
From: kevinwmccarty@pm.me
Sent: Friday, October 18, 2024 11:41 AM
To: BOS-Clerk of the Board; Kim Dawson
Cc: lee.tannenbaum@gmail.com
Subject: Agenda item #24-1732 - Archon Farms Appeal Hearing - 10/22/2024
Attachments: winmail.dat

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Report Suspicious

Good morning Ms. Dawson,

Hope you are well, happy Friday.

Attached is PDF set of presentation slides to serve as Applicant Response to Appeal(s) for Agenda item #24-1732, regarding the Archon Farms CCUP appeal hearing (CCUP-A24-0003, CCUP-A24-0004) scheduled for Tuesday, October 22, 2024.

I would like to be able to display the presentation during the 15 minute segment allotted to Applicant Response, if possible.

I can provide the PowerPoint version of the slides if preferred, just let me know what you may need.

Have a great day.

Regards,

Kevin McCarty
CEO / Managing Member



Archon Farms Inc.

CCUP21-0008

Applicant Response to Appeals:

CCUP-A24-0003

CCUP-A24-0004

Agenda Item 24-1732

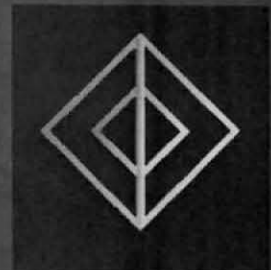
October 22, 2024

Narrative Roadmap



- We have taken great care to design our project in accordance with all applicable regulations, ensuring minimal environmental impact, and dedicated in service to the community.
- We appreciate the opportunity to respond to the claims made by the appellants, using factual rebuttals based on the project documents and expert analyses.
- To supplement the Staff Appeal Memo authored by Senior Planner Evan Mattes, we offer the following information and analysis to rebut the claims of appellants (Husak, Schoenfeld) and will conclusively demonstrate that the claims are devoid of merit.

CCUP-A24-003 Claim #1 (Agency Reports)



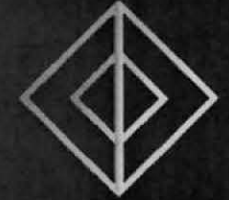
- **Claim #1:** “Required reports from multiple agencies are non-existent and need to be included prior to approval.”
- **Applicant Response:** All required agency reports have been thoroughly provided by qualified scientific experts and reviewed by the El Dorado County Planning staff and Helix, as the credentialed consultant. The comprehensive nature of these reports speaks to the project’s compliance with CEQA and county standards.
- Staff Memo highlights:
 - *“No reports have been identified as missing.”*
 - *“SWRCB is a State agency over which El Dorado County does not have jurisdiction. This appeal does not provide a pathway to challenge a determination of a State agency.”*

CCUP-A24-003 Claim #2 (Water Use)



- **Claim #2:** “The water required to maintain this cannabis operation has not been proven to be adequate.”
- **Applicant Response:** The water resources at the project site are robust, with a registered well flow yield of **60 gallons per minute**, as evidenced by the Well Completion Report included in the public record. The anticipated water demand for the project is less than a median single-family residence (182,476 gallons) — at approximately 109,000 to 159,000 gallons per year. There is no evidence presented by the appellant to suggest that the water supply is insufficient.
- Staff Memo highlights:
 - *“The project would demand less water than a single-family residence. There is no evidence that the project would deplete groundwater supplies.”*

CCUP-A24-003 Claim #3 (Water Table Impact)



- **Claim #3:** “The operation will further impact the water table, which is currently not sufficient, even for existing residents. There has not been a study to show that the withdrawal from the water table will not further impact the surrounding residents.”
- **Applicant Response:** The terrain of El Dorado County’s western slope features water resources found within rock fractures rather than a traditional water table. The appellant’s comments on this matter are irrelevant and lack any supporting evidence. Further, rock fracture groundwater impacts to neighboring parcels are nearly impossible to predict in advance, therefore appellant’s request cannot be achieved.
- Staff Memo highlights:
 - *“Pursuant to DWR, the project is not located within an over drafted groundwater basin.”*
 - *“There is adequate water supply to irrigate the proposed project, and the proposed project would not introduce substantial impervious surfaces that would interfere with groundwater recharge in the area of the proposed project.”*

CCUP-A24-003 Claim #3 (Water Table Impact)



- CA Dept. of Water Resources, "Ground Water in Fractured Hard Rock":



water.ca.gov/publications

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

Free
01/11

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.

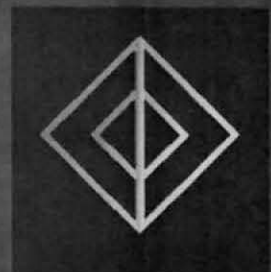
As a result, interference between neighboring wells is difficult or impossible to predict in advance. The best insurance against such problems is large lot sizes. Wells on lots as large as nine acres have gone dry.

