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DIRECTOR OF GOVERNMENT AFFAIRS
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September 6, 2013

VIA HAND DELIVERY

Kami Griffin
Acting Director
San Luis Obispo County
Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: JUSTIN Vineyards & Winery ("JUSTIN") - Vested Rights Exemption, Ordinance No. 3246 ("Ordinance")

Dear Ms. Griffin:

JUSTIN submits this letter, and the attachments hereto, in support of its application for a vested rights exemption from the Ordinance. (Ord., Section 6(A)(4), Ex. A.)

I. Overview

Generally, in San Luis Obispo County ("County"), no land use permits are required for crop production. In good faith reliance on this, JUSTIN purchased a 720 acre tract of land in Paso Robles and began vineyard development ("Creston Road Vineyard") for approximately \$7 million in January 2012. Of that 720 acres, JUSTIN determined that approximately 650 acres would be planted with various kinds of grapes, including Cabernet Franc, Cabernet Sauvignon, Merlot, and Petit Syrah. (See, Ex. B, Creston Road Vineyard Map.)

By August 26, 2013, JUSTIN's development of the Creston Road Vineyard was well underway. For example, by that date, JUSTIN had obtained land use permits to install four reservoirs and five wells that are currently on the property, as well as permits to demolish existing structures. (Ex. C, Permits.) That work has already been done. Likewise, and by the same date, JUSTIN had already spent approximately \$12.5 million and committed to spend approximately \$1.9 million (for a total of \$14.4 million) of an anticipated \$15.9 million (90% of its anticipated total spend) in "hard construction" costs, including development costs, infrastructure costs, and equipment costs. (See, Ex. D, Cost Spreadsheet.) And, by August 26, 2013, 350 acres of the 650 acres slated for vineyard development on the Creston Road property already had vines planted on it – and 300 acres are scheduled to be planted in early 2014.

On August 27, 2013, the San Luis Obispo County Board of Supervisors ("Board") passed the Ordinance, which, among other things, imposed a moratorium on new or expanded irrigation

crop production dependent upon wells using groundwater in the Paso Robles Groundwater Basin (“Basin”). (Ex. A.) Although the Ordinance specifically did not apply to irrigated crop production where the crop was planted as of August 27, 2013, it did apply to “New or Expanded Irrigated Crop Production,” which includes “the development, new plantings, or other improvements of a property for the purposes of farming the following, including but not limited to ... vineyards or other agricultural products using irrigation.” (Ex. A, Section 3(K).) However, the Ordinance contained an exemption for “applicants” who had “secured a vested right to complete site preparation, planting, or sale of a product” prior to the Ordinance’s “effective date.” (Ex. A, Section 6(A)(4).)

The Ordinance does not specify who “applicants” are, nor does it define the term “vested rights.” But on August 29, 2013, you indicated in an email to Paul Kaselionis of JUSTIN that the Planning Director will make a determination as to whether a particular agricultural development qualifies for a “vested rights” exemption on a “case by case basis.” (Ex. E.)

As set forth below, JUSTIN believes it has a vested right and that it should be allowed to finish planting its vines at the Creston Road Vineyard. In deference to the Department of Planning & Building (“Department”) proposed review process outlined to us, JUSTIN and its contractors have stopped almost all construction work on the property, even though this is not required by the Ordinance. But this temporary work stoppage cannot continue for very long. If JUSTIN continues to delay its work at the Creston Road Vineyard for more than a few weeks, JUSTIN will miss its projected construction completion dates and its projected planting dates for the remaining vines. If JUSTIN misses its projected planting dates, there is a very real risk that it will have to forfeit money it has already spent on vines that were supposed to be planted in Spring, 2014 (approximately \$540,000). JUSTIN may also have to forfeit additional monies it spent on contracts that are in progress (and which constitute part of its \$1.9 million committed spend); and it could also face lawsuits if certain contracts are cancelled. But more importantly, substantial delay may cause JUSTIN to miss the 2014 growing season altogether. Accordingly, JUSTIN respectfully requests a decision from the Department on its application for a vested rights exemption from the Ordinance within three weeks.¹

II. Background: JUSTIN And The Creston Road Property

JUSTIN, a well-known, critically acclaimed Paso Robles winery for over 30 years, was founded in 1981 by Mr. and Mrs. Justin Baldwin. In 2010, Roll Global LLC (“Roll”) acquired JUSTIN from the Baldwins.

