells that intersect the fractures.*



*Some sedimentary rocks, like sandstone, are hard but can still absorb some water into their pores. These rocks may also have fractures that contain water.*

*About 60 percent of California is composed of hard rocks. However, only a small quantity of groundwater is stored in the fractures of these rocks.*

*The majority of groundwater is stored in what the average person would call "dirt" or "soil," more accurately described as alluvium (loose gravel, sand, and silt) which has pore spaces between the grains.*

### Where are the hard rocks?

In general, all mountain and hilly areas of California are composed primarily of hard rocks.

- The Coast Ranges, The Sierra Nevada, and large areas of coastal southern California and southern desert regions consist of granitic and metamorphic, volcanic, and hard sedimentary rocks.
- The northeastern part of California is composed mainly of volcanic rocks.

A thin layer of sediments, soil, or weathered rock covers some of these hard rock formations.

### How do rocks become fractured?

Like most fractures, rock fractures are caused by stress. Rocks may fold, faults may move, and rocks may expand when overlying material is removed by erosion and the now-bare rocks are exposed to the weather. Volcanic rocks may also fracture while cooling and contracting. Ice, plant roots, or water flow can enlarge these fractures.

### What do the fractures look like?

Fractures may be large or small and may run up and down or sideways. They may be a few millimeters to hundreds of meters long, and range in width from less than a millimeter to several centimeters, but usually occur in a regular pattern.

In carbonate rocks (limestone and dolomite) the fractures may be enlarged into caverns when the rock is dissolved by water.

You'll find most fractures in the upper few hundred feet of rock. This is because the weight of the rock on top inhibits the development of deep fractures. In addition, the deeper you go, the smaller the width of these fractures.

The beautifully sculpted rocks that form Yosemite Valley are the result of glaciation and the removal of rock material along these intersecting fracture surfaces.

### How does water get to the rock fracture?

Water that falls on land may run off on the surface in creeks and rivers, or it may infiltrate into the rock materials on the ground. The infiltration of water recharges groundwater



supplies in sandy, loose material and in fractured hard rock.

It is important to note that water occurring in rock fractures have less protection from contamination, compared to alluvial aquifers where the soil acts as a filter treatment.

### **Why are fractures important for groundwater?**

For the most part, fractures are the only way groundwater can be stored in hard rocks. In addition to relatively small amounts of storage, the fractures (particularly intersecting networks of fractures) are the primary conduit for groundwater flow to wells.

Variables that affect water volume:

- size and location of the fractures
- interconnection of the fractures
- amount of material clogging the fractures

Water can also be stored in lava tubes in volcanic rock and in solution openings in carbonate rocks (limestone and dolomite).

### **How much water is stored in hard rock?**

The total volume of water stored in fractured hard rocks near the surface is estimated to be less than 2 percent of the rock volume. This percentage decreases with depth as fractures become narrower and farther apart.

The amount of water in the rocks surrounding a hard rock well is small. Groundwater levels and the well's yield can decline dramatically during the summers of dry years.

In areas where alluvium overlying the hard rock is saturated with water, the alluvium provides additional water storage for nearby wells in the hard rock. The volume of water stored in many alluvial soils can amount to 10-25 percent of the volume of the alluvium. This situation most often occurs in valleys or meadows.

### **How much water will my well yield?**

Half of all hard rock wells yield 10 gallons per minute or less, which is only enough for individual domestic supplies. When conditions are good, wells drilled in fractured rock may yield several hundred gallons per minute when pumped.

Good conditions:

- large amounts of fractures
- good interconnection between fractures
- wide, large, clean fractures
- a source of recharge
- a large quantity of water in storage
- proper installation of the well, including removal of granular debris that may clog the fractures

Some wells may be dry if the above conditions are not met.

### **How do I know I have a high-yielding well?**

You don't. While exploration of the well site may help, you will still face some trial and error that you seldom face when drilling in an alluvial aquifer.

Wells that are close together in alluvial aquifers will probably have similar yields. However, hard rock wells may not have similar yields. You have to be able to drill to a very specific point in a major fracture zone that has a lot of water in it. The water must also be continuously recharged. If these conditions aren't met, then you can easily have a dry hole that is drilled right next to a producing well.

Also, keep in mind that a neighboring well can interfere with your well. How much water passes through fractured rock varies greatly depending on connections between fractures. As a result, interference between neighboring wells is difficult or impossible to predict in advance. The best insurance against such problems is large lot sizes. Wells on lots as large as nine acres have gone dry.

Recent advances such as fracture pattern analysis, borehole imaging, and fracture-flow models will help.