CCUP-A24-003 Claim #4 (Ordinance No. 5111)



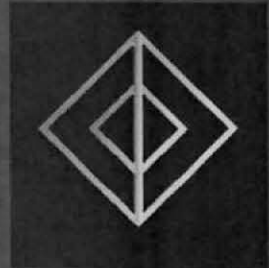
- **Claim #4:** “The project is not compliant with El Dorado County Ordinance #5111.”
- **Applicant Response:** Appellant has provided no evidence to suggest noncompliance with County Ordinance #5111, which applies to all commercial cannabis operations except for outdoor / mixed-light cultivation and is therefore inapplicable to this project. Planning staff have confirmed that the project meets all applicable code requirements under Ordinance #5109 and #5110, with no variances required.
- Staff Memo highlights:
 - *“The project was reviewed and found consistent with the mixed-light outdoor cultivation standards of County Code. Ordinance No. 5111 is not applicable to this project.”*

CCUP-A24-003 Claim #5 (CEQA Compliance)



- **Claim #5:** “The project approval violates California Environmental Quality Act (CEQA).”
- **Applicant Response:** Appellant has provided no evidence to support the claim of a CEQA violation. The ISMND prepared by Helix confirms that all CEQA review processes were properly followed, ensuring compliance with all applicable State environmental regulations.
- Staff Memo highlights:
 - *“An Initial Study (Attachment J) was prepared and distributed for review and adopted by the Planning Commission. No significant unmitigated impacts were identified as part of the Initial Study.”*

CCUP-A24-003 Claim #6 (Community Notice)



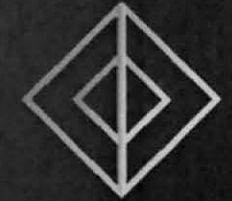
- **Claim #6:** “The community was not notified of this discretionary project, whereas the community was denied the opportunity to address the impacts of the project.”
- **Applicant Response:** The community was notified in strict accordance with El Dorado County ordinance. An error in the initial staff report led to a duplicate notification and public hearing process, providing the public with an extended opportunity (7+ weeks) to submit comments.
- Staff Memo highlights:
 - *“Mailed notifications were sent to all property owners within 1,000 feet of the project parcel and a notice was published in the Mountain Democrat, a newspaper of general circulation. Though not required by ordinance, notification was also posted on the County Planning website, in addition to other posting requirements.”*

CCUP-A24-003 Claim #7 (EDC General Plan)



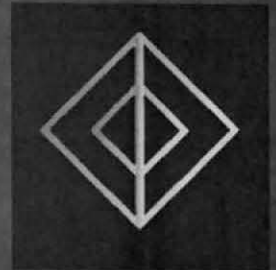
- **Claim #7:** “The project is not compliant with the General Plan and Zoning Ordinance.”
- **Applicant Response:** Appellant’s claim of noncompliance with the El Dorado General Plan and Zoning Ordinance is unsubstantiated. Planning staff have verified that this project is fully aligned with both the General Plan and Zoning Ordinance requirements.
- Staff Memo highlights:
 - *“Planning staff reviewed the project for compliance with applicable policies of the Zoning Ordinance, including Chapter 130.41, and General Plan and found the project to be consistent. The Planning Commission adopted staff’s Findings (Attachment K) that the project is consistent with applicable Zoning Ordinance and General Plan policies.”*

CCUP-A24-003 Claim #8 (Other Impacts)



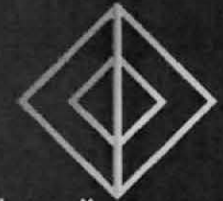
- **Claim #8:** “We reserve the right to address other violations and non-mitigated impacts that were not addressed at the Planning Commission hearing.”
- **Applicant Response:** Appellant’s claims #1 - #7 have been demonstrated to be fallacious, irrelevant, and unsupported by any evidence or argumentation on record. This “catch-all” claim #8 is unworthy of any serious consideration by this Board. There are zero unmitigated impacts from this project approval, as evinced by expert analysis in the ISMND report.
- Staff Memo highlights:
 - *“An appeal hearing is often open-ended; however, Planning staff can only provide analysis of the specific reasons stated in the appeal form.”*

CCUP-A24-003 Claim #9 (Petition Signatures)



