

**Civil Law and Motion Calendar**  
**May 25, 2021**  
**10:00 a.m.**

*Santa Barbara Coalition for Responsible Cannabis, Inc.*  
v.  
*County of Santa Barbara, et al.*  
**#20CV01736**

Attorneys

For Petitioner Santa Barbara Coalition for Responsible Cannabis, Inc.: Marc Chytilo, Ana Citrin, Law Office of Marc Chytilo, APC; Courtney E. Taylor; Robert A. Curtis, Foley Bezek Behle & Curtis, LLP

For Respondents County of Santa Barbara and Santa Barbara County Board of Supervisors: Michael C. Ghizzoni, Lina Somait, Office of Santa Barbara County Counsel

For Real Parties in Interest Busy Bee's Organics and Sara Rotman: Amy M. Steinfeld, Beth A. Collins, Brooke M. Wangsgard, Brownstein Hyatt Farber Schreck, LLP

Emails: [marc@lomcsb.com](mailto:marc@lomcsb.com); [ana@lomcsb.com](mailto:ana@lomcsb.com); [me@courtneyetaylor.com](mailto:me@courtneyetaylor.com); [rcurtis@foleybezek.com](mailto:rcurtis@foleybezek.com); [lsomait@co.santa-barbara.ca.us](mailto:lsomait@co.santa-barbara.ca.us); [asteinfeld@bhfs.com](mailto:asteinfeld@bhfs.com); [bcollins@bhfs.com](mailto:bcollins@bhfs.com); [csargeant@bhfs.com](mailto:csargeant@bhfs.com)

Issue

Petition For Writ of Mandate; Petitioner contends that County's approval of the Busy Bee's Project constituted a prejudicial abuse of discretion and must be set aside.

**Ruling on the Petition For Writ of Mandate**

**The Petition For A Writ of Mandate is DENIED.**

Rulings on request for Judicial Notice

County requests:

1. Chapter 50, Licensing of Cannabis Operations, of the Santa Barbara County Code.
2. The February 6, 2018, Findings for Approval and Statement of Overriding Consideration for the County's Cannabis Land Use Ordinances.

Busy Bee requests:

1. County of Santa Barbara Board of Supervisors Agenda Letter for February 6, 2018.
2. County of Santa Barbara Board of Supervisors Agenda Letter for April 10, 2018.

Judicial notice is the recognition and acceptance by the court, for use by the trier of fact or by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter. Judicial notice may not be taken of any matter unless authorized or required by law. Matters that are subject to judicial notice are listed in Evid. Code §§ 451 and 452. A matter ordinarily is subject to judicial notice only if the matter is reasonably beyond dispute. Taking judicial notice of a document is not the same as accepting the truth of its contents or accepting a particular interpretation of its meaning. While courts take judicial notice of public records, they do not take notice of the truth of matters stated therein. When judicial notice is taken of a document, the truthfulness and proper interpretation of the document are disputable. *Herrera v. Deutsche Bank National Trust Co.*, (2011) 196 Cal. App. 4th 1366.)

**Ruling on requests for judicial notice: GRANTED as to all the requests.**

Acknowledgements

The Court acknowledges and appreciates the professional work done by counsel in the case.<sup>1</sup> The Court found the briefing to be very high quality; useful; informative; thoughtful; prompt. Reasonable people can differ.

Background

*In law, as in so many other instances, the devil is in the details; in CEQA, the devil is in the process.*

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<sup>1</sup> The Court apologizes for any grammatical and typographical errors in this decision.

On February 6, 2018, County adopted a Cannabis Ordinance regulating commercial cannabis land uses for the inland areas of Santa Barbara County. A Program Environmental Impact Report (PEIR) for the Cannabis Ordinance was prepared in 2017 and certified on February 6, 2018. When the PEIR was certified, the Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules) of County did not allow cannabis activities on parcels subject to an Agricultural Preserve contract. The County's Agricultural Preserve Advisory Committee (APAC) is responsible for administering the County's Agricultural Preserve Program and the Uniform Rules. On March 20, 2018, the Board amended the County's Uniform Rules to allow cannabis activities on Williamson Act contracted lands and to define cannabis cultivation as an agricultural use on lands subject to Agricultural Preserve contracts.

Real party in interest Busy Bee [RPI] is the applicant for the Busy Bee's Organics cannabis cultivation project (the Project) and the owner and operator of the ongoing cannabis operation on the Project site. Sara Rotman is Busy Bee's principal and is listed as a Project applicant. The Project site is a 62.45-acre agriculturally zoned parcel located on Highway 246, west of the City of Buellton. The property has historically been farmed with irrigated crops, has included grazing, and is subject to Williamson Act Agricultural Preserve contract 76-AP-019.

The property is bound by Highway 246 to the north, a 63-acre agricultural property to the west, the Santa Ynez River through three agricultural properties to the south (223 acres, 69 acres, and 62 acres in size) and an 88-acre agricultural property to the east. These surrounding agricultural properties are also under Agricultural Preserve contracts.

On November 21, 2018, RPI requested a County Land Use Permit (LUP) to allow 18 acres of outdoor cannabis cultivation. Prior to applying for a LUP to authorize commercial cannabis cultivation and related activities, RPI cultivated cannabis under the County's limited allowance for the continuation of legal nonconforming cannabis operations that existed as of January 19, 2016.

On January 11, 2019, APAC reviewed the proposed project and the Williamson Act contract for consistency with the Uniform Rules. APAC required that 22 acres of cannabis cultivation be proposed in order for the parcel to continue to be eligible for the Agricultural Preserve contract pursuant to the Williamson Act. APAC did not evaluate the proposed cultivation under the principles of compatibility.

On May 7, 2019, County's Planning and Development staff determined that all the environmental impacts of the RPI's cannabis operation would be within the scope of the PEIR. The same day, the Planning and Development Department Director approved RPI's cultivation LUP. This LUP was timely appealed to the Planning Commission by neighboring farmer Sharyne Merritt.

On May 8, 2019, RPI submitted an application for a new and separate LUP to place 22 acres of hoop structures over the approved cultivation area and add two 3,000 sq. ft. agricultural buildings for processing and one new 1,080 sq. ft. shade structure. The Planning and Development Department determined that the Planning Commission appeal would be a *de novo* hearing of the entirety of both proposed LUP's, so RPI withdrew its second LUP application and incorporated its elements into the project description of the LUP pending Planning Commission review.