¹ Given the urgency of this request, and the timing of the presentation of this letter to the Department, JUSTIN reserves its rights to present additional evidence and legal arguments to the Department, or to the Board. Additionally, please note that many of JUSTIN’s exhibits are confidential and being submitted to the Department with the understanding that their disclosure to the public is prohibited under California law, including but not limited to Cal. Gov. Code, §§ 6254(k), and 6276.44 and Evid. Code, § 1060.

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JUSTIN is a conscientious, artisan vineyard operation committed to being good stewards of the land and finding ways to utilize scarce resources in the most efficient, sustainable way possible. This includes the new winemaking facility and administrative offices it built on Wisteria Road, which are 100% solar powered.

JUSTIN's thirty-year history in the region began on the west side of Paso Robles. Early on, we had to learn how to establish vineyards using very limited water resources. Today, JUSTIN is putting those learnings to work by using the most modern methods available in drip irrigation and tillage, monitoring and adjusting water usage for irrigation to account for soil moisture, temperature, solar radiation, humidity and wind.

JUSTIN has always been deeply connected to the community. It employs 83 workers locally. And from the early days of Justin Baldwin's involvement with The Wellness Community Central Coast to JUSTIN's more recent efforts of providing nearly \$250,000 to support local charities and schools, JUSTIN has had a deep commitment to investing in the community where its employees live and work. JUSTIN is also very proud of the fact that 100% of the fruit it grows in Paso Robles is crushed and processed in Paso Robles, ultimately becoming Paso Robles-appellated wine.

In 2012, JUSTIN bought 720 acres of land in Paso Robles, part of which borders on Creston Road, for the purposes of planting a new vineyard ("Creston Road"), for \$7 million. The plans for the vineyard, which were first drawn up December 13, 2011, show that approximately 650 of those 720 acres would be planted with vines, including Cabernet Franc, Cabernet Sauvignon, Merlot, and Petit Syrah varieties. (Ex. B, Ex. G.)

III. The "Vested Rights" Doctrine: An Overview

"In California, the developer's right to complete a project as proposed does not vest until a valid building permit, or its functional equivalent, has been issued and the developer has performed substantial work and incurred substantial liabilities in good faith reliance on the permit." Toigo v. Town of Ross, 70 Cal.App.4th 309, 321 (1998) (emphasis added); Avco Community Developers v. South Coast Regional Comm'n, 17 Cal.3d 785, 791 (1976).

Much of the vested rights doctrine has developed in the land use development permitting context, and not the agricultural context. This is not surprising, as agricultural development is not often subject to land use permitting; it is not, for example, subject to permitting in San Luis Obispo County.² County Code, Title 22, § 22.06.040(E)(2) ("No land use permit is required for crop production.") However, the vested rights doctrine is a species of estoppel; indeed, as one court has explained, "[c]ourts and commentators alike recognize that there is no meaningful distinction between an estoppel claim and a vested rights claim where land use is at issue."

² Indeed, your August 29, 2013 email seems to recognize this fact – and also the fact that the concept of vested rights, or estoppel, could equally apply in the agricultural context.

Toigo, 70 Cal.App.4th at 321. It is well-established that the principle of estoppel (and vested rights) can be invoked generally in the land use arena to “prohibit a governmental entity from exercising its regulatory power to prohibit a proposed land use when a developer incurs substantial expense in reasonable and good faith reliance on some governmental act or omission so that it would be highly inequitable to deprive the developer of the right to complete the development as proposed.” Id. Put differently, the “theory of equitable estoppel simply recognizes that, at some point in the development process, a developer’s financial expenditures in good faith reliance on the governmental entity’s land use and project approvals should estop that governmental entity from changing those rules to prevent completion of the project.” Id.

“An equitable estoppel requiring the government to exempt a land use from a subsequently imposed regulation must include (1) a promise such as that implied by a building permit that the proposed use will not be prohibited by a class of restrictions that includes the regulation in question and (2) reasonable reliance on the promise by the promisee to the promisee’s detriment.” Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach, 86 Cal.App.4th 534, 551 (2001). These equitable factors are very similar to the factors necessary to prove that a developer has a vested right, and which are set forth in cases like Avco and Toigo, supra. Any party claiming estoppel or the benefits of the vested rights doctrine has to have done substantial work and incurred substantial liability in good faith reliance on the permit in order to establish a vested right to continue development once a change in permitting has occurred. See, e.g., Avco, supra, 17 Cal. 3d at 791; Tosh v. California Coastal Com., 99 Cal. App. 3d 388, 396 (1979).

