

Coalition Appeal of Central Coast Agriculture LLC Cannabis Cultivation

19CUP-00000-00005, 19DVP-00000-00010

Project Scope

- ▶ 29.45 acres of cannabis cultivation on a 68.18-acre parcel (44% of the parcel area)
- ▶ 22 acres under 12-ft.-tall opaque white hoop structures
- ▶ ~30,000 square feet of developed structures onsite
 - ▶ 13,594 sq. ft. of mixed-light nurseries
 - ▶ 3,100 sq. ft. processing building
 - ▶ 4,200 sq. ft. distribution building
 - ▶ 3,900 sq. ft. storage addition
 - ▶ Various storage and shade structures
- ▶ Security building
- ▶ Onsite cannabis processing, with up to 80% grown offsite

Nearly all of the Project was developed without permits, including the 22 acres of hoop structures and most or all of the cultivated cannabis

Illegal Expansion

- ▶ Article X § 35-1003 provides that operators of non-conforming cultivation sites “may continue to operate their same existing nonconforming medical marijuana cultivation site while their permit application is being processed, **as long as the operator continues to manage the cultivation location in compliance with the requirements of article X, state law, and . . . LUDC § 35.101.020.**”
- ▶ LUDC § 35.101.020.B.3 states: “No existing nonconforming use of land outside structures, or not involving structures, **shall be enlarged, extended, or increased to occupy a greater area of land than was occupied at the time that the use became nonconforming**, or moved to any portion of the lot not currently occupied by the nonconforming use.”



Project Is Incompatible with the Scenic Rural Character of the Area

- ▶ The Project must “be compatible with the surrounding area” (LUDC §§ 35.82.060.E.1.e, 35.82.080.E.1.e) and “be compatible with and subordinate to the rural and scenic character of the area” (LUDC §§ 35.82.060.E.1.g, 35.82.080.E.1.g).
 - ▶ Existing structures due to applicant’s illegal expansion does not obviate duty to review all elements of the Project in order to find it compatible with the surrounding areas
 - ▶ Development has already impacted the surrounding community and demonstrated the *incompatibility* of this operation with the surrounding area and its scenic and rural character.
- ▶ DevStd VIS-SYV-1.9: The design of future discretionary development shall, **at minimum**, include the components listed below. The project’s architectural guidelines shall be included as notes on the project plans.
 - ▶ Roofing and Feature Color and Material. Development shall include darker, **earth tone colors** on structure roofing and other onsite features to lessen potential visual contrast between the structures and the natural visual backdrop of the area, as applicable. **Natural-appearing building materials** and colors compatible with surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including fences.
 - ▶ Compatibility with Adjacent Uses. The **design, scale, and character** of the project architecture shall be compatible with the scale of existing development adjacent to the site, as applicable

22 acres of white hoop structures and ~ 30,000 sq. ft. of structural development is NOT consistent with adjacent development

Project Fails to Comply with SYVCP Policy LUG-SYV-8

- ▶ SYVCP Policy LUG-SYV-8: The **public shall be protected from air emissions and odors** that could jeopardize health and welfare.
- ▶ Odor Abatement Plan (OAP) has several flaws that preclude its effectiveness and thus fails to protect Buellton residents through clear and enforceable response protocols – too many voluntary measures
 - ▶ *Require* low odor strains
 - ▶ *Require* monitoring and testing of VOC emissions and odors
 - ▶ *Require* BACT analysis
 - ▶ *Require* immediate use of vapor phase systems when odors are present