The Planning Commission held two hearings to consider RPI's LUP on October 30, 2019, and November 7, 2019. After extensive public testimony and deliberation, the Planning Commission approved the Project with various conditions of approval to help achieve consistency with applicable policy requirements and reduce documented conflicts between agricultural land uses.

Petitioner Santa Barbara Coalition for Responsible Cannabis, Inc. (Petitioner) is a California public benefit corporation whose purposes include protecting the interests of neighborhoods, communities and others affected by the County's inadequate regulation of commercial cannabis activities, upholding the County's General Plan and Zoning Ordinances and enforcing CEQA and the Williamson Act when actions adversely affect other land users including residential uses and agriculture.

Petitioner (together with Merritt, who later stepped back as an appellant), and RPI, each timely appealed the Planning Commission's approval to the Board. Among other things, Petitioner raised and presented substantial evidence supporting arguments that Project approval would violate CEQA (Pub. Res. Code, § 21000 et seq.) and the Williamson Act, and challenging the adequacy of LUP approval findings required by the LUDC including the County's pattern and practice of ignoring violations based on illegal expansions of nonconforming cannabis operations, including RPI's own illegal expansion of cannabis cultivation. On March 17, 2020, the Board heard the dual appeals of the Planning Commission's conditional approval. The Board revised the Project to strip away the conditions added by the Planning Commission and grant RPI's approval for 22

acres of cannabis cultivation, including 2,700 sq. ft. of mixed-light and nursery cultivation within an existing greenhouse and a maximum of five acres that will be under 12 ft. tall hoop structures.

On April 23, 2020, Coalition filed its petition for writ of mandamus asserting four causes of action: (1) violation of CEQA; (2) violations of state planning and zoning laws (Gov. Code, § 65000 et seq.); (3) violation of the Williamson Act; and (4) pattern and practice of violating CEQA, etc.

On May 28, 2020, the parties filed a stipulation to dismiss Laurel Fisher Perez as a real party in interest. On June 1, the Court entered dismissal of Perez with prejudice.

On June 19, 2020, County filed a notice of related case identifying Santa Barbara Coalition for Responsible Cannabis v. County of Santa Barbara, et al., case number 19CV02459, filed on May 9, 2019, and Santa Barbara Coalition for Responsible Cannabis v. County of Santa Barbara, et al., case number 20CV01907, filed on May 29, 2020, as related cases. On September 18, 2020, the Court denied relating these cases at this time.

On September 1, 2020, Petitioner filed a request for dismissal, and the Court entered dismissal as to the fourth cause of action without prejudice.

On October 2, 2020, the Court entered its order on the stipulation of the parties striking from the petition items C, D, and E from the prayer for relief of the Petition.

A Demurrer and a Motion to Strike were filed; the Demurrer was sustained in part on December 1, 2020.

**On December 16, 2020, Petitioner filed its First Amended Petition for Writ of Mandamus; set out in three counts:**

Count #1: Violations of CEQA: Pub. Res. Code §§ 21000, et seq.

Count #2: Violations of State Planning and Zoning Laws: Gov. Code § 65000, et seq.

Count #3: Violations of the California Land Conservation Act (Williamson Act) Cal. Govt. Code §§51200 et seq.

The Writ requests: (1) Alternative and Peremptory Writs of Mandate ordering County to vacate and set aside their approval of the Busy Bee's Organics Cannabis Cultivation Project Land Use Permit and CEQA determination for the Project; (2) An order staying the approval and prohibiting County and Real Party in Interest from engaging in any activity pursuant to the Busy Bee's Organics Cannabis Cultivation Project approvals until such time that County have complied with CEQA, the Williamson Act, and all other applicable state and local laws, policies, ordinances and regulations as are directed by this Court; (3) Reasonable attorneys' fees and costs.

**On January 20, 2021, RPI filed an Answer; on February 8, 2021, County filed an Answer.**

A Briefing Schedule was set: Petitioner to file its Opening Brief by March 12; County and RPI to each file their Opposition Briefs by April 12; Petitioner to file its Reply Brief(s), by May 10. Hearing set for May 25, 2021.

*Standard of Review for Administrative Mandamus*

CCP§ 1094.5 sets forth the standard of review for writ petitions attacking the validity of administrative decisions like Respondents' approval of the LUP at issue in this case. Under CCP § 1094.5 a court determines whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. CCP § 1094.5 (b). Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence. Where it is claimed that the findings are not supported by the evidence, abuse of discretion is established if the findings are not supported by substantial evidence in the light of the whole record. Findings adopted by administrative agencies must also bridge the analytical gap between evidence and the ultimate decision. *Topanga v. County of L.A.* (1974) 11 Cal.3d 506, 510.

Petitioner's Contentions  
[Summarized]

***Petitioner contends that County's approval of the Project constituted a prejudicial abuse of discretion and must be set aside; that rather than evaluate and mitigate significant agricultural and land use impacts, County decisionmakers swept them under the rug. The Board approved the Project without site-specific environmental review of impacts on other agricultural***

***operations in the area, and without finding that the use is consistent with the Williamson Act's Principles of Compatibility. The Board disregarded the unauthorized expansion of Busy Bee's nonconforming operation and made legally unsupportable findings that the Project site is in compliance with the County ordinance and other applicable laws. The Board's approval of the Project violated CEQA, the Williamson Act, and Planning and Zoning Law.***

Petitioner points out, in support of its contentions, that when County prepared and certified the PEIR for the County's ordinance amendment package allowing commercial cannabis cultivation and other cannabis activities throughout the unincorporated County, the environmental effects of allowing this new type of land use were not well understood; the PEIR anticipated that site-specific environmental review of agricultural conflicts and land use impacts would occur before individual cannabis operations received land use entitlements; grows such as Busy Bee's, operating under the County's limited allowance for nonconforming medical grows, began illegally expanding before obtaining permits to operate under the new Cannabis Ordinance; farmers and rural residents began encountering the myriad land use conflicts that arise when cannabis is grown adjacent to other non-cannabis land uses; the conflicts include disputes over normal cultivation activities, application of pesticides and fertilizers, the exposure of farmworkers and rural residents to noxious odors, and threatened litigation, which impair the continued viability of legacy agriculture in the Santa Ynez Valley and elsewhere in the County's rural areas.