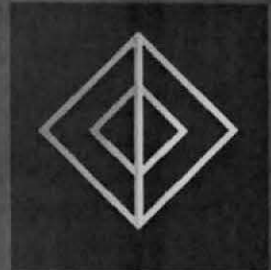
- **Claim #9:** [Appellant provided several pages of petition signatures from the David Harde appeal.]
- **Applicant Response:** 100% of signatures presented by the appellant relate to a separate project that has already been approved by the Planning Commission and sustained by this Board. Precisely *zero* of these signatures pertain to the Archon Farms project currently under appeal. We have spoken with several individuals whose names are on the petition, and they have confirmed that they did not intend for their signatures to be used in opposition to our project. This raises serious ethical concerns about the legitimacy and fraudulent nature of the appellant's claims.
- Staff Memo highlights:
 - *“The appeal also included a statement of opposition with a petition of denial for a different, previously approved Commercial Cannabis Use Permit (CCUP21-0002/Harde).”*

CCUP-A24-004 Claim #1 (CDFW LSA)



- **Claim #1:** “Lake and Stream Bed Alteration Agreement waived based on incorrect assumptions.”
 - 1A: “The CA Department of Fish and Wildlife's (CDFW) decision for not requiring a Lake and Streambed Alteration Agreement (LSA) was based on an incorrect assumption that "No work is proposed in or near any river, lake, or stream". This assumption is incorrect. Cedar Creek (a stream) flows through the Archon property and is 300 feet from the cannabis cultivation area.”
- **Applicant Response:**
 - 1A: Appellant acknowledges the proposed cultivation site is more than 300 feet away from the nearest riverine or Class III watercourse. This admission directly contradicts their own claim that work will take place in or near any river, lake, or stream. As a result, their argument is without merit, as it is based on a misrepresentation of the project’s proximity to watercourses. Further, the required riparian setback from ephemeral watercourses (such as Cedar Creek) under SWRCB Cannabis Cultivation General Order is 50 feet. Our project site thus exceeds State-required setback by 700%+.
- Staff Memo highlights:
 - *“As stated in the appeal, the closest intermittent stream is Cedar Creek which is located over 300 feet away as determined by a qualified professional. Section 130.41.200.5.C requires a minimum setback of 300 feet from upland wetland vegetation of a watercourse.)”*

CCUP-A24-004 Claim #1 (CDFW LSA)

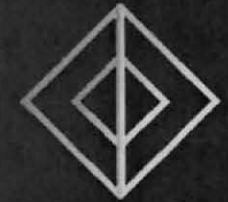


- *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), page 12:*

| | | | |
|-------------|---------------------|----|--|
| | Lands (RL-160) | | |
| West | Rural Land (RL-160) | NR | Paul Summer Road, timber production land |

Environmental Setting: The project property is located in a mountainous region with land that generally slopes downward from northeast to southwest. The project would include one cannabis cultivation area located in the central portion of the project property. The cannabis cultivation area gently slopes from northwest to southeast, and vegetation in the area proposed for cultivation is undeveloped sparsely wooded land. The project property has a small watercourse/riparian edge located approximately 350 feet northwest of the proposed cultivation area. Site elevations range from approximately 3,445 ft above mean sea level (amsl) in the northeast area of the property to approximately 3,120 ft amsl in the southern edge of the property. The southern half of the parcel drains west into Brownsville Creek, then Cedar Creek. The northern half is drained by an ephemeral watercourse approximately 350 feet north of the project area which flows west into Cedar Creek and then into Scott Creek, eventually flowing into the Cosumnes River. The project property is bordered to the east by undeveloped timber production land; to the south by wooded to densely wooded land; to the west by open space; and to the north by Omo Ranch Road and timber production land. The project site contains two terrestrial vegetation communities: Mixed Oak Conifer Forest and Woodland and Chaparral. These vegetation communities are discussed in further detail in Section 7.IV, Biological Resources.

CCUP-A24-004 Claim #1 (CDFW LSA)



- *State Water Resources Control Board (SWRCB) Riparian Setback – Cannabis Cultivation General Order:*

What are the Cannabis Cultivation General Order's setback requirements?

The Cannabis Cultivation General Order's setback requirements are based on proximities to a surface water body per the requirement of the Cannabis Policy. A summary table is provided below. Please refer to the detailed table containing the setback requirements in the Cannabis Policy (Attachment A, Section 1, Requirement 37). The site is classified as high-risk if any of the setbacks are not met.

