



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and
Development
Department No.: 053
For Agenda Of: March 5, 2019
Placement: Departmental
Estimated Tme: 15 minutes
Continued Item: Yes
If Yes, date from: February 5, 2019
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Director(s) Contact Info:
Dianne M. Black, Director, Planning & Development
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Jeff Wilson, Deputy Director, Development Review Division
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SUBJECT: Adopt Findings Requiring Preparation of a Focused EIR for the North Fork Ranch Frost Ponds Minor Conditional Use Permit, Fifth Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On February 5, 2018, the Board of Supervisors considered appeal case number 18APL-00000-00019, filed by Mr. Matt Turrentine of Brodiaea, Inc., the project applicant, of the County Planning Commission's, September 12, 2018, determination that the proposed Final Mitigated Negative Declaration (MND), case number 16NGD-00000-00004 prepared for the North Fork Ranch Frost Ponds project, case number 16CUP-00000-00005, is inadequate and that a focused Environmental Impact Report (EIR) is required. The project site is located at 7400 Highway 166, approximately nine miles west of the community of New Cuyama, Fifth Supervisorial District. The application involves Assessor's Parcel No. 147-010-045.

Staff recommends that your Board take the following actions:

- a) Determine that the Mitigated Negative Declaration, case no. 17NGD-000-00004, is inadequate and make the finding (Attachment 1) that an EIR is required because there is substantial evidence in the record supporting a fair argument that the project may have a significant effect on the environment;
- b) Deny the appeal, case no. 18APL-00000-00019, thereby affirming the Planning Commission's action; and
- c) Direct staff to prepare a Focused EIR on issues associated with water use impacts from operation of the frost ponds and associated frost protection system, potential biological resource impacts, and potential flooding impacts to State Route 166.

Summary Text:

On September 12, 2018, the County Planning Commission reviewed the North Fork Ranch Frost Ponds Project (16CUP-00000-00005). The Commission concluded that the Mitigated Negative Declaration prepared for the project was not adequate and directed staff to prepare a focused EIR evaluating the Project's water use impacts, impacts to biological resources, and potential flooding impacts to State Route 166. The Planning Commission's decision was appealed by the Project applicant.

At the February 5, 2019 hearing on appeal 18APL-00000-00019, the Board affirmed the action of the Planning Commission and provided conceptual direction to staff to prepare a focused EIR for the Project. The Board also continued the public hearing to March 5, 2019 and directed staff to prepare findings that an EIR is required to evaluate the potential environmental impacts of the proposed Project. CEQA Findings for the project are included as Attachment 1. After preparation of the focused EIR, the Project would return to the Planning Commission for further consideration and action on the CUP

Fiscal and Facilities Impacts:

Budgeted: Yes

The costs for processing appeals are provided through a fixed appeal fee and funds in Planning and Development's adopted budget. Total costs for processing the appeal are approximately \$9,040 (40 hours). The costs are partially offset by the appeal fee of \$610.66. Funding for processing this appeal is budgeted in the Permitting Budget Program, as shown on page D-272 of the adopted FY 2018-2019 budget.

Attachments:

Attachment 1: Findings

Attachment 2: December 11, 2018, Board Letter and Attachments

Attachment 3: County of Santa Barbara Groundwater Basins Status Report, 2014

ATTACHMENT 1: FINDINGS

North Fork Ranch Frost Ponds Project Case No. 18APL-00000-00019

1.0 FINDINGS

The Board of Supervisors has considered the Mitigated Negative Declaration (MND), Case No. 17NGD-00000-00004 (Planning Commission Staff Report, Attachment D of Attachment 2 to the Board Letter dated December 11, 2018, and incorporated herein by reference), together with the written and oral comments received before and during the public hearing on March 5, 2019. After considering the documents and information cited above, the Board of Supervisors finds that there is substantial evidence in the record to support a fair argument that the North Fork Ranch Frost Ponds Project (Project) may have a significant effect on the environment and that a focused EIR must be prepared to address the issues related to the Project's water use impacts from operation of the frost ponds and associated frost protection system; impacts to biological resources; and potential flooding impacts to State Route 166.