When County approved the Project and other first generation cannabis permits at the staff level with no apparent site-specific environmental review, members of the public, including Petitioners, raised the alarm bell; series of appeal hearings followed; County heard accounts from residents, business owners, and agricultural experts that cultivating cannabis in close proximity to traditional crops like vegetables and wine grapes results in conflicts that undermine the viability of agricultural operations that have existed for decades; agricultural conflicts that occur on parcels subject to Agricultural Preserve contracts are particularly significant, as the Williamson Act which authorizes the County's Agricultural Preserve Program prohibits the approval of uses on contracted lands that "impair" agricultural operations on other contracted lands (among other "Principles of Compatibility"); the County's Agricultural Commissioner convened a working group to identify and evaluate potential mitigation measures.

*Petitioner's Alleged Violations of CEQA*

*The Principles.* The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. *Friends of Mammoth v. Board of Supervisors (1972) 8 Cal.3d 247, 259.*

A court reviews a public agency's CEQA compliance for prejudicial abuse of discretion, which is established where the agency fails to proceed in the manner required by CEQA or if the agency's CEQA determination is not supported by substantial evidence. *PRC § 21168.5.* Judicial review of whether the agency has employed the correct procedures is determined *de novo* and the court must scrupulously enforce all legislatively mandated CEQA requirements. *Vineyard Area Citizens v. City of Rancho Cordova (2007) 40 Cal.4th 412, 435.*

Judicial review of an agency's substantive factual conclusions extends to whether they are supported by substantial evidence in the record. Substantial evidence means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. *Guidelines § 15384 (a).* Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. [*Guidelines § 15384 (b).* Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment. *PRC § 21080 (e)(2); Guidelines § 15384 (a).* A reviewing court must adjust its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts. *Vineyard Area Citizens, 25 40 Cal.4th at 435.*

Where the inquiry presents a mixed question of law and fact, it is subject to independent review unless questions of fact predominate, in which case it is subject to substantial evidence review. *King & Gardiner Farms, LLC v. County of Kern (2020) 45 Cal.App.5th 814, 843.*

Whether the substantial evidence or fair argument standard of review applies to an agency's decision to forgo subsequent environmental review for a later activity based on a program EIR depends on the degree to which the program EIR conducted in-depth review. *See CREED v. City of San Diego Redevelopment Agency (2005) 134 Cal.App.4th 598, 611.*

Under Guidelines section 15168, program EIR's are used for a series of related actions that can be characterized as one large project. *Center for Sierra Nevada*



*Conservation v. County of El Dorado* (2012) 202 Cal. App. 4th 1156, 1171. A program EIR does not always suffice for a later project. Sometimes a tiered EIR is required, sometimes a subsequent or supplemental EIR is required, and sometimes a supplement to an EIR is required. *NRDC. v. City of L.A.* (2002) 103 Cal.App.4th 268, 282. A program EIR will be most helpful in dealing with later activities if it provides a description of planned activities that would implement the program and deals with the effects of the program as specifically and comprehensively as possible.

With a good and detailed project description and analysis of the program, many later activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required. *Guidelines § 15168 (c)(4)*. Designating an EIR as a program EIR does not by itself decrease the level of analysis required; it still must provide decision-makers with sufficient analysis to intelligently consider the environmental consequences of the project under consideration. *Cleveland National Forest Foundation v. SANDAG* (2017) 17 Cal.App.5th 413, 426. Accordingly, a program EIR may serve as the environmental review document for a later activity in the program, but only to the extent that it contemplates and adequately analyzes all potential environmental impacts of the later activity. *Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 234 Cal.App. 4th 214, 233.

Before approving a later activity in the program, the lead agency must examine that activity in light of the Program EIR to determine whether an additional environmental document must be prepared. *Guidelines § 15168 (c)*. Where the later activity involves site-specific operations, the agency should use a written checklist or similar device and document the evaluation of the site and activity to determine whether the environmental effects of the operation were within the scope of the program EIR. *Guidelines § 15168 (c)(4)*. If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration. That later analysis may tier from the program EIR. *Guidelines § 15168 (c)(1)*. The agency can approve the activity as being within the scope of the project covered by the Program EIR, and no new environmental document would be required only if the agency finds that no subsequent EIR would be required under *Guidelines § 15162*. *Guidelines § 15168 (c)(2)*. Pursuant to *Guidelines § 15162*, a subsequent EIR is required where substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the

previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.  
*Guidelines § 15162 (a)(1-2).*

A subsequent EIR is required if new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified, shows either that: a) the project will have one or more significant effects not discussed in the previous EIR; b) significant effects previously examined will be substantially more severe than shown in the previous EIR; c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or d) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.  
*Guidelines § 15162 (a)(3); see PRC § 21166 (c).*

#### *Petitioner's Arguments*

*Argument #1. The Cannabis PEIR did not contemplate or analyze the potential environmental impacts of the Project on nearby agricultural operations.* The Cannabis PEIR included no site-specific review of individual cannabis projects and lacks a sufficiently specific and comprehensive analysis of agricultural land use conflicts. Additional environmental review of agricultural land use conflicts is necessary to adequately inform decisionmakers and the public of the Project's significant impacts and ensure that the impacts are reduced with enforceable mitigation. The Cannabis PEIR is a Program EIR which attempted to address the impacts of a countywide program with eligible land over hundreds of thousands of acres and potential effects on five major regions, eight cities, and 24 unincorporated communities.

The PEIR was completed in its entirety over a short 26-month period. The PEIR does not include a site-level analysis of individual cannabis permit applications, and expressly contemplates the preparation of subsequent CEQA review documents and further CEQA review to determine site-specific impacts. The PEIR's agricultural impact discussion references the Land Use section, which in turn refers to the Air Quality section, for additional analysis of land use conflicts. However, the analysis of land use and air quality impacts addresses how cannabis activities including cultivation may impact residential uses, not agricultural uses;

protects residentially-zoned neighborhoods and does not apply in the AG-II zones so does not even purport to address odors impacting sensitive receptors on agricultural parcels including homes, businesses, and agricultural workers in the field. No mitigation measure identified in the PEIR addresses land use conflicts between cannabis cultivation and other agricultural land uses.