Application of the estoppel principles and the vested rights doctrine to the facts of this case demonstrate without any doubt that JUSTIN has acquired a vested right to continue with its planting at the Creston Road Vineyard.

IV. JUSTIN Has A Vested Right In Planting The Remaining 300 Acres At The Creston Road Vineyard

A. JUSTIN Relied On The County’s Existing Zoning Laws And The Permits It Received To Develop The Creston Road Vineyard

As mentioned above, JUSTIN did not need to obtain any permits to plant vines. County Code, Title 22, § 22.06.040(E)(2) (“No land use permit is required for crop production.”) However, JUSTIN did need to obtain permits to conduct certain construction at the Creston Road Vineyard, including but not limited to permits for drilling wells and installing reservoirs. Most of the permits that JUSTIN needed to obtain for the entire 650 acre development, and which it did obtain, are attached hereto as Exhibit B.³

³ JUSTIN reserves its right to provide additional permits at a later date, if necessary.

Based on the foregoing, the initial requirement for a “vested right,” which is reliance on a government act or omission, has been met. Specifically, JUSTIN relied on the fact that there is no permitting needed to produce agricultural crops generally, and it relied on the issuance of permits (for example, permits for new wells and reservoirs) for infrastructure that it already constructed in anticipation of its ability to plant crops on all 650 farmable acres of the Creston Road property without restrictions. Put differently, JUSTIN has relied both on permits and laws specifically granting it the right to develop land without a permit. This is analogous to reliance on “a promise such as that implied by a building permit that the proposed use will not be prohibited by a class of restrictions that includes the regulation in question,” which is a necessary prerequisite for estoppel. Hermosa Beach Stop Oil Coalition, 86 Cal.App.4th at 551.

B. JUSTIN Has Already Performed Substantial Work, And Incurred Substantial Costs, At The Creston Road Vineyard

1. JUSTIN Has Performed Substantial Work

Development of the vineyard began even prior to the time the plans for the Creston Road Vineyard were drawn up, in November 2011. The development process is important to understand here, because so much development at Creston Road has already occurred, and because a part of it occurred after (and pursuant to) valid permits issued to JUSTIN. Accordingly, it is described briefly below.

In developing a new vineyard, JUSTIN follows a standard set of steps, including:

- Contracts with a vineyard consultant to help it plan the development process. This occurred in December 2011.
- Purchase of property for vineyard development. The purchase was finalized in January 2012.
- Determines what permits and other governmental permissions it might need, and obtains them. This is an ongoing process that occurred between January 2012 and August 2013.
- Completes various construction projects as needed, including construction of wells, construction of reservoirs, construction of fences, and, in some cases, removal of previously-existing structures on the land. In this case, all of these things happened at the Creston Road property between November 2011 and July 2013.
- Order vines. This includes dormant vines, which are those that are born in a nursery, grafted onto existing roots and kept in ideal conditions until they are ready to plant; and green vines, which are new vines grown directly from seedlings. Vine orders are typically made 12 months in advance of the time in

which they are supposed to be planted. Here, all of the dormant and green vines were ordered in March 2012 and August 2012, respectively.

- Purchases farming equipment. This is ongoing, but the purchasing began in February 2012.
- Order trellising steel and enter into contracts for irrigation systems. The contracts for trellising steel and irrigation systems were being discussed in August 2012 and were executed in May 2013.
- Prepares the soil for planting. Soil preparation (“soil prep”) includes hiring contractors to clear, grade, rake, rip and disk the land, and doing those tasks. This work occurred on approximately 350 acres of the property where vines are currently planted (the “350 Acres”) in May 2012, and in May 2013 on approximately 300 additional acres (the “300 Acres”) of the property. All of it was completed on the entire 650 acres in July 2013.
- Mapping the placement of the vines, by physically placing plastic straws in the earth to map out where the vines will go (“strawing”). This occurred on the 350 Acres between August-October 2012. It began on the 300 Acres in May 2013, and was scheduled to be completed this month.
- Install trellising steel for the vines to grow on. Installation of the trellising steel occurred between August-March 2013 on the 350 Acres; and it began being installed on the 300 Acres in July 2013.
- Install irrigation systems. The irrigation systems are fully operational and running on the 350 Acres, and in May 2013, JUSTIN began installing them on the 300 Acres as well.
- Plant the vines. Dormant and green vines have already been planted on the 350 Acres. On the 300 Acres, the dormant vines are scheduled to be planted in February 2014, and the green vines are scheduled to be planted in May 2014.