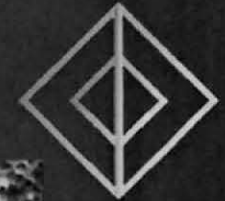
| Waterbody | Watercourse Class | Distance (Low Risk) |
|---|-------------------|---------------------|
| Perennial watercourses, springs, or seeps | I | 150 ft. |
| Intermittent watercourse or wetlands | II | 100 ft. |
| Ephemeral watercourses | III | 50 ft. |
| Man-made irrigation/water supply, etc. | IV | Riparian Zone |

CCUP-A24-004 Claim #1 (CDFW LSA)



- **Claim #1:** “Lake and Stream Bed Alteration Agreement waived based on incorrect assumptions.”
 - 1B: “In addition, there are two riverines that flow through the Archon property that are near and possibly flow through the project site”
- **Applicant Response:**
 - 1B: Appellant fails to realize that the ephemeral headwater channels of Cedar Creek and Brownsville Creek *ARE* the two riverines. They are not “in addition” to them. As noted in the previous slide, the ephemeral watercourse (i.e. “dry ditch”) of the Cedar Creek headwater is approximately 350 feet to the North of the project boundary, and the ephemeral watercourse of the Brownsville Creek headwater is approximately 850 feet to the South. The project site is on a ridgeline; therefore, it is impossible for a watercourse to traverse through it.
- Staff Memo highlights:
 - *“Ephemeral streams, which have flowing water only during, and for a short duration after, precipitation events, do not have any setback requirements. CDFW found that the project will not substantially divert or obstruct the natural flow of a river.”*

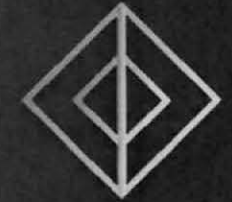
CCUP-A24-004 Claim #1 (CDFW LSA)



- *Riparian setback from Brownsville Creek headwater (ephemeral class III watercourse), approximately 850 feet:*



CCUP-A24-004 Claim #1 (CDFW LSA)



- **Claim #1:** “Lake and Stream Bed Alteration Agreement waived based on incorrect assumptions.”
 - 1C: “The project documents indicate the property slopes and grading will be needed to prepare the site.”
- **Applicant Response:**
 - 1C: The project site “gently slopes” in the words of the ISMND report. Further, “Minimal grading would be necessary as all proposed cultivation areas would be developed in previously-disturbed areas (i.e. cut less than 4 feet, fill less than 3 feet).” This minimal grading – only applicable to Phase 2 mixed-light operations – is exempt from grading permit requirements per El Dorado County code section 110.14. Due to the substantial riparian setbacks from the two ephemeral channels, the appellant’s claim is irrelevant to CDFW Lake and Streambed Alteration (LSA) Agreement permitting and lacks any merit for consideration by this Board.
- **Staff Memo highlights:**
 - *“Planning staff does not believe that CDFW acted upon flawed information and that the project avoids impact to riparian resources. As stated previously the Lake and Streambed Alteration Agreement is not required prior to local discretionary entitlement approval. This appeal does not provide a pathway to challenge a determination of a State agency, such as CDFW or SWRCB.”*

CCUP-A24-004 Claim #1 (CDFW LSA)



- *Confirmation from Senior Environmental Scientist at CDFW that LSA notification on-record remains valid and correct:*

Hi Kevin,

Thank you for your email and conversation today. Considering that the project has not substantially changed as it was proposed in the original Notification (ELD-26677-R2), the Department's original determination that the project is not subject to the Notification requirement in Fish and Game Code section 1602 is still valid. The notification requirement of Fish and Game Code section 1602 is for projects that:

"substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake"

The letter issued by CDFW dated 2/11/2022 is still valid, that determination has not changed. As stated in that letter, any material or changes otherwise made to your Project description in the Notification, will require submittal of a new Notification and corresponding fee to CDFW.

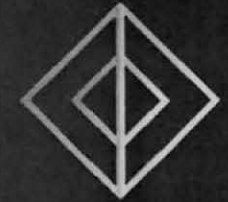
For additional information regarding the Lake and Streambed Alteration Program, you can visit this link https://wildlife.ca.gov/Conservation/Environmental_Review/LSA and our Cannabis Program Page here <https://wildlife.ca.gov/Conservation/Cannabis>

Please let me know if you have any additional questions.

Thank you,

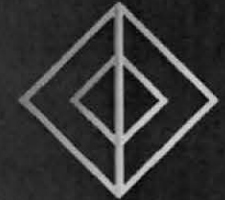
Kyle Stoner
Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife
North Central Region
1701 Nimbus Road
Rancho Cordova, CA 95670
Cell: (916) 767-8178

CCUP-A24-004 Claim #2 (Water Board Permit)