Petitioner argues the only analysis in the PEIR that directly addresses conflicts between cannabis activities authorized under the Cannabis Ordinance and existing agriculture, including farms subject to Williamson Act contracts, relies on future case-by-case APAC review and project-specific site compatibility review to ensure land use compatibility with adjacent agricultural crops and avoid conflicts with Williamson Act conflicts was not codified as a mitigation measure. Because the PEIR did not include specific mitigation measures for agricultural conflicts and the manner in which the County's CEQA Checklist mirrored PEIR mitigation measures, this project's agricultural conflicts were not addressed at all in the CEQA Checklist, the County's only CEQA review of Busy Bee's site-specific impacts.

This impact was not analyzed or mitigated for the Project despite clear evidence of the impacts, some of which were already occurring. That CEQA case law regarding program EIRs and review of later activities emphasizes that the specificity of the program EIR's impact analysis of later activities in the program is important in determining whether subsequent environmental review is required. Here, the Cannabis PEIR does not provide decisionmakers (or the public) with sufficient analysis of agricultural land use conflicts to understand the environmental consequences of cannabis cultivation projects, including this Project on surrounding agricultural operations, Williamson Act contracts, or on the viability of traditional agriculture including viticulture within the Santa Ynez Valley. These conflicts, which include disputes over normal cultivation activities, application of plant protection materials, application of fertilizers, farmworker odor exposure and terpene drift require site specific review of surrounding land uses and local meteorological conditions which was not done in the PEIR.

*Argument #2. The County failed to perform necessary site-specific environmental review of the Project's agricultural land use conflicts.* The written checklist for site-specific activities like the Project serves to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered within the scope of the program EIR. The CEQA Checklist prepared for the Project did not cover the topic of agricultural land use conflicts at all, omitting the site-specific review of agricultural land use conflicts the PEIR

assumed would occur when the County evaluated later activities. The Initial CEQA Checklist does not demonstrate that County staff engaged in any substantive evaluation of the site or activity to determine whether the environmental effects of the Project were actually disclosed and analyzed in the PEIR. Petitioner acknowledges that there was a supplement but argues that the revised Checklist is silent as to agricultural resource and land use impacts arising from agricultural conflicts, even though the record demonstrated that the Project was and would continue having significant conflicts with adjacent conventional agriculture which would worsen when the Project expanded its cannabis cultivation to the rest of the site.

*Argument #3. Changes in the County's administration of its Agricultural Preserve Program substantially increased significant impacts of cannabis cultivation on land uses in agricultural zoned parcels arising from Post-PEIR changes and new information.* The County was required to prepare a subsequent EIR where, *inter alia*, major changes to the prior EIR are necessary due to substantial changes in the project, the circumstances under which the project is undertaken, or where new information that was previously unavailable led to new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

As a result of these changes, the APAC review relied on by the PEIR to address agricultural conflicts arising on Williamson Act contract parcels like Busy Bee's was eliminated. APAC's review failed to evaluate whether the Project would conflict with adjacent agricultural operations on other Williamson Act contracted lands, many of which have been under Williamson Act contract for over fifty years, and in no way ensured compatibility as the PEIR anticipated. With cannabis classified as a qualifying use, APAC directed an 18% increase (from 18 to 22 acres) in cultivated cannabis acreage to satisfy the Project's minimum production requirements under their Williamson Act contract. The increase in cultivated cannabis acreage increased impacts; odor/terpene emissions; traffic; employees and facilities; brought cultivated cannabis into closer proximity with neighboring properties, substantially increasing land use conflicts including conflicts between agricultural land uses.

The County increased these conflicts by bringing cultivated cannabis into closer proximity with other forms of agriculture directly contrary to its assumed role in the PEIR. An actual conflict had already occurred between Busy Bee and one of its farming neighbors, in which the neighbor's pest control applicator was threatened by Busy Bee's lawyer for using materials essential to their agricultural

production. Conflicts have arisen between cannabis cultivators and wine producers over the potential for cannabis grown near wine grapes to deposit terpenes on grape skins, tainting the quality and sale-ability of wine produced from those grapes.

These substantially increased agricultural conflicts are the result of changes in the Cannabis Ordinance program (as the Project reviewed by the PEIR) and the County's treatment of cannabis cultivation on Williamson Act parcels arising after the PEIR's certification, and new information that was unavailable when the PEIR was certified. Accordingly, pursuant to Guidelines § 15168 (c)(1-2), a new Initial Study should have been prepared, leading to an EIR that could be tiered from the program EIR but would specifically address the changed circumstances and new information, and include new and revised impact analysis and mitigation.

*Argument #4. The County's CEQA findings are not supported by substantial evidence in the record and are legally inadequate. The County made the following CEQA finding:*

*"As shown in the written checklist and other information provided in the administrative record (e.g., Proposed Project plans and Land Use Permit application), the Proposed Project is within the scope of the PEIR and the effects of the Proposed Project were examined in the PEIR. Therefore, on the basis of the whole record, including the written checklist, the previously certified PEIR, and any public comments received, the Board of Supervisors finds that the Proposed Project will not create any new significant effects or a substantial increase in the severity of previously identified significant effects on the environment, and will not present new information of substantial importance pursuant to State CEQA Guidelines Section 15162, thereby warranting the preparation of a new environmental document for the Proposed Project."*

Petitioner contends that the evidence in the administrative record shows that substantial evidence does not support this finding, and accordingly the County abused its discretion in approving the Project; that the County further abused its discretion by approving findings that do not bridge the analytic gap between the evidence and the conclusion that the Project will not create a substantial increase in the severity of previously identified significant effects on the environment. Contrary to the County's finding, the Checklist refers to no evidence that would support a conclusion that the Project's agricultural land use conflicts are addressed in the PEIR. The CEQA Checklist for the Project did not address agricultural land use conflicts and APAC did not conduct compatibility review as the PEIR

anticipated. The Checklist is silent on the post-PEIR certification Uniform Rules changes which Petitioner repeatedly raised as a changed circumstance leading to substantially increased agricultural and land use impacts.

That the findings incorrectly state that APAC compatibility review occurred when the evidence shows the opposite. There is overwhelming evidence in the record showing that otherwise-lawful pesticide drift has caused actual conflicts between cannabis cultivation on the subject contracted parcel and other contracted lands in agricultural preserve including Agricultural Preserve Contract placing the issue squarely within APAC's purview. The Applicant's Odor Abatement Plan, prepared due to the Project's location within the Santa Ynez Valley Community Plan Area, is silent on exposure to agricultural receptors and rejects staggering of the odorous harvest operations in favor of a shorter, but more intensive period of emissions during the twice-annual harvest.<sup>2</sup>

### *The Court's Analysis of Petitioner's CEQA Arguments*

The Court finds that the Petitioner cannot prevail on the CEQA claim based upon the facts and the law in this case. County and RPI have vastly too many arrows in their quiver, many of which are fatal.