Project Fails to Comply with Comprehensive Plan

▶ Land Use Element

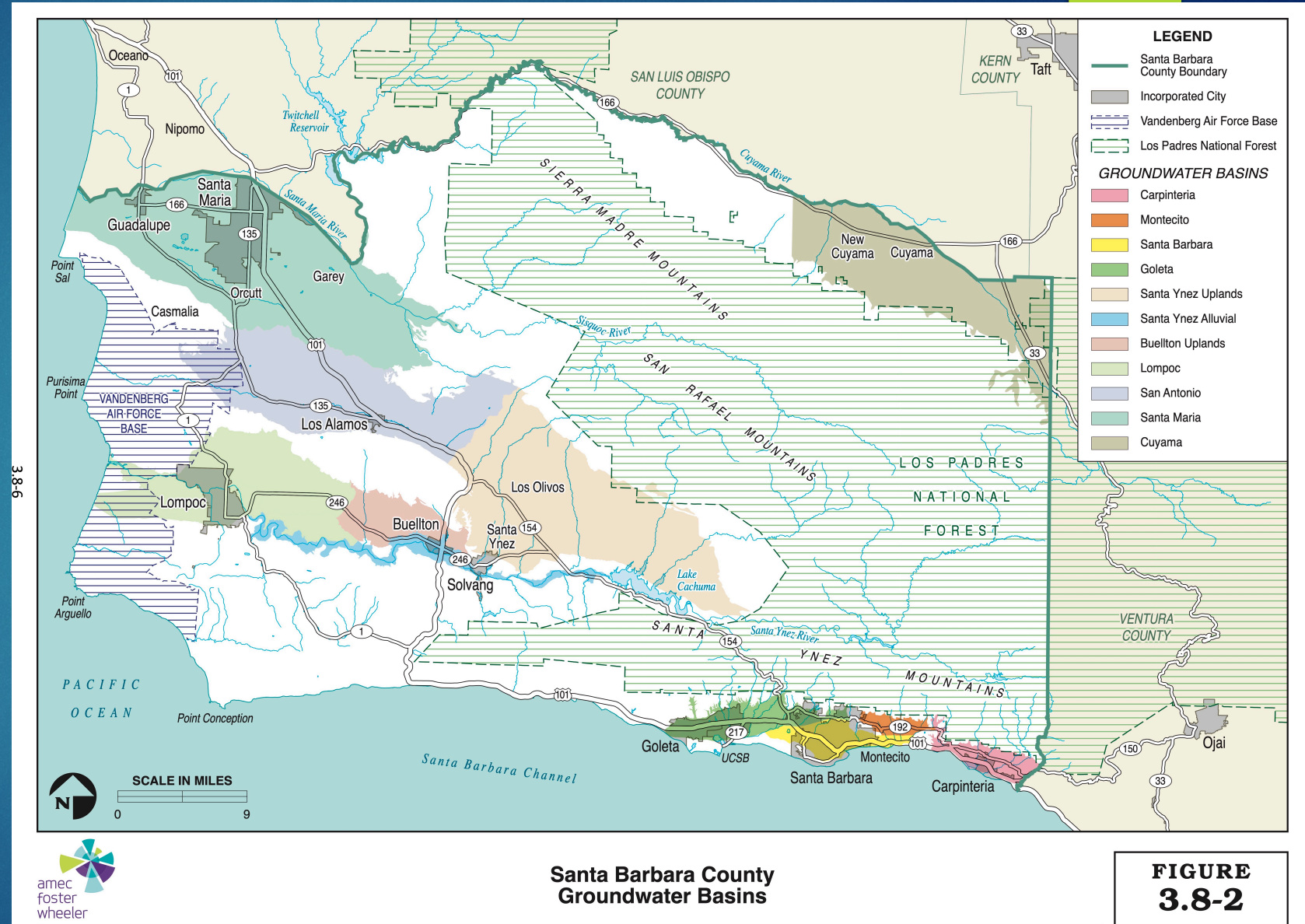
- ▶ Visual Resources Policy 2: In areas designated as rural on the land use plan maps, the **height, scale, and design of structures shall be compatible with the character of the surrounding natural environment**, except where technical requirements dictate otherwise. Structures shall be subordinate in appearance to natural landforms; shall be designed to follow the natural contours of the landscape; and shall be sited so as not to intrude into the skyline as seen from public viewing places.
- ▶ Development Policy 4: Prior to issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan.