- **Claim #2:** “Water Protection Risk Level set at low based on incorrect assumptions.”
 - 2A: “For the Archon Omo Ranch project, the water board assigned a water quality protection risk level of “low risk“. The water board assigned the project a low risk based on the assumptions that the slope of the area of interest (AOI) was 30% or less and that all riparian setbacks were met. These two assumptions appear to be faulty. The soils report shows a slope of up to 50% on more than half of the area of interest (AOI) or 68.5% of the parcel has up to 50% slope.”
- **Applicant Response:**
 - 2A: Appellant’s claim that “more than half of the area of interest (AOI) has slopes of up to 50%” is incorrect. The soils report, referenced in the project documents, identifies most of the parcel as “Cohasset cobbly loam, 15 to 50 percent slopes,” but the actual slope on the project site does not exceed 20%, with a maximum slope of just 16%. This is supported by USGS slope maps provided with the project materials and shown on the following slides.
- **Staff Memo highlights:**
 - *“The only soils on the property shown to have a slope greater than 30 percent is the Cohasset cobbly loam, 15 to 50 percent slopes (CoE). The CoE soils on the property are located on the north side of the project access road and are outside of all project impact areas.”*

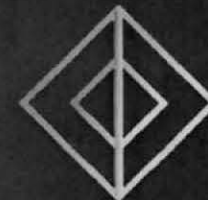
CCUP-A24-004 Claim #2 (Water Board Permit)



- *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), page 197 (Biological Resources Assessment, USDA Soils Profile Map):*



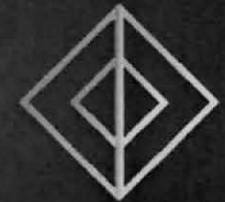
CCUP-A24-004 Claim #2 (Water Board Permit)



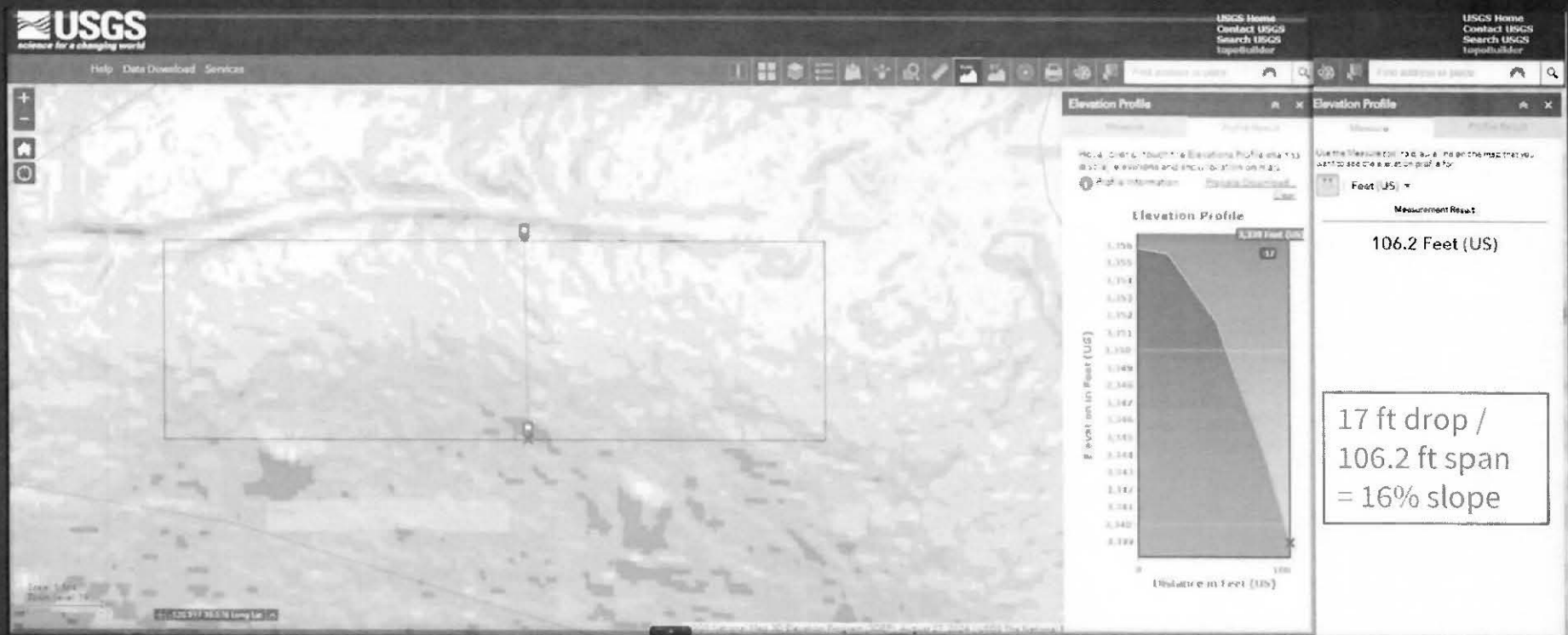
- *USGS National Map data, project site topographical / hillshade slope, (project site in green):*