Petitioner argues strenuously against the claims made by RIP about the extensive background of this case. But the Court finds RIP's argument relevant and persuasive. The County underwent an extensive cannabis regulatory process. The County first introduced regulations for medical cannabis which Petitioner did not oppose. The County in January 2016 adopted Ordinance No. 4954, adding a new Article X, titled "Medical Marijuana Regulations" to Section 35, Zoning, of the County Code of Ordinances. The Petitioner did not challenge Article X. The County then underwent an extensive process to regulate commercial cannabis cultivation, which Petitioner did not oppose. The County conducted a lengthy associated CEQA process in 2017 and 2018. On February 27, 2018, over two years after the County began creating the new cannabis regulations, the Board adopted the cannabis Ordinance and certified the PEIR. Petitioner did not challenge the PEIR or the Ordinance. The County also adopted a cannabis business license ordinance which Petitioner did not oppose. The County then amended its Uniform Rules and again Petitioner filed no litigation. RIP's argument that Petitioner's case is not about Busy Bee's Farm makes sense. As RIP argues it appears to be rooted

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<sup>2</sup> The Court has not set out all the argument made. When the Court works on a Decision over many days, as it did here, the Court sets out just enough to be able to capture the essence of complaints made. The Court is confident it understands the arguments made.

in regret because Petitioner did not challenge the County's PEIR and Cannabis Ordinance when they were adopted in February 2018.

The Court finds that despite Petitioner's vigorous claim to the contrary in its Reply Brief, Petitioner failed to set forth all the evidence favorable to the County's decision and show where it is lacking is fatal to its challenge.

Petitioner bears the burden of demonstrating that the record does not contain sufficient evidence justifying a contested project approval. An appellant must set forth in its brief all the material evidence on the point, not merely its own evidence. A failure to do so is deemed a concession that the evidence supports the findings. The Court defers to the lead agency's findings in CEQA cases involving the substantial evidence standard of review. (*Latinos Unidos de Napa vs City of Napa* (2013) 221 Cal.App.4th 192, 206.)<sup>3</sup> Here there was substantial evidence to support the County's decision that the Project is within the scope of the PEIR. None of it was cited or discussed in Petitioner's opening brief. For this reason alone, the Writ should be denied.

The PEIR analyzed the potential environmental impacts of the Program on agricultural resources. Petitioner argues that the Cannabis PEIR did not contemplate or analyze the potential environmental impacts of the Project on nearby agricultural operations. *This is not so. Petitioner simply disagrees with the conclusion in the PEIR that there are no conflicts.* Important to the Court's analysis is the fact that both terpene taint of grapes and pesticide migration from neighboring agriculture onto cannabis crops were considered in the PEIR. The PEIR contemplated land use conflicts; compatibility issues with businesses; including wineries, near outdoor and indoor cultivation sites due to odors. The PEIR describes the Program impacts to Agricultural Resources; proposed land uses under the proposed Project are potentially incompatible with existing zoning for agricultural uses and Williamson Act contracts. The PEIR explains that growing cannabis is a land use for agricultural purposes and cannabis products are agricultural products; utilizing a license to grow cannabis would ensure agricultural purposes are carried out; these actions would not convert associated FMMP farmland or prime agricultural soils to non-agricultural uses, nor conflict with existing zoning for agricultural uses. It also explains that cannabis cultivation is within the definitions of "agricultural commodity" and "agricultural use" under the Williamson Act, and that the Department of Conservation has stated that nothing in

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<sup>3</sup> The Court has not ignored Petitioner's objection to the relevance of this case.

the Williamson Act prohibits the growth of cannabis on land enrolled in the Williamson Act.

The “agricultural land use conflicts” argued by Petitioner are not environmental impacts under CEQA. Social and economic effects are not to be considered a significant environment effect and need be considered only to the extent that they are relevant to an anticipated physical change in the environment or, on the basis of substantial evidence, are reasonably likely to result in physical change to the environment. Petitioner does not argue in its brief that the Project has caused or will cause conversion of agricultural land. Instead it argues that the threat of liability for pesticide drift will increase the operating costs of other agricultural operations as they switch to less toxic pesticides or more precise application methods, and that “terpene taint” of grapes may affect the taste of wine. These are economic impacts that are not considered under CEQA.

There is no substantial evidence of a changed project, changed circumstances, or new information pursuant to Section 15162. Petitioner ignores the baseline and conditions placed on the Project. The Project was included in the baseline of the PEIR because it was on the County’s registry. This includes development or activity that exceeds what is allowed under existing regulations; whether RPI expanded its legal nonconforming use is irrelevant. This is not acknowledged anywhere in Petitioner’s analysis. Nor does Petitioner acknowledge the many Project conditions that reduce any potential for “conflicts” with neighboring agricultural uses.

Petitioner has ignored the stringent requirements of Section 15162. Even if the PEIR were invalid or in some way defective, Petitioner’s challenges under CEQA are limited to the legality of the agency’s decision about whether to require a subsequent or supplemental EIR, or subsequent negative declaration, and the underlying EIR or negative declaration may not be attacked. CEQA limits the circumstances under which a subsequent or supplemental EIR must be prepared. These limitations are designed to balance CEQA’s central purpose of promoting consideration of the environmental consequences of public decisions with interests in finality and efficiency. Section 21166 comes into play because in-depth review has already occurred as an existing legal nonconforming medical marijuana cultivation site. The time for challenging the sufficiency of the original EIR has long since expired and the question is whether circumstances have changed enough to justify repeating a substantial portion of the process. (*Bowman v. City of*



*Petaluma* (1986) 185 Cal.App.3d 1065.)<sup>4</sup> Once an EIR is finally approved, a court generally cannot compel an agency to perform further environmental review for any known or knowable information about the project's impacts omitted from the EIR.

Petitioner argues that substantial evidence supports the existence of substantially increased environmental effects from the changes to the administration of the County's Agricultural Preserve Program, which also constitutes new information of substantial importance separately justifying subsequent environmental review. Petitioner's argument is based on the false premise that the PEIR assumed that cannabis cultivation would be defined as a compatible use rather than an agricultural use under the Williamson Act.