The required permit for the proposed project is a discretionary Conditional Use Permit. The proposed project, as described in the Project Description states that it includes construction and operation of three frost ponds (each with the water storage capacity of 49 acre-feet) would occupy a total area of approximately 15.6 acres, and that construction would take approximately one year. The frost ponds would be supplied by existing agricultural wells and would store water to be used for frost protection at the North Fork Ranch Vineyards. Frost protection would be achieved by sustained spray irrigation when frost has the potential to damage the grape vines and would generally be required during the months of February, March and April. The reservoirs would be maintained at a full condition between February and April and at other times of year, a maximum of three feet of well-supplied water would be maintained in the reservoirs.

1.1 Water Use by Frost Protection System:

After considering all of the evidence in the record, the Board finds that environmental review must analyze water use impacts from the entire frost protection system (reservoirs and spray irrigation system) based on the Project's large size, and location in and use of water from the critically over drafted Cuyama Valley Groundwater Basin. There is substantial information in the record which shows that water use impacts from the frost ponds and associated frost protection system may exceed the groundwater use significance threshold of 31 acre feet per year (AFY) adopted for the Cuyama Valley Groundwater Basin and that the Basin is in a critical overdraft situation with a long-term overdraft of nearly 30,000 AFY. Evidence to support this finding includes, but is not limited to, the following documents incorporated herein by reference: (1) Letter dated February 1, 2019 and attachments from the Law Office of Marc Chytilo and (2) the County of Santa Barbara Groundwater Basins Status Report (dated October 14, 2014). Based on substantial evidence supporting a fair argument of a potentially significant water use impact, it is the independent judgment and analysis of the Board of Supervisors that an environmental impact report (EIR) is required to fully analyze the potential water use impacts of the proposed frost ponds and associated frost protection system.

1.2 Biological Resources:

The construction of the proposed reservoirs could adversely impact approximately 15.6 acres of habitat suitable for a range of native species including special status plants and animals. The project site biological resource surveys were conducted during a period of extended drought and substantial evidence of a fair argument has been presented that the drought may have adversely influenced the validity of rare plant surveys conducted for the Project and a complete assessment of the Project's impacts on biological resources. Evidence to support this finding includes, but is not limited to, the following documents incorporated herein by reference: (1) Letter dated February 1, 2019 and attachments from the Law Office of Marc Chytilo, (2) Letter dated September 6, 2018 by Dr. Gliessman (Attachment 4 to the Board Letter dated December 11, 2018) that identified 25 threatened plant species, including four that have been collected in the past in the Project's immediate vicinity, and (3) Letter dated January 31, 2019 by Dr. Gliessman. Based on substantial evidence supporting a fair argument of a potentially significant impact to biological resources, it is the independent judgment and analysis of the Board of Supervisors that an EIR is required to fully address the proposed Project's impact on biological resources.

1.3 Potential flooding to State Route 166:

Based on information provided in a letter from the California Department of Transportation (Caltrans) dated July 7, 2017, the potential exists for catastrophic failure of the proposed reservoir berms and inundation of portions of State Route 166. Based on substantial evidence supporting a fair argument of a potentially significant flooding impact that may result from the Project, it is the independent judgment and analysis of the Board of Supervisors that an EIR is required to fully evaluate the Project's potential flooding impacts.

ATTACHMENT 2
DECEMBER 11, 2018, BOARD LETTER AND ATTACHMENTS

North Fork Ranch Frost Ponds Project
Case No. 18APL-00000-00019

The December 11, 2018, Board Letter and Attachments prepared for the North Fork Ranch Frost Ponds Projects are available at:

<https://santabarbara.legistar.com/LegislationDetail.aspx?ID=3772248&GUID=2B807909-FECA-4662-BD7D-600AD2A2C1BD&Options=&Search=>

**ATTACHMENT 3
COUNTY OF SANTA BARBARA GROUNDWATER BASINS STATUS
REPORT, 2014**

**North Fork Ranch Frost Ponds Project
Case No. 18APL-00000-00019**