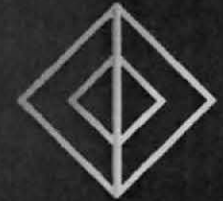
CCUP-A24-004 Claim #2 (Water Board Permit)



- USGS National Map data, topographical heat map, maximum project site slope section (16%):

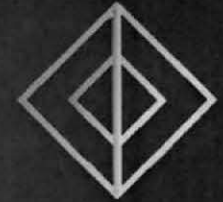


CCUP-A24-004 Claim #2 (Water Board Permit)



- **Claim #2:** “Water Protection Risk Level set at low based on incorrect assumptions.”
 - 2B: “While the exhibits show the cultivation facility 300 feet away from Cedar Creek which meets the water board set back requirement there is no indication in the MND of the setbacks from the two riverines which flow through the property.”
- **Applicant Response:**
 - 2B: Appellant again fails to recognize that the headwaters of Cedar Creek and Brownsville Creek are in fact the two riverines / Class III watercourses / ephemeral channels, from which SWRCB requires a setback of 50 feet. The rare potential for Cedar Creek to be a Class II / intermittent watercourse equates to a required setback of 100 feet. County ordinance requires 300 feet setback from the latter, and the project site is located 350 feet away. The other, Brownsville Creek, is 850 feet from the project site. The appellant’s claim lacks any factual basis or merit and should be discarded.
- **Staff Memo highlights:**
 - *“This appeal does not provide a pathway to challenge a determination of a State agency, such as CDFW or SWRCB.”*

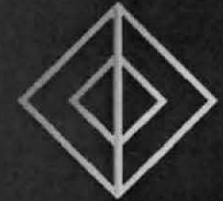
CCUP-A24-004 Claim #2 (Water Board Permit)



- *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), page 199 (Biological Resources Assessment):*

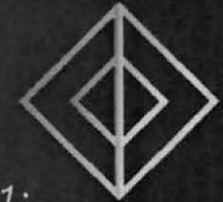


CCUP-A24-004 Claim #3 (Wetland Definition)



- **Claim #3:** “[T]he Archon Omo Ranch project's biological resource assessment (Appendix C of the MND) defines wetland based on the California Forest Best Practice Rules definition not the latest CA State Water Resource Board definition.”
- **Applicant Response:** The Biological Resources Assessment (BRA) explicitly references the Clean Water Act (CWA) definition of wetlands in its analysis. The BRA also uses data from the USFWS National Wetland Inventory and follows methodologies outlined by the US Army Corps of Engineers Wetlands Delineation Manual. Contrary to the appellant's claim, the definition of wetlands in our BRA aligns with federal as well as SWRCB standards. The appellant's assertions on this point are therefore unfounded. See following slides for reference.
- Staff Memo highlights:
 - *“The BRA utilized CalFire’s, California Forest Practice Rules, which provides guidance in assessing environmental and biological resources within timberlands and is used extensively for CEQA analysis within timberlands.”*

CCUP-A24-004 Claim #3 (Wetland Definition)



- *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), BRA Section 1.3.2, page 171:*

1.3.2. Water Resource Protection

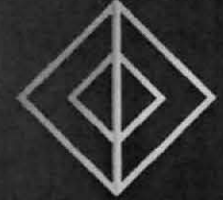
Real property that contains water resources are subject to various federal and state regulations and activities occurring in these water resources may require permits, licenses, variances, or similar authorization from federal, state and local agencies, as described next.

The Federal Water Pollution Control Act Amendments of 1972 (as amended), commonly known as the Clean Water Act (CWA), established the basic structure for regulating discharges of pollutants into "waters of the United States". Waters of the US includes essentially all surface waters, all interstate waters and their tributaries, all impoundments of these waters, and all wetlands adjacent to these waters. CWA Section 404 requires approval prior to dredging or discharging fill material into any waters of the US, especially wetlands. The permitting program is designed to minimize impacts to waters of the US, and when impacts cannot be avoided, requires compensatory mitigation. The US Army Corps of Engineers (USACE) is responsible for administering Section 404 regulations. Substantial impacts to jurisdictional wetlands may require an Individual Permit. Small-scale projects may require only a Nationwide Permit, which typically has an expedited process compared to the Individual Permit process. Mitigation of wetland impacts is required as a condition of the CWA Section 404 Permit and may include on-site preservation, restoration, or enhancement and/or off-site restoration or enhancement. The characteristics of the restored or enhanced wetlands must be equal to or better than those of the affected wetlands to achieve no net loss of wetlands.

