



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

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December 2, 2016

Pete Bontadelli, Project Director
Analytical Environmental Services
1801 7th Street, Suite 100
Sacramento, CA 95811

Re: Vineyard Conversions in Napa County

Dear Mr. Bontadelli,

You have submitted to the California Department of Forestry and Fire Protection (CAL FIRE) two Draft Environmental Impact Reports (DEIRs) for the Davis Family LLC Friesen Vineyards Project and Ciminelli Estates Vineyards Project, and two Notices of Preparation (NOPs) for the Le Colline Vineyard Project and the Davis Lommel Vineyard. The DEIRs and NOPs were submitted in support of Timberland Conversion Permit (TCP) applications for the conversion of timberland in Napa County to vineyards. CAL FIRE is concerned that these EIRs and NOPs incorrectly identify CAL FIRE as the Lead Agency for the purposes of review and approval of the EIRs.

CAL FIRE's concerns arise from the fact that each of these proposed vineyard conversions in Napa County are on land with slopes exceeding 5 percent and, therefore require an Erosion Control Plan (ECP) from the County. It appears that the Napa County ECP is a discretionary permit subject to the California Environmental Quality Act, and for the reasons outlined herein, CAL FIRE believes that the County of Napa is the proper Lead Agency for the review of these projects.

Each of the respective DEIRs and NOPs for the four timberland conversion permits identify CAL FIRE as the Lead Agency, but there is no analysis to support that conclusion. CAL FIRE notes that section 15051 of the CEQA Guidelines provides that, "[i]f the project is to be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility *for supervising or approving the project as a whole...*" and that "...[t]he Lead Agency will normally be the agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose such as an air pollution control district or a district which will provide a public service or public utility to the project."

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CAL FIRE also notes that while the TCP and the THP will allow the applicant to cut and remove timber for the purposes of converting timberland to another use, the ECP issued by the County of Napa would apply to the actual use of the property as a vineyard. Given these facts, CAL FIRE believes that the County of Napa has "the greatest responsibility for supervising or approving the project as a whole" and is the "agency with general governmental powers" while CAL FIRE is "an agency with a single purpose." It would therefore appear that the DEIRs and the NOPs incorrectly designate CAL FIRE as the Lead Agency.

As to the Friesen, Ciminelli, and Le Colline projects, this conclusion is further supported by the fact that the geographic scope of the ECP exceeds CAL FIRE's jurisdiction. For instance, the Friesen DEIR states that only 10 acres out of the total 13.6-acre project site are timberlands subject to the Forest Practice Act and Rules and under the jurisdiction of CAL FIRE. The other 3.6 acres consists of "brush (Manzanita and chaparral) and ruderal land." The County of Napa, however, will be issuing an ECP that will cover the entire 13.6-acre project site.

In light of the applicants' investments of time and resources into the Friesen and Ciminelli DEIRs to this point, CAL FIRE is willing to proceed with its review of those two EIRs and the accompanying conversion permits. However, given that the Le Colline and Davis Lommel Vineyard projects have not proceeded past their NOP, any further environmental review should be directed to the County of Napa, as the Lead Agency, for those and all subsequent projects involving the conversion of timberland where the County of Napa must also issue a discretionary permit like the ECP. CAL FIRE will be a Responsible Agency for purposes of issuing the TCP. If the County of Napa disagrees with this conclusion, CAL FIRE is prepared to submit the dispute to the Governor's Office of Planning and Research for designation of the Lead Agency pursuant to Section 21165 of the Public Resources Code and its implementing regulations.

If you have any questions, please feel free to contact our Staff Attorney, Toby McCartt, at (916) 657-0561 or Toby.McCartt@fire.ca.gov.

Sincerely,



KEN PIMLOTT
Director

cc: Scott Upton, Region Chief, CAL FIRE Northern Region
Shana Jones, Unit Chief, Sonoma Lake Napa Unit
Wesley Salter, Planner III, Napa County