▶ Agricultural Element

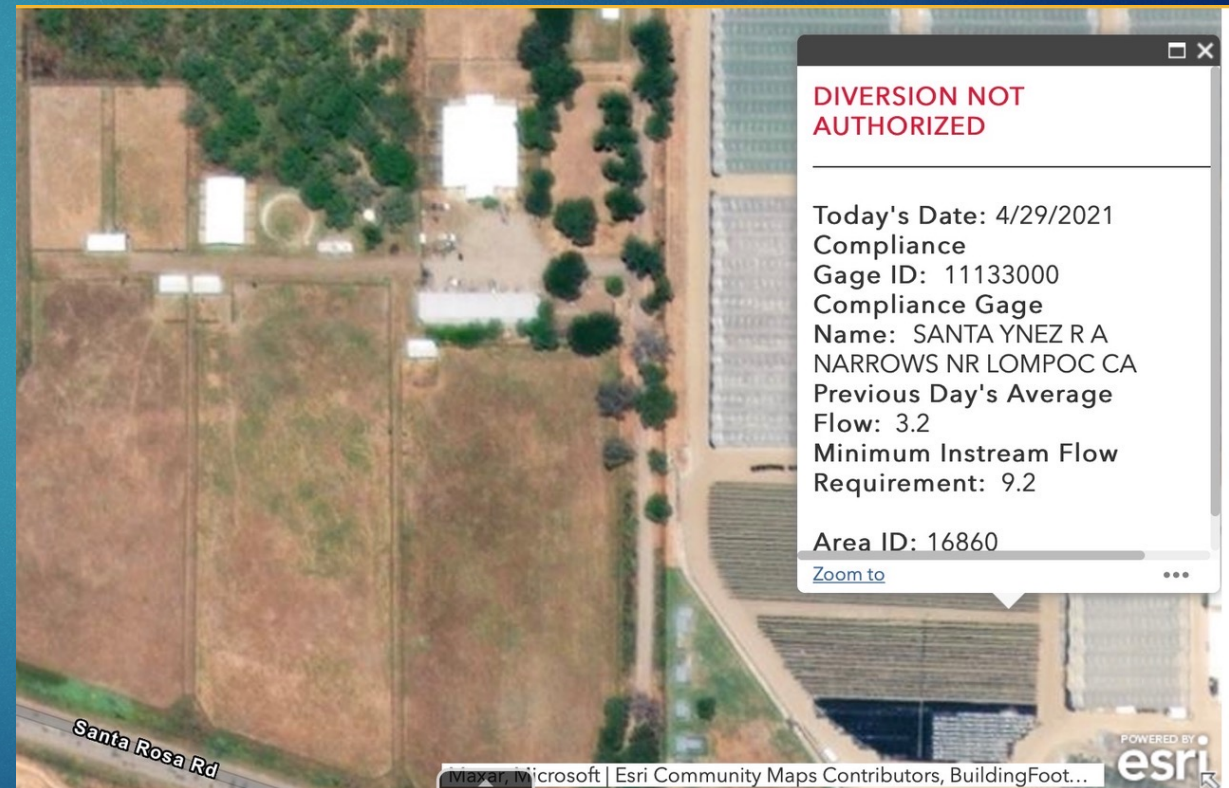
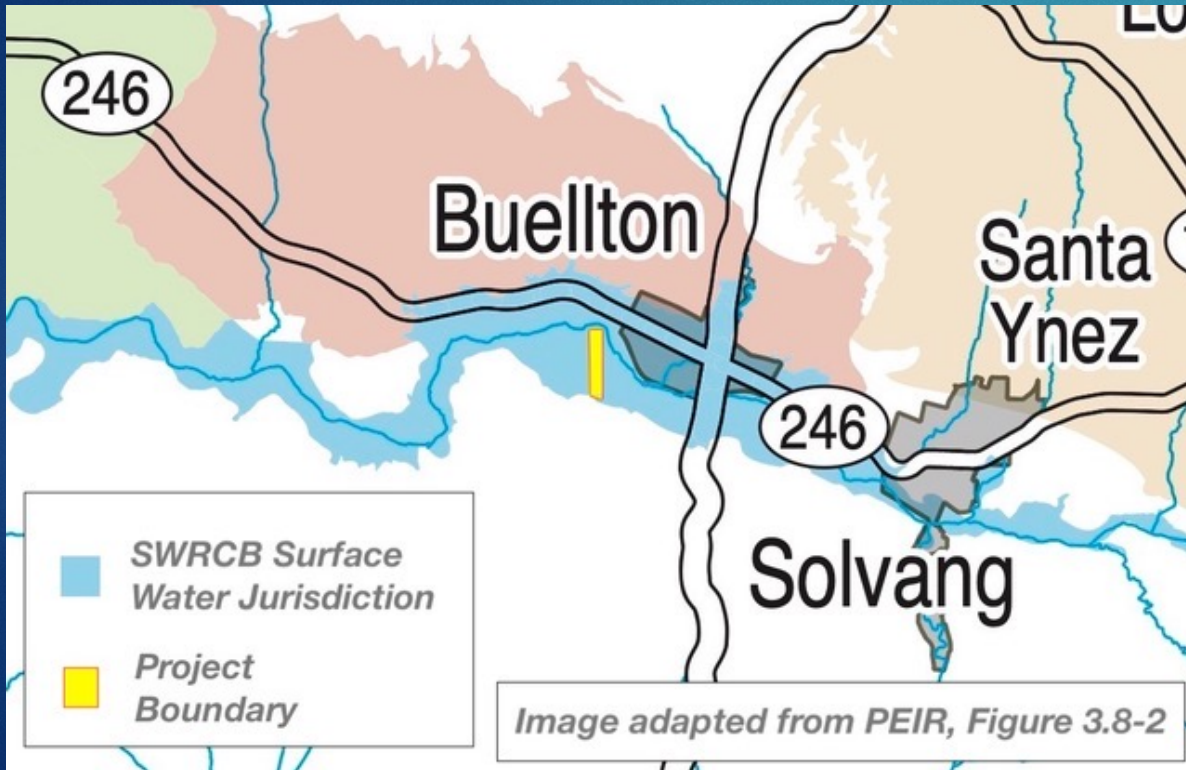
- ▶ GOAL I. Santa Barbara County shall **assure and enhance the continuation of agriculture as a major viable production industry** in Santa Barbara County. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported.
- ▶ Policy I.E. The County shall recognize that the generation of noise, smoke, odor, and dust is a natural consequence of the normal agricultural practices **provided that agriculturalists exercise reasonable measures to minimize such effects**.