Under CWA Section 401, every applicant for a federal permit or license for any activity which may result in a discharge to a water body must obtain State Water Quality Certification that the proposed activity will comply with State water quality standards. The California State Water Resources Control Board is responsible for administering CWA Section 401 regulations.



CCUP-A24-004 Claim #3 (Wetland Definition)




• *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), BRA Section 3.1, page 173:*

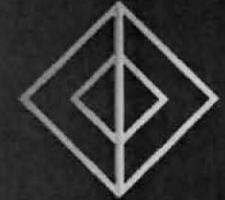
3. METHODOLOGY

3.1. PRELIMINARY DATA GATHERING AND RESEARCH

Prior to conducting the field survey, the following information sources were reviewed:

- Any readily-available previous biological resource studies pertaining to the Study Area or vicinity
- Aerial photography of the Study Area (current and historical)
- United States Geologic Service 7.5 degree-minute topographic quadrangles of the Study Area and vicinity
- USFWS National Wetland Inventory 
- USDA Natural Resources Conservation Service soil survey maps
- California Natural Diversity Database (CNDDDB), electronically updated monthly by subscription
- USFWS species list (IPaC Trust Resources Report).

CCUP-A24-004 Claim #3 (Wetland Definition)

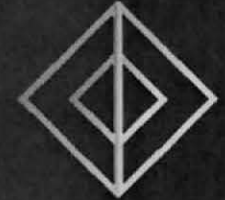


- *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), BRA Section 3.3, page 174:*

3.3. MAPPING AND OTHER ANALYSES

Locations of species' occurrences and habitat boundaries within the Study Area were digitized to produce the final habitat maps. The boundaries of potentially jurisdictional water resources within the Study Area were identified and measured in the field, and similarly digitized to calculate acreage and to produce informal delineation maps. Geographic analyses were performed using geographical information system software (ArcGIS 10, ESRI, Inc.). Vegetation communities (assemblages of plant species growing in an area of similar biological and environmental factors), were classified by Vegetation Series (distinctive associations of plants, described by dominant species and particular environmental setting) using the CNPS Vegetation Classification system (Sawyer and Keeler-Wolf, 1995). Informal wetland delineation methods consisted of an abbreviated, visual assessment of the three requisite wetland parameters (hydrophytic vegetation, hydric soils, hydrologic regime) defined in the US Army Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory, 1987). Wildlife habitats were classified according to the CDFW's California Wildlife Habitat Relationships System (CDFW, 2021c). Species' habitat requirements and life histories were identified using the following sources: Baldwin et al. (2012); CNPS (2021), Calflora (2021); CDFW (2021a,b,c); and University of California at Berkeley (2021a,b).

CCUP-A24-004 Claim #3 (Wetland Definition)



- *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), BRA Section 4.4, page 183:*

4.4. POTENTIALLY-JURISDICTIONAL WATER RESOURCES

The USFWS National Wetland Inventory reported no water features within the Project Area, but the Inventory did report the following water features within the Study Area (see Exhibits): two riverine features.

A preliminary assessment for the presence of potentially-jurisdictional water resources within the Study Area was also conducted during the field survey. For purposes of this biological site assessment, non-wetland waters (i.e., channels) were classified using the California Forest Practice Rules. The California Forest Practice Rules define a Class I watercourse as 1) a watercourse providing habitat for fish always or seasonally, and/or 2) providing a domestic water source; a Class II watercourse is 1) a watercourse capable of supporting non-fish aquatic species, or 2) a watercourse within 1,000 feet of a watercourse that seasonally or always has fish present; a Class III watercourse is a watercourse with no aquatic life present and that shows evidence of being capable of transporting sediment to Class I and Class II waters during high water flow conditions.

The field survey determined that the Project Area does not contain any channels or wetlands. The following water features were detected within the larger Study Area during the field survey (see Exhibits):

- two ephemeral channels (Class III watercourses): Cedar Creek and an unnamed tributary of Brownsville Creek

There are no vernal pools or other isolated wetlands in the Study Area.



CCUP-A24-004 Claim #3 (Wetland Definition)



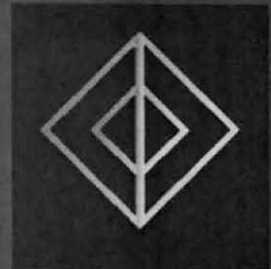
- *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), BRA Section 5.1, page 184:*

5.1. IMPACT SIGNIFICANCE CRITERIA

The significance of impacts to biological resources depends upon the proximity and quality of vegetation communities and wildlife habitats, the presence or absence of special-status species, and the effectiveness of measures implemented to protect these resources from Project-related impacts. As defined by CEQA, the Project would be considered to have a significant adverse impact on biological resources if it would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a special-status species in local or regional plans, policies, or regulations, or by USFWS or CDFW
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by USFWS or CDFW
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites
- Conflict with any county or municipal policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved governmental habitat conservation plan.