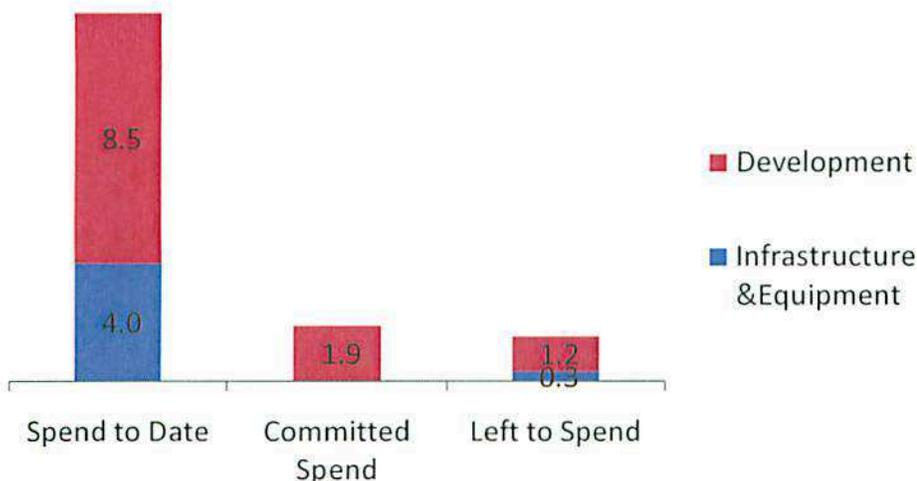
As the foregoing demonstrates, JUSTIN has already performed substantial work in reliance on permits (or the lack of need for permits) at the Creston Road property prior to August 27, 2013 when the Ordinance was enacted. Vines have been planted on more than half of the 650 acres slated for planting; wells and reservoirs have been constructed to serve the entire planted acreage; structures that were on the land prior to the time JUSTIN purchased it and which were slated to be demolished have been demolished; and either or both irrigation and trellising systems have been installed (or are in the process of being installed) on more than half of the 650 acres. Although (as you recognized in your August 29, 2013 email) the “sticks in the air” standard may not necessarily apply to agricultural land uses, installation of irrigation and trellising, completion of all infrastructure work identified in the attached spreadsheets (Ex. D),

and coverage of more than 50% of the property with vines is the functional equivalent of “sticks in the air” for vineyards.

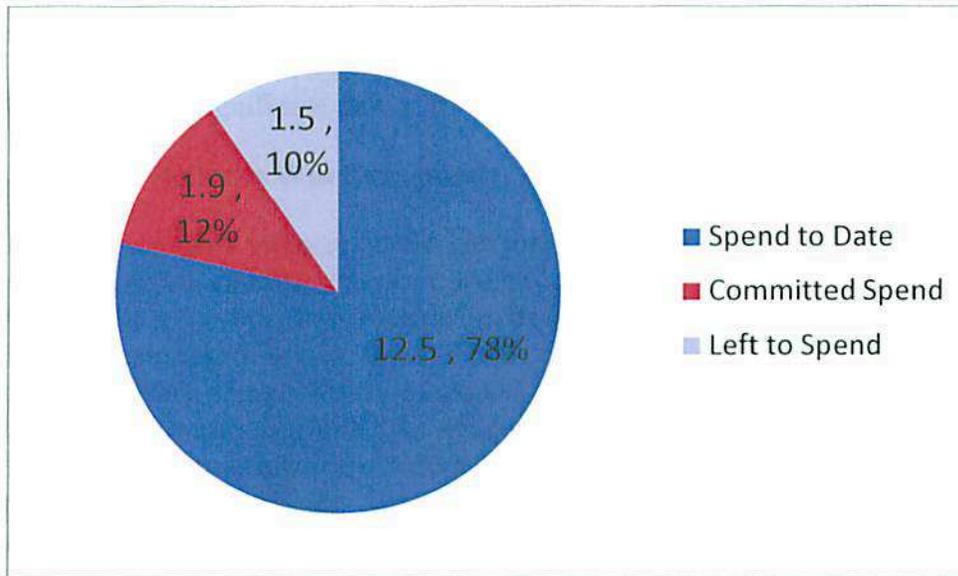
2. JUSTIN Has Already Incurred Substantial Costs