PEIR Erroneously Designated Santa Ynez River Alluvial as “Groundwater”

- ▶ Water-bearing soils surrounding the Santa Ynez River are **surface water** and subject to California's State Water Resources Control Board (SWRCB) regulations



Project Does Not Have Legal Water Source

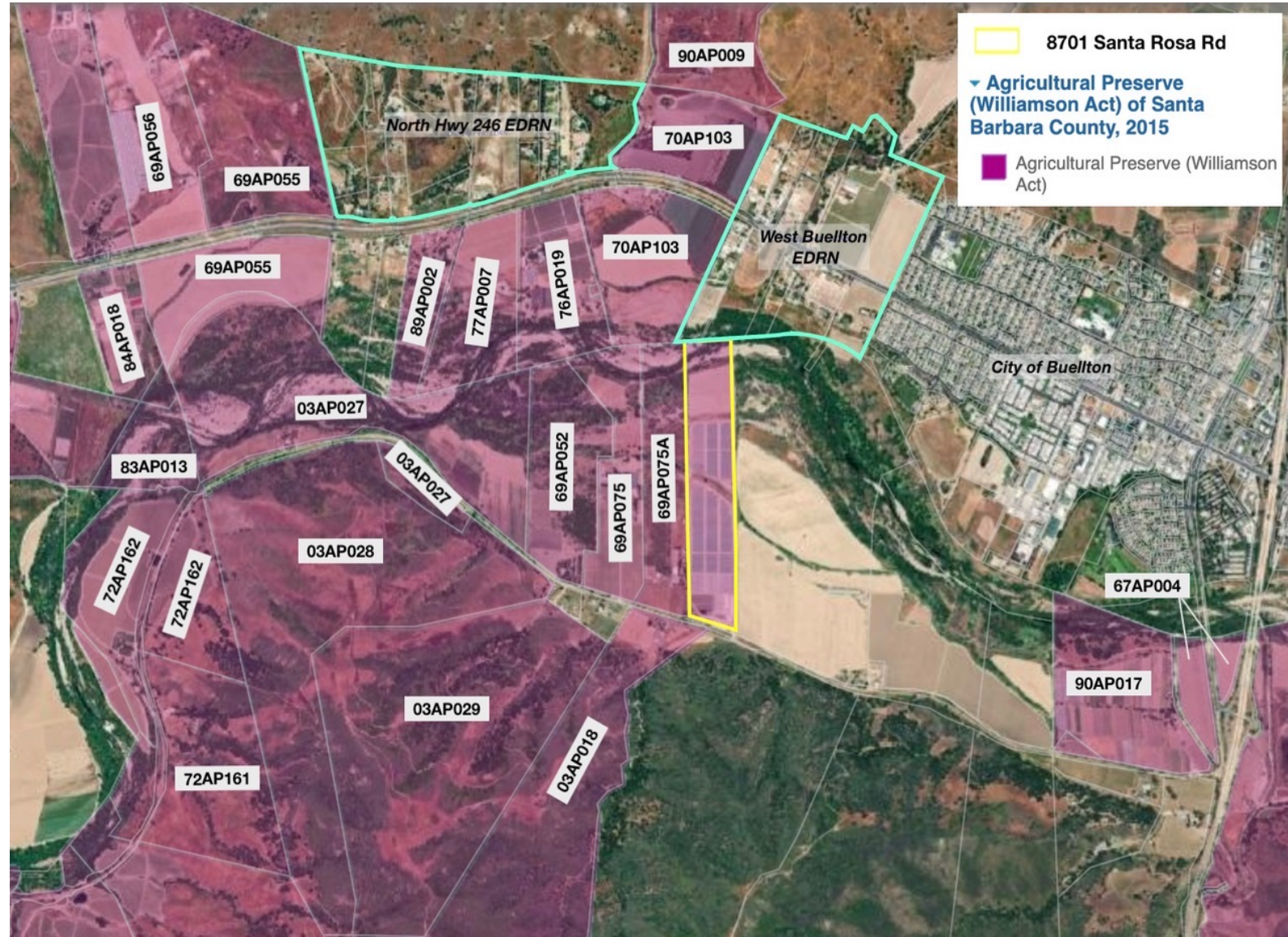


Project water source is solely within SWRCB jurisdiction

Project has no permit from SWRCB for water diversion

Project fails to comply with Williamson Act

- ▶ Project results in conflicts with adjacent agricultural operations including those under Williamson Act contract, leading to new and/or substantially increased significant impacts that were not evaluated in the PEIR



Project fails to comply with Williamson Act

- ▶ Violations of the Williamson Act: 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. The County lacks the power to approve uses on Williamson Act contracted lands that are inconsistent with the principles of compatibility.
 - ▶ Board Letter: ***At the time the PEIR was certified, if a cannabis project were proposed on a parcel under agricultural preserve contract, APAC would have evaluated compatibility of the cannabis project with the subject contracted parcel and other contracted lands in the vicinity that are under agricultural preserve contracts.***
- ▶ The Project is proposed on a parcel under agricultural preserve contract
- ▶ Neither the PEIR nor the County's CEQA Checklist for the Project undertook any effort to either determine whether the Project would conflict with Williamson Act contracts on nearby parcels, whether the subject parcel or neighboring affected parcels total 60 points or more (which they would appear to given their site characteristics) and if so whether this discretionary CUP and DVP may result in substantial disruption of surrounding agricultural operations