### How do I get started?

You need a real expert for well drilling, and even that does not assure that you will hit water, but the odds will be more favorable. If you know a geologist, talk with him or her. Consult a professional well-drilling firm with a California C-57 contractor's license. And remember, once you have your well drilled, pump tests of new wells are necessary to verify the existence of a suitable and sustained water supply. The firm that drilled your well can perform these tests.

For a single family residence, 24 hours of pumping and recovery of the water level to within two feet, or 5% of the static level, depending on the amount of drawdown during pumping, may be adequate. Longer tests are necessary for community supply or industrial wells. Consult with your County well permitting agency for specific water well testing requirements for any type of well.

### Where can I get more information?

[www.water.ca.gov/groundwater](http://www.water.ca.gov/groundwater)

#### Integrated Regional Water Management

901 P Street  
Sacramento, CA 95814-3515

#### Northern Region

2440 Main Street  
Red Bluff, CA 96080-2398  
(530) 529-7300

#### North Central Region

3500 Industrial Blvd.  
West Sacramento, CA 95691  
(916) 376-9600

#### South Central Region

3374 E Shields Avenue  
Fresno, CA 93726-6913  
(559) 230-3354

#### Southern Region

770 Fairmont Avenue, Suite 102  
Glendale, CA 91203-1035  
(818) 543-4600

### References

California Department of Water Resources. *California's Groundwater*. Bulletin 118-2003. 2003.

California Department of Water Resources. 1990. *Mountain Counties Water Management Studies, Amador County*.

California Department of Water Resources.. 1983. *Status of Sierra Foothills Water Management Studies*.

California Department of Water Resources. 1974. *Water Quality Investigation of Western Nevada County*.

Heath, Ralph C. 1983. *Basic Groundwater Hydrology*. U.S Geological Survey Water Supply Paper 2220.

Page, R.W.; Anttila, P.W.; Johnson, K.L.; and Pierce, M.J. 1984. *Groundwater Conditions and Well Yields in Fractured Rocks, Southwestern Nevada County, California*. U.S. Geological Survey Water Resources Investigation 83-4262.

State of California  
The Resources Agency  
Department of Water Resources



Fwd: Photos, CCUP21-0004, grow site

Michael Pinette <michaelpca@gmail.com>

Wed 4/24/2024 2:58 PM

To: Planning Department <planning@edcgov.us>; Evan R. Mattes <Evan.Mattes@edcgov.us>; Christopher J. Perry <Christopher.Perry@edcgov.us>

Cc: David Harde <davidharde123@gmail.com>; Jay Windhill <jaywind855@gmail.com>; Lee Tannenbaum <lee.tannenbaum@gmail.com>; Kevin McCarty <kevinwmccarty@pm.me>; Jim Brunello <jlb87@aol.com>; tslmeds <tslmeds@gmail.com>

4/25/24  
Item #4  
10 Pages

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**This Message Is From an External Sender**

This message came from outside your organization.

Report Suspicious

Dear Planning Dept Staff,

Please review and attach the following images for consideration to the Planning Commission Agenda Item 24-0520, Single Source Solutions CCUP21-0004, set to meet April 25 at 8:30 in Fairlane Placerville HQ. These images are from onsite, middle of the grow site approx 1825' elevation, looking in all directions. Pics labelled. A comment was made that the grow site is within 150' of other houses, As shown here, one only sees forest in all directions. 5881 D'agostini is ~1500' southeast, 400+' elevation gain. 5069 D'agostini is similar, no view into the grow site, forest too thick, about 400' elevation gain over 1500'. (NOTE: i have sent a different email with Google Maps pics of those home locations from satellite view, but they cannot see into the grow site with 100% certainty. The home closest on Flat Creek is further away, and not visible - about 1600+' and about 300' lower elevation. One can only see Mt Aukum peak about 3 miles away to the northeast, and see some satellite and telecoms equipment and the clearcut where Kehret vineyards currently operate. In the evening at dark, some house lights can be seen on the face of Mt Aukum to the East/Northeast, again easily a mile or two away. No view with dark skies initiative, restraints.

Please review, this is the second to last email. Last one next which is a 2 minute video of these static pictures.

With regards,

Mike Pinette

VP/Treasurer EDGAA

----- Forwarded message -----

From: **Michael Pinette** <michaelpca@gmail.com>

Date: Wed, Apr 24, 2024 at 2:19 PM

Subject: Photos, CCUP21-0004, grow site

To: Michael Pinette <michaelpca@gmail.com>

Download full resolution images

Available until May 24, 2024





Looking due west toward 5881





From gate area, view south to home 4941



Looking north



Looking northeast - woods-no homes





Looking south west to the corner, notice elevation change





From middle of field looking south to southwest looking southeast to another corner, no home for about 1400'375' elevation change





Looking due east, forest





Looking northeast to Mt Aukum, notice satellite and phone towers, and clear cut barely visible for  
Kehret vineyards  
Sent from my iPhone