Under the case law explaining vested rights, it is clear that the percentage of the money spent on development to date, relative to the total amount that a developer plans to spend on development overall, is important to the vested rights analysis. The greater the amount spent, the more likely it is that a court may find a developer has a vested right in continuing development. See, e.g., Highland Dev. Co. v. City of Los Angeles, 170 Cal.App.3d 169, 185-86 (1985). It is also clear that “hard costs,” such as those associated with actual, post-permitted construction (or “sticks in the air”) – and not “soft costs,” such as pre-construction consulting costs – are most relevant to a vested rights analysis. See, e.g. id.; Hermosa Beach Stop Oil Coalition, 86 Cal. App. 4th at 553; Avco, supra, 17 Cal. 3d at p. 793.

Applying these principles to the facts here, there can be no doubt that JUSTIN has incurred substantial costs of the type that are material to a vested rights and estoppel analysis. The graphs below illustrate how much JUSTIN has spent and/or committed to spend, to date (and prior to the time the Ordinance was enacted), on “hard development” costs: **Approximately \$14.4 million (about \$12.5 million spent to date, and about \$1.9 million committed to date) of the \$15.9 million (90%) it expected to spend on all of the development in total.** All of the individual costs included in the categories of “Infrastructure,” “Equipment” and “Development” identified in the graphs are itemized in spreadsheets attached as Exhibit C hereto.⁴



⁴ All dollars in the charts are expressed in USD millions.



V. JUSTIN Has Incurred Substantial Liabilities: It Has Entered Into Many Contracts That Are Ongoing, And Some Of Them Cannot Be Cancelled Without Great Expense To JUSTIN

To do development work on its Creston Road Vineyard, JUSTIN had to enter into various contracts. These include, for example, contracts for purchase of dormant and green vines; contracts for construction of the wells and reservoirs; contracts construction for the soil and prep work; contracts for the purchase and installation of trellising steel and trellising infrastructure; and contracts for the installation of irrigation systems. Most of the relevant contracts are attached hereto as Exhibit F.⁵ Much of that work was ongoing prior to August 27, 2013; and some of it still needs to be completed.

If JUSTIN cancels its contracts now in progress, it could face substantial liabilities. For example, among the contracts attached to this letter are contracts for the purchase of dormant and green vines from Sunridge Nurseries (“Sunridge”). The Sunridge contracts each contain a cancellation clause that, if triggered by JUSTIN because it cannot put the vines it purchased in the ground at its Creston Road Vineyard, would cause JUSTIN to lose a total of approximately \$540,000. Similarly, JUSTIN is in the process of finishing its irrigation and trellising systems on the Creston Road Vineyard, and the failure to allow JUSTIN to finish its planting will impair JUSTIN’s ability to perform its irrigation and trellising contract obligations.

In addition to the Sunridge liabilities, JUSTIN purchased the Creston Road property for \$7 million in order to develop the property into a vineyard. JUSTIN is not aware of any other use that this land could provide, particularly in its present state (it has been completely cleared,

⁵ JUSTIN reserves its right to provide additional contracts at a later date, if necessary.

for example, of any grass and forestation useable for grazing, and over half of it has already been planted with vines). Thus, the remaining part of the property has been greatly diminished, and JUSTIN would lose a significant part of its investment.

VI. JUSTIN's Reliance Was Reasonable, And It Acted In Good Faith

Finally, JUSTIN's reliance on the fact that no permits are needed generally for agricultural production and its reliance on the issuance of permits for wells and other infrastructure, like reservoirs, that it needed to develop its land and install vineyards, was reasonable and undertaken in good faith. To the extent they were required, JUSTIN properly obtained the necessary permits for development of the new vineyard. The permits it did receive were issued by the County with full knowledge that JUSTIN was in the vineyard business and that JUSTIN was constructing a new vineyard on the Creston Road property. All of the permits that were issued were immediately acted upon, so that JUSTIN could build a vineyard and start producing grapes as soon as possible. JUSTIN has not "unduly" or secretly hurried to build the Creston Road Vineyard; instead, it has moved at a reasonable, predictable rate. And, given its substantial investment, work undertaken, and liabilities incurred prior to August 27, 2013, JUSTIN has temporarily stopped most of its development to assess its situation and meet with the Department.