No Evidence to Support CEQA Findings

- ▶ PEIR: Individual cannabis facility development on these lands would also require County review for permit approval and would be subject to conditions necessary to maintain compatible agricultural land uses under agricultural zoning. (“The following rules apply to the proposed Project [Cannabis Ordinance]: 2-1 Principles of Compatibility”)
- ▶ Ag conflicts require site-specific review of surrounding land uses and local meteorological conditions
 - ▶ No evidence that the **PEIR** included a project-level analysis of conflicts with existing land uses and other agricultural operations, including tasting rooms
 - ▶ No evidence that the **County’s site-specific review** of the Project evaluated the potential for agricultural land use conflicts and compatibility
- ▶ Evidence that the Project will significant unmitigated impacts on surrounding agricultural operations
- ▶ Commission lacks substantial evidence that the Project’s potential environmental impacts and compatibility were adequately analyzed in the PEIR or by staff

The PEIR did not analyze these effects, which arose as new information about the legal cannabis cultivation industry’s conflicts with established agriculture came to light

Basis for Project Denial

Findings Cannot be Made

- ▶ Intensity of development fails to comply with and is inconsistent with scenic character of the area – existing development is unpermitted
- ▶ Project fails to comply with SYVCP Policy LUG-SYV-8
- ▶ Project runs contrary to primary Ag Element policies
- ▶ County review failed to comply with the Williamson Act's compatibility review requirements

CEQA requires review of site-specific impacts

- ▶ Site-specific impacts of this project were not reviewed in PEIR
- ▶ PEIR has gaps from changed circumstances re: compatibility review by APAC and staff