

El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

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BOARD OF SUPERVISORS

Subject: Item 34 Sept. 11, 2007 - EIR Needed for Proposed Winery Ordinance

Dear Supervisors,

The wine industry is a wonderful economic opportunity for El Dorado County and its residents. I want to see the industry thrive without unnecessary interference, but not at the expense of the property rights of existing neighbors and the real possibility of subsidy by taxpayers for necessary road improvements to accommodate increased traffic and congestion from these properties being transformed into "entertainment venues with an agricultural theme." Considering the environmental impacts and unintended consequences of such significant economic and agricultural expansion is a prudent thing to do. A proper environmental analysis via an Environmental Impact Report (EIR) allows the public and decision makers to weigh alternatives and clearly see the individual and cumulative impacts of their decision. The current path does not allow meaningful analysis of cumulative impacts or alternative actions. Only an EIR can do so.

I am very disappointed that the Planning Department has recommended the Industry Proposed Winery Ordinance (IPWO) be subject to CEQA review via a Mitigated Negative Declaration (MND). A MND is not the appropriate vehicle for review of such a far reaching and complicated ordinance that constitutes a "Program" under CEQA. Therefore, a Program or Focused EIR is needed for this task, not a "Program MND." There are potentially significant cumulative impacts from the IPWO that cannot possibly be addressed by an MND and there is no analysis of alternatives to the IPWO to base your decision. This can only be done through the EIR process.

The IPWO should be correctly analyzed by an EIR to properly identify and address cumulative impacts and evaluate alternative actions to reduce environmental impacts to insignificance, and if not, adoption of a "Statement of Overriding Considerations" will clearly illustrate the good reasons to ignore these impacts. An EIR will also require the County to respond to public comments, a process not utilized in the past in the MND process.

I hope these and other issues cited are addressed prior to any additional hearings and ultimately in the environmental review process.

Despite a good effort to cover nearly every possibility, the IPWO is very confusing, has incomplete sentences and requires an extremely knowledgeable guide to understand (these comments will be covered in separate correspondence). It has many flaws and will result in many potentially significant and cumulative environmental impacts.

The potentially significant environmental impacts allowed by this overly "permissive by right" IPWO and its numerous and complicated "if-then" exceptions and exemptions cannot be adequately addressed by the Negative Declaration process. **Please provide a recitation of the section in Planning Law and/or case law that allows this sort of a "Program MND" to be used to adequately review and mitigate such an ordinance.** If such justification exists, how does staff

propose to meaningfully implement these requirements to these projects? Better to refer to an EIR than a previously prepared MND.

Every rezone to an Agriculture Zone District that allows all these activities by right will be forced to analyze all these impacts, but what about the impacts of the existing properties with such zoning? Can an MND do so? I don't think so. Has staff inventoried the number of properties with such zoning? Is there an inventory of the 20+ acre parcels out there that could take advantage of the IPWO and become wineries? Where are they located and what is the condition of the roads leading to them? Only by doing so can the cumulative impacts of the IPWO be fully analyzed and understood. A Focused or Program EIR is the appropriate vehicle to do so.

I have repeatedly suggested that all wineries be subject to a Special Use Permit to identify and mitigate site specific issues that always arise during review of these projects regardless of what depth the IPWO provides for various situations. This way, impacts on neighbors and road systems of nearby 5 and 10 acre (or less) residential parcels who now find themselves in newly created "Agricultural Districts" can be identified and mitigated during the individual project review process. Such site specific review is simply not possible with the IPWO, and the impacts can not be properly analyzed by the MND process proposed.

Samplings of the potentially significant cumulative impacts resulting from the implementation of the IPWO are (Please notice these are similar to those identified by staff as "Potentially Significant" in the staff Report):

- Land Use consistency with the General Plan and EIR (GPEIR collectively), specifically oak woodland preservation/mitigation. How can agricultural operations be exempt from Oak Woodland rules when an unknown, yet potentially significant number of acres are subject to complete removal of oak trees for conversion to vineyards? The IPWO will enable and/or accommodate additional oak woodland conversion to take place far in excess of that allowed or envisioned in the GPEIR. Will the MND address the impacts of these conversions? If so, how? Will the GPEIR assumptions realistically mitigate the wholesale removal of these unknown acres of oaks that is enabled and/or accommodated by adoption of this ordinance?
 - Where is the fairness to a subdivision developer who must mitigate every oak stem removed, or the homeowner building a garage who must mitigate impacts on one oak tree? Is this all consistent with the GPEIR (and common sense)? I think not.
- Traffic. The traffic study for the Miraflores project indicated traffic would exceed GPEIR basic thresholds for traffic on Sly Park Road for that one project. The currently inadequate roadways of South and North County will be subjected to similar cumulative increases enabled and/or accommodated by the IPWO. How will these impacts be mitigated programmatically via the MND? Are adequate Traffic Impact Mitigation (TIM) fees available to update the numerous one lane bridges and rural intersections that will be significantly impacted by "build out" of all the properties that could become wineries? (Again, we need a specific inventory of effected properties to asses these cumulative impacts.) Add to this their 24 times a year "Promotional events" with 250 persons in attendance allowed by right in "Agriculturally Zoned" properties. How will TIM fees from small tasting rooms and low TIM yield warehouse /winery" structures even begin to mitigate these increases in traffic? To be realistic, you would need to include this analysis and specific cumulative impacts mitigation in this MND.

- How will First Responders adequately provide services to these remote project areas with multiple ongoing "Promotional Events" of less than 250 people on 24 weekends a year? This inevitability cannot be envisioned by an MND.
- There are dust/air quality issues associated with the gravel access roads to these project areas that will be churned up 24 times a year during "allowed by right" "Promotional Events" attended by "less than 250 people" at each event. Multiplied by the number of 20+ Acre parcels within Ag Districts that could become wineries and you have a potentially significant cumulative impact that is not likely to be mitigated under current rules.
 - What about the "nuisance dust" impacts from unsurfaced overflow/event parking lots adjacent to neighboring residential parcels that have no required setbacks in the IPWO?
- Cumulative Groundwater use. This issue has not been adequately dealt with in the GPEIR as the "mandated" water supply analysis has never been implemented during review of a project. If you recall, the Miraflores project water use was dismissed as the applicant's agent provided anecdotal evidence that there was less water use than residential and that the on site wells worked fine. There was no Water Supply Study conducted or presented that could possibly meet a quantitative or objective standard. Will it have an effect on current and future adjacent residential and agricultural water users, especially in the granitic South County area where there are numerous cases of well failure? The GPEIR says these will be dealt with, but thus far there are no area wide or individual studies of the ability of groundwater to supply these long term cumulative needs?

I have asked similar project specific questions previously during the Miraflores project review. Therefore, **I request staff consider my comments of March 17, 2006 on that MND be included in the scoping process and initial study for the IPWO.** The unanswered questions are there and truly applicable to the IPWO. I encourage staff to review the Miraflores file, as well as other winery projects, for the numerous comments from the neighbors that have great significance to any winery project proposed in El Dorado County. These are good scoping comments for the task ahead of staff to properly analyze the impacts of such projects and allow your Board to make an informed and legally justifiable decision.

The current and proposed process is deeply flawed and there is more needed than a quick fix with an MND. Please accept this observation as a recommendation to do a Focused or Program EIR. Otherwise, there is no meaningful way to identify alternatives and mitigate the cumulative impacts allowed and accommodated by the IPWO. An MND is inadequate for the task at hand.

Thank you for your time.

Sincerely,



Ken R. Greenwood
Straight Shot Consulting

Cc: Planning Department
County Counsel