VII. Conclusion

In summary, JUSTIN has a vested right to finish planting the remaining 300 Acres at Creston Road because:

1. It acted in good faith and in reliance on both existing zoning laws allowing it to develop its land for crop production without obtaining permits, and in reliance on the permits that were issued to develop the land for the same purpose;
2. JUSTIN has performed substantial work on its Creston Road Vineyard to date. Over 50% of the property has already been planted with vines, and 100% of the property has had substantial work performed on it, such as soil prep, strawing, and irrigation and trellising installation or preparation work.
3. JUSTIN has spent substantial sums of money on its Creston Road Vineyard to date. Of the approximately \$15.9 million in planned development costs, approximately \$12.5 million was spent, and approximately \$1.9 million was committed (for a total of approximately \$14.4 million, or 90% of the \$15.9 million) prior to August 27, 2013.
4. JUSTIN has incurred substantial liabilities. Based on the contracts that are outstanding and/or yet to be performed, it faces losses of at least \$540,000. Other contracts are also at risk of being impaired, which puts JUSTIN at risk of lawsuits for damages by third parties. And, JUSTIN invested \$7 million to acquire the property, which will likely be good only for agricultural production at this point. If JUSTIN cannot plant its vineyard, the 300 Acres (approximately half of JUSTIN's investment) will be greatly diminished in value.

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Should you have any further questions, or need any further information, please do not hesitate to contact me. Thank you for your consideration, and JUSTIN looks forward to a quick resolution of this application for a vested rights exemption under the Ordinance.

Sincerely,



Melissa Poole

SF
Enclosures (Exhibits A-G)

cc: Jerry Joye
Paul Kaselionis
Fred Holloway

**Brownstein Hyatt
Farber Schreck**

SLO CNTY
PLANNING/BUILDING
DEPT
2013 SEP 18 PM 1:54

September 17, 2013

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Kami Griffin, Acting Director
Department of Planning and Building
County of San Luis Obispo
976 Osos Street
Room 200
San Luis Obispo, CA 93408

RE: Request for Determination of Vested Right for Estrella River Vineyard, LLC

Dear Ms. Griffin:

By this letter, we request that the County of San Luis Obispo (County) make a determination that a vested right exists to plant vineyards on certain property owned by Estrella River Vineyard, LLC (ERV), which includes approximately 170 acres on APNs 015-014-001, 015-014-003 and 015-014-004 (the Property). The Property is located within the area subject to County Ordinance No. 3246 (the Ordinance) dated August 27, 2013, related to management of the Paso Robles Groundwater Basin (Basin).

The Ordinance, Section 4.A.1, provides that New or Expanded Irrigated Crop Production shall not be established, commenced or initiated on lands overlying the Basin. Section 6.A.4 of the Ordinance provides an exemption “[w]here satisfactory evidence can be provided that, prior to the effective date of this Ordinance, an applicant has secured a vested right to complete site preparation, planting, or sale of product.” ERV hereby requests that the County confirm that certain actions taken by ERV prior to the effective date of the Ordinance secured a vested right by ERV to complete site preparation, planting and sale of product on the Property.

The Property consists of approximately 255.94 acres, of which approximately 170 acres are plantable with vineyards, as shown on Exhibits 1 and 2. ERV took actions (1) through (7), described below, to prepare the Property for planting prior to adoption of the Ordinance. Each action individually, and all the actions taken together, constituted substantial investments that would be impaired if ERV were prevented from planting vineyards on the Property. We believe, and request that the County confirm, that those actions secured a vested right to plant vineyards on the Property within the meaning of Section 6.A.4 of the Ordinance. While we understand the desire of the County to regulate production from the Basin, we also believe that ERV possesses a vested right to plant, grow and harvest vineyards on the Property, the impairment of which would require compensation to ERV.