CCUP-A24-004 Claim #3 (Wetland Definition)



- *Helix EPI Initial Study / Mitigated Negative Declaration (ISMND), page 31:*

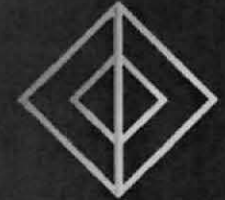
b, c. Riparian Habitat and Wetlands: As discussed in the BRA, the project area and study area are not within any designated listed species' critical habitat. The project area does not contain habitat for special-status species, but the study area contains an intermittent channel along the western property line that provides habitat for special-status species. However, because the cannabis cultivation premises is setback greater than 350 ft from this channel, vegetative buffers are present, and minimal ground disturbance is proposed, implementation of the proposed project would not impact any special-status habitats, and no mitigation is necessary.

Potential direct impacts to water resources would not occur by modification or destruction of stream banks or riparian vegetation or the filling of wetlands or channels that could cause increased erosion and sedimentation in water bodies due to soil disturbance. The cultivation areas have been designed with large setbacks from watercourses (greater than 350 ft), situated on flatter areas (ridgetops), and include vegetative buffers. As a result of these design avoidance measures, no direct impacts to water resources would occur.

Potential adverse impacts to water resources could occur during operation of cultivation activities through the discharge of sediment or other pollutants (fertilizers, pesticides, human waste, etc.) into receiving waterbodies. However, the project proponent is required to file a Notice of Applicability under the State Water Resources Control Board's (SWRCB) Cannabis General Order WQ 2019-0001-DWQ. Compliance with this Order would ensure that cultivation operation would not significantly impact water resources by using a combination of BMPs, buffer zones, sediment and erosion controls, site management plans, inspections and reporting, and regulatory oversight.

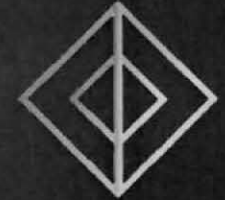


Final Points re: Appellants' Claims



- Both appellants Husak and Schoenfeld present themselves as “resident[s] of Somerset” however their primary residences are on Grizzly Flat Road, approximately *30 minutes away by car* and five (5) miles away ‘as the crow flies’.
- The unincorporated community of Somerset, associated with ZIP code 95684, encompasses an area of land spanning approximately *81.3 square miles*. Neither appellant is a resident of Omo Ranch nor can reasonably claim to be ‘neighbors’ of the Archon Farms CCUP project site.
- In between the project site and the appellants’ residences are the 30-35 vineyards of Fair Play, which encompass about 350-400 acres of wine grape cropland. Each acre of wine grape vineyard requires 0.25 – 0.5 acre-feet of water annually, equating to *270,000 – 540,000 gallons*. A water demand estimate for Fair Play vineyards thus equates to *94.5 to 216 million gallons per year*.
- The ISMND water demand projected for our project (159,000 gal.) in contrast is *0.074% - 0.168%* of the amount drawn by wine grape vineyards from groundwater supplies closer to the appellants’ homes. The water supply concerns expressed by appellants should therefore be taken with ‘*a grain of salt*’.

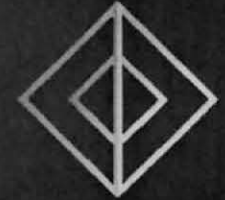
Final Points re: Appellants' Claims (cont'd)



- Proximity Map showing location of Appellants' residences in context of Project Site:



Archon Farms – Community Service



- We are proud to be a part of the Omo Ranch and South County community. I have had the honor and pleasure of serving on the board of the Omo Ranch Fire Safe Council for the last 2+ years.
- Archon Farms will donate 3% to 5% of net profits to local non-profit organizations including the South County Fire Defense Coalition, Pioneer Volunteer Firefighters Association (PVFA), and West Slope Foundation. This proposed land use and business will exist not just for its own sake but will support our rural community.
- We hope to be instrumental in helping make Somerset the most fire resilient community in all of El Dorado County, and eventually, in all of the rural Sierra Nevada counties in the State of California.

Conclusion

- This project (CCUP21-0008) is compliant with 100% of El Dorado County ordinance, California State law, and has been exhaustively studied to ensure total adherence with applicable CEQA regulations, with zero negative community impacts.
- We have hereby demonstrated in the official record that no reasonable cause exists to approve the appeals under consideration.
- We look forward to the will of the Board in approving our project and moving forward to serve the Somerset community of El Dorado County.