Petitioner claims that pesticide drift from other properties onto the Project should be analyzed under CEQA. This is the Reverse CEQA analysis that has been rejected. (See *Ebbetts Pass Forest Watch v. California Dept. of Forestry & Fire Protection* (2008) 43 Cal.4th 936, 955-956 (discussing potential effects of herbicides use by proposed project on aquatic environment, soils, animals, and plants).) Petitioner cites no evidence that the Project exacerbates the adverse environmental impacts of pesticides. To the contrary, Petitioner's allegation is that the Project will lead to more targeted and/or less toxic pesticide application by other agricultural operations. The only Project-specific evidence of pesticide drift cited by Petitioner is a letter from Amy Steinfeld, counsel for RPI, to Jim Soares of Nutrient Ag Solutions, Inc., informing him that Sara Rotman had observed Nutrient spraying the neighboring property on a windy day. Ms. Steinfeld asks Mr. Soares to provide notice of future spraying, and states that she will file complaints with the Agricultural Commissioner, State Structural Pest Control Board, and pursue reimbursement for any damaged crops if he fails to provide such notice. Petitioner did not cite the evidence in the record demonstrating that this issue has been amicably resolved. RPI provided the owner of the land with a Memorandum of Understanding agreeing not to hold him, his tenant or the spray vendor liable, and the owner submitted oral and written comments supporting the Project. Petitioner also fails to cite the evidence that RPI regularly test their perimeter fence for pesticide residue and there have been no incidents of overspray.

Evidence of the alleged effect of terpenes on grapes is speculative, is not connected to the Project and is not new information. Comments received by the County raised the possibility of wine taint when nearby cannabis plants and the

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<sup>4</sup> The Court has not ignored the arguments Petitioner made to the applicability of this case.

accompanying odors affect the long-time winery's crops and interfere with their use of the land. In response, the PEIR notes that Section 3.2, Agricultural resources, analyzes agricultural concerns related to cannabis cultivation and compatibility with existing agricultural resources. Comments were also received regarding conflicts with traditional agricultural practices.

The PEIR recognizes that odor from cannabis is primarily caused by terpenes. It explains that there are effective odor control technologies for both indoor and outdoor cannabis operations. It explains that an Odor Abatement Plan would not be required in AG-II areas given the extensive protections for agricultural practices within these areas are protected by the Right to Farm Ordinance, the absence of urban, inner-rural, or Existing Developed Rural Neighborhood areas with associated residential uses, and the prevalence of more intensive agricultural practices already allowed within this zoning district. AG-II was also exempt from the OAP requirement because of the innate need for the protection of agricultural land.

The PEIR stated that the source of a nuisance odor could easily be pinpointed with current commercial devices and the OAP could be enforced. Petitioner argues that conflicts have arisen between cannabis cultivators and wine producers over the potential for cannabis grown near wine grapes to deposit terpenes on grape skins, tainting the quality and saleability of wine produced from those grapes. But speculation is not substantial evidence. RPI provided site-specific odor studies of the Project, each generally concluding that no terpenes could be detected outside of the boundaries of the property. The Board found no credible evidence of alleged "terpene taint."

Substantial evidence supports the County's decision. As described in Attachment 1 to the CEQA Checklist, the Project site is zoned AG-II-40, which was one of the zones that was evaluated for proposed cannabis cultivation activities in the PEIR. The Santa Ynez region in which the Project is located was one of the five regions identified in the PEIR for organizing the data and analyzing the impacts of the Program. The PEIR analyzed the impacts of outdoor cultivation, indoor cultivation, and processing of cannabis products on AG-II zoned lots within the Santa Ynez region. The PEIR anticipated that certain areas in which cannabis activities historically have occurred, such as the Santa Ynez region, would continue to experience concentrated cannabis activities under the Program.

The Program that was analyzed in the PEIR did not include a cap or other requirement to limit either the concentration or total amount of cannabis activities

that could occur within any of the zones that were under consideration for cannabis activities. After the PEIR was certified, the County placed a cap of 1,575 acres on cannabis cultivation in the unincorporated area outside of the Carpinteria Agricultural Overlay. The Project's proposed agricultural activities and processing facilities, including hoop structures, greenhouses, and barns are standard agricultural practices in the Santa Ynez region and the AG-II zone district. There is nothing unusual about the Project site, and, in fact, the Project site has previously been used for cultivating cannabis and row crops.

There are no unique features of the Project such that the Project could cause more severe impacts than shown in the PEIR. There is also a lengthy analysis of why the Project is within the scope of the PEIR in the March 17, 2020, letter from Planning and Development to the Board, including that there is insufficient scientific information to determine to what degree (if at all) terpenes from cannabis can adversely affect agricultural crops which might be exposed to cannabis terpenes.

The statute of limitations has run on challenging the PEIR and the amendments to the Uniform Rules. Petitioner's assertion that additional environmental review of alleged agricultural land use conflicts is required is a disguised and untimely challenge to the adequacy of the PEIR's analysis. (See *A Local & Regional Monitor v. City of Los Angeles* (1993) 12 Cal.App.4th 1773, 1794 [The assertion that a subsequent or supplemental EIR is required is seen by this Court as a disguised challenge to the EIR's original traffic analysis.]) Petitioner cannot attack the underlying PEIR, which is conclusively presumed to be legally adequate pursuant to Public Resources Code, § 21167.2 "unless the provisions of Section 21166 are applicable." This presumption acts to preclude reopening of the CEQA process even if the initial EIR is discovered to have been fundamentally inaccurate and misleading in the description of a significant effect or the severity of its consequences. After certification, the interests of finality are favored over the policy of encouraging public comment.

Petitioner's Uniform Rules arguments are a time-barred facial challenge to the Uniform Rules, not a Project-specific impact. The amendments to the Uniform Rules merely implement what was contemplated in the PEIR. Accordingly, Petitioner should have raised its challenges to the Uniform Rule amendments before the PEIR was certified, or, at the very latest, when the amendments were adopted.

The County conducted a legally sufficient site-specific review of the Project. The CEQA Guideline for program EIRs authorizes and encourages but does not require

the use of a checklist to evaluate later activities involving site-specific operations. CEQA does not impose any particular procedural requirements on agencies performing a Section 15168 analysis. Petitioner can challenge the County's decision for lack of substantial evidence. CEQA findings are not required in this case because no hearing was required by law for the County's determination that the Project is within the scope of the PEIR. Even if findings were required under CEQA and needed to bridge the analytic gap between the raw evidence and ultimate decision, this standard has been satisfied. Findings need not be stated with judicial formality. Findings must simply expose the mode of analysis, not expose every minutia. Findings that bridge the analytical gap can be found in transcripts, staff reports, oral comments, and the language of a motion or resolution.

Petitioner's arguments related to CEQA fail.

*Petitioner's Allegations re: Violations of the Williamson Act*

In enacting the Williamson Act, the Legislature found the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation. *Gov. Code § 51220(a)*. The Legislature found the Williamson Act is necessary for the promotion of the general welfare and the protection of the public interest in agricultural land. A violation of the Williamson Act is established if the County has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by substantial evidence. Whether the County complied with the Williamson Act including *Gov. Code §§ 51231 and 51238.1(a)* by approving the Project without reviewing its compliance with the Williamson Act's principles of compatibility, is a question of law that is reviewed de novo without deferring to the Board.

*Argument #5. County erred in approving the Project without compatibility review.* The Board's 2018 decision to classify cannabis cultivation as an agricultural commodity for purposes of administration of the County's Agricultural Preserve Program does not mean the Board may forgo considering the consistency of cultivated cannabis with the principles of compatibility. *See County of Colusa, 145 Cal.App.4th at 654*. The County was presented with substantial evidence from the agricultural community documenting how cannabis cultivation at the Busy Bee's parcel has impaired agricultural operations on other contracted lands in Agricultural Preserves and Petitioner and others repeatedly decried APAC's failure

to review Busy Bee’s proposed cannabis cultivation for consistency with the principles of compatibility. The Board’s failure to evaluate the Project’s consistency with the principles of compatibility, including compatibility with agricultural operations on other nearby contracted lands, is contrary to Gov. Code §§ 51231 and 51238.1(a).

*The Court’s Analysis of Petitioner’s Williamson Act Arguments*

The statute of limitations has passed to challenge the APAC’s decision. APAC found the Project to be compatible with the Uniform Rules on January 11, 2019, and again on October 4, 2019. APAC is responsible for administering the County’s Agricultural Preserve Program and the Uniform Rules. The County does not provide for an administrative appeal of APAC decisions. The County Code provides that Code of Civil Procedure section 1094.6 shall be applicable to the judicial review of any decision of the County of Santa Barbara or of any commission, board, officer or agent thereof. § 1094.6 provides for a 90-day statute of limitations. This case was filed well beyond the statute of limitations.

The “Principles of Compatibility” do not apply to agricultural uses. The parties have already extensively briefed the issue of whether cannabis could be considered an “agricultural commodity” under the Williamson Act. This Court ruled that “[b]ased upon the text of the statute and this legislative history, a reasonable construction of section 51201, subdivision (a), is that commercial cannabis is a qualifying ‘agricultural commodity’ within the meaning of the Williamson Act at least, as here, when a local government implementing the Williamson Act so permits.” Petitioner is attempting to relitigate this issue; its arguments are rejected for the reasons stated in the prior briefing and this Court’s ruling.

Moreover, the determination of what constitutes a compatible use under the Williamson Act has been left largely to the discretion of local governments:

*“Compatible use” is any use determined by the county or city administering the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. “Compatible use” includes agricultural use, recreational use or open-space use unless the board or council finds after notice and hearing that the use is not compatible with the agricultural, recreational or open-space use to which the land is restricted by contract pursuant to this chapter.” (Gov. Code, § 51201(e).) Underlining emphasis by this Court. Thus, by default, an agricultural use is compatible.*

Petitioner argues that *County of Colusa v. California Wildlife Conservation Bd.* (2006) 145 Cal.App.4th 637 and *Cleveland National Forest Foundation v. County of San Diego* (2019) 9 Cal.App.5th 1021 support the conclusion that the “Principle of Compatibility” in Gov. Code, § 51238.1 apply to agricultural uses, including cannabis cultivation. This Court does not agree with Petitioner’s analysis or its conclusions.

In this case the Project site had been used for agriculture for more than 20 years. RPI proposed to continue using the site for agriculture. Even if Uniform Rule 2-1.1 “Principles of Compatibility” applied, Petitioner has pointed to no evidence before APAC that the Project would significantly compromise the long-term productive agricultural capability of other parcels or displace or impair current or reasonably foreseeable agricultural operations on other parcels or will result in significant removal of adjacent contracted land from agricultural use. There is no evidence that terpene taint of grapes, even if it were shown to exist, would lead to the conversion of vineyards to urban uses due to unprofitability. Similarly, there is no evidence that the threat of liability for pesticide overspray will lead to the conversion of agricultural land to urban uses. The substantial evidence test applies to the Court’s review.

Petitioner’s arguments related to the Williamson Act fail.

*Petitioner’s Allegations re: Violations of Planning and Zoning Law*

The County is required to make administrative findings in approving land use entitlements, including the Land Use Permit at issue here. The County's LUDC requires a specific finding that the subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement fees have been paid as a prerequisite to approval.

In reviewing whether the County has complied with the LUDC, the Court applies an abuse of discretion standard and determines whether the findings are supported by substantial evidence, whether the findings are in compliance with all statutory and regulatory criteria and requirements, and whether they bridge the analytic gap between the raw evidence and the ultimate decision. *Orinda Ass'n v. Bd of Supervisors* (1986) 182 Cal. App. 3d 1145. A determination is not supported by substantial evidence where based on the evidence before the local governing body, a reasonable person could not have reached the same conclusion. *Families*

*Unafraid v. Board of Supervisors (1998) 62 Cal.App.4th 1332, 1338.* However, an agency's view of the meaning and scope of its own ordinance does not enjoy deference when it is clearly erroneous or unauthorized. *Sierra Club v. County of San Diego, 231 Cal.App.4th at 1172.*

*Argument #6. Illegal expansion of legal nonconforming use. The County's LUDC prohibits the expansion of a nonconforming use of land. LUDC § 35.101.020.B.* When the Project came before the Planning Commission, Petitioner introduced evidence establishing that the Busy Bee's cannabis operation expanded significantly after January 19, 2016, and accordingly was in clear violation of LUDC § 35.101.020 and Article X § 35-1003. Petitioner argued that this prevented the Commission from making the finding required by LUDC section 35.82.110.E.1.c that the subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivisions, setbacks and any other applicable provisions of this Development Code, and any applicable zoning violation enforcement fees have been paid. The County and Real Party did not dispute the evidence Petitioner introduced. In response to Petitioner's argument, the County took the position that because Busy Bee's submitted an application for a LUP in November 2018, with approval of the LUP as conditioned, the proposed project will be in full compliance with all laws, rules, and regulations for cannabis cultivation within the AG-II zone district. Additionally, all processing fees have been paid to date. Because no Notice of Violation was issued, there were no zoning violation enforcement fees or processing fees paid.

*Argument #7. The Board's finding is based on a clearly erroneous interpretation of County requirements and is not supported by substantial evidence in the record.* An agency's view of the meaning and scope of its own ordinance does not enjoy deference when it clearly erroneous or unauthorized. *Sierra Club v. County of San Diego, 231 Cal.App.4th at 1172.* The County cannot interpret its own ordinance contrary to its expressed terms. The County's interpretation of LUDC § 35.82.110.E.1.c, and LUDC § 35.101.020 and Article X § 35-1003 regarding nonconforming uses is contrary to its express terms, clearly erroneous and not authorized by the LUDC and the County's overall regulatory framework for cannabis.

#### *The Court's Analysis of Petitioner's Arguments re Planning and Zoning Law*

The County's interpretation of LUDC Section 35.82.110.E.1.c is entitled to substantial deference. Under well-established law, an agency's view of the meaning and scope of its own ordinance is entitled to great weight unless it is clearly

erroneous or unauthorized. The County's interpretation of LUDC Section 35.82.110.E.1.c is entitled to great deference because, as the author of the LUDC, it is intimately familiar with it, and sensitive to the practical implications of one interpretation over another. Deference is also appropriate because the County has expertise and technical knowledge of the LUDC, which is technical, obscure, complex, open-ended, and entwined with issues of fact, policy, and discretion. The County also drafted the Comprehensive Plan, which the LUDC implements, as well as the planning and zoning administration provisions in the County Code. It therefore has a better understanding than the Court of how these various land use provisions are intended to work.

Additionally, the approval of the LUP cured any alleged violation for expansion of legal nonconforming use. As conditioned, the Project is compliant with all laws, rules and regulations pertaining to zoning, allowed uses, subdivisions, setbacks and all other applicable provisions of the LUDC. Petitioner has not argued otherwise or cited any evidence to the contrary. A zoning violation does not impose on the County a duty to enjoin the continued use of the property. This is in part because the police power that gives the municipality authority to establish zoning ordinances in the first place also allows the municipality to change that zoning.

The County Code, which specifically addresses legal nonconforming cannabis cultivation, provides violators with an opportunity to correct or end any violation. If a violator fails to abate the violation, the County has the discretion to choose from a variety of enforcement options, including civil actions and penalties, and criminal actions and penalties. Nothing requires the County to investigate alleged violations of legal nonconforming use or prohibits the County from issuing a permit for uses that comply with the Cannabis Regulations. Local governments have the discretion to decide how to allocate their limited budgets, including by focusing their efforts on bringing properties into compliance rather than investigating past violations of legal nonconforming use by those satisfying the zoning restrictions and development standards under the Cannabis Regulations. The substantial evidence test applies to the Court's review of the County's decision.

Petitioner's arguments related to the Violations of Planning and Zoning Law fail.

### *The Court's Summary*

Petitioner's CEQA and Williamson Act claims must fail because cannabis



cultivation is an agricultural use. County and RPI's arguments are not overbroad. The argument made by County and RPI that the Project is within the scope of the PEIR is very persuasive. The Court agrees with County and RPI's characterization that agricultural land use conflicts and the ensuing physical impacts are solely economic and neither CEQA nor the Williamson Act are designed to protect surrounding agricultural operations from such economic impacts. The other legal and fact-based arguments made by County and RPI are valid.

*Petitioner's Reply was not persuasive to this Court.* The response to the RPI criticism that Petitioner should have instituted earlier legal challenges to either the PEIR or Uniform Rules amendments is irreconcilable with the facts and the applicable law. Petitioner relies on the argument that it did not exist when these approvals took place; it was "formed in May 2019 after it became apparent that the County's administration of its Cannabis Program was having substantially more severe impacts than disclosed in the PEIR." *If that were the guideline, there would never be an end to such litigation because there would be an endless line of litigants each of whom were "newly formed."*

Despite the vigorous argument made that the Opposition to Petitioner's CEQA and Williamson Act stance related to cannabis cultivation is an agricultural use is in error, *this Court finds that issue has been exhaustively briefed. The Opposition is persuasive.* Cannabis does not differ significantly from other agricultural uses allowed on Williamson Act contracted lands. *The Court has weighed, considered and rejected the Petitioner's contentions made that the Writ should be granted because,* unlike other agricultural crops, cannabis may not be cultivated without County issuance of a discretionary Land Use Permit; is subject to annual license renewals; is psychoactive; is an illegal controlled substance under federal law; presents security and law enforcement challenges; creates strong persistent malodors that many find more objectionable and intense than odors reported to induce headaches, exacerbate asthma; results in other adverse health consequences.

The Court did not find County's and RPI's arguments overbroad as to prior classification of an agricultural use or *de facto* inconsistent with the Williamson Act's Principles of Compatibility. The Court disagrees with Petitioner that County failed to address the argument that the PEIR lacked site-specific review and deferred consideration of agricultural land use conflicts to later review of individual projects including through APAC review. Additionally, RPI's argument that the requirement no longer applies since the County updated its Uniform Rules was persuasive. County and RPI's explanation that agricultural land use conflicts and the ensuing physical impacts are solely economic and neither CEQA nor the

Williamson Act are designed to protect surrounding agricultural operations from such economic impacts has been considered; weighed; found persuasive. The Court disagrees with Petitioner that the other legal and fact-based arguments made by County and RPI are unfounded.

Petitioner's contention that the County's approval of the Project constituted a prejudicial abuse of discretion and must be set aside *should be denied*.

Petitioner's request that the Court direct County to conduct such focused environmental review as is necessary to identify and mitigate agricultural conflicts such as those presented in this case and to revise the Uniform Rules to ensure a process to review compatibility issues and to otherwise conform to the Williamson Act *should be denied*.

Petitioner's request for a declaration that Real Party impermissibly expanded non-conforming uses on the property and to direct the County to take appropriate action in accordance with applicable authority *should be denied*.

Thomas P. Anderle, Judge