21 East Carrillo Street,
Santa Barbara, CA 93101-2706
main 805.963.7000

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- (1) ERV filed an application to drill an irrigation well (Well #3NE) for the Property on August 21, 2013. The County deemed the application complete on August 23, 2013 and issued Well Permit #2013-278 to ERV on August 28, 2013. A copy of the application and Well Permit #2013-278 are attached as Exhibits 3 and 4. ERV does not require any other permits from the County for its proposed planting of vineyards on the Property.
- (2) ERV hired Pacific Coast Well Drilling, Inc. to drill a test borehole and Well #3NE through two Contracts for Services dated August 26, 2013, including payment of non-refundable deposits for \$6,950 and \$14,950, respectively. Copies of the contracts are attached as Exhibit 5.
- (3) ERV hired Pacific Ag Water, Inc. to design an irrigation system on the Property for the planting of new vineyards. ERV paid \$5,000 for the design work on August 26, 2013. A contract of the invoice for this work is attached as Exhibit 6.
- (4) ERV hired Pacific Ag Water, Inc. to survey an existing irrigation water reservoir on a parcel adjacent to the Property, for the purpose of lining the reservoir to conserve water. ERV paid \$1,500 for the survey on August 26, 2013. A contract of the invoice for this work is attached as Exhibit 7.
- (5) ERV entered into a Tractor Services Agreement dated August 26, 2013 with Meadowlark Harvesting, Inc., pursuant to which ERV hired a contractor to prepare the Property for planting through ripping, including payment of a non-refundable deposit of \$4,000. A copy of the contract is attached as Exhibit 8.
- (6) ERV entered into a Sales Agreement for the purchase of grape rootstock from Vintage Nurseries LLC, including a non-refundable deposit of \$10,000. A copy of the sales agreement is attached as Exhibit 9.
- (7) ERV entered into a Preplant Agreement for the Purchase and Sale of Wine Grapes dated August 26, 2013 with Tolliver Ranch Brands, LLC, pursuant to which ERV contracted to grow and sell wine grapes from 170 acres of new planted acreage on the Property. A copy of the agreement is attached as Exhibit 10.

The actions described above constitute substantial investments by ERV to plant approximately 170 acres of vineyards on the Property. Prior to adoption of the Ordinance, ERV took all actions that would ordinarily be performed by a property owner for the planting of vineyards, including preparations to drill a new well, install an irrigation system, line an existing reservoir, rip the site for planting, purchase root stock and enter into a grape sales contract with a winery. We believe that taking those actions, including the payment of \$42,400 in non-refundable contract payments and deposits, created a vested right to continue planting of vineyards on the Property.

Based on the evidence provided above, we would like the County to make a determination of the following:

Kami Griffin
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- (a) That ERV has secured a vested right to prepare, plant and sell produce from 170 acres of vineyards on the Property;
- (b) That ERV's vested right to prepare, plant and sell produce from the Property is appurtenant to the Property, and a successor-in-interest would have the same vested right as ERV;
- (c) That ERV has a vested right, pursuant to the Ordinance, Section 5.A.4, to drill, construct and operate Well #3NE, based on Permit #2013-278, the application for which was completed prior to the effective date of the Ordinance; and
- (d) That ERV's vested right to drill, construct and operate Well #3NE is appurtenant to the Property, and a successor-in-interest would have the same vested right as ERV.

We would appreciate the County's reviewing the evidence provided and making the requested determinations by no later than Friday, September 27, 2013, if possible. If you have any questions, please do not hesitate to contact me.

Sincerely,



C. Wesley Strickland

cc: Tim McNulty, Deputy County Counsel
Todd Johnson, ERV

INDECK PASO ROBLES, LLC

P.O Box 1498
PASO ROBLES, CA 93447

RECEIVED

SEP 27 2013

September 26th 2013

San Luis Obispo Planning and Building Department
976 Osos Street,
San Luis Obispo, CA 93408

PLANNING & BUILDING

For the Attention of: DIRECTOR of PLANNING and BUILDING

In relation to the property at:

11000 Highway 46E
Paso Robles, CA 93446

Dear Sir/Madam,

I am writing to provide background to establish a vested right to complete a vineyard-planting project at the above property. Our company Indeck Paso Robles, LLC decided in 2012 to add approximately 180 acres of wine grape plantings to our existing 500 acres, planted originally in 1973. The total property acreage is 2,500 acres.

Our company purchased the property in January 2006 and it has always been a plan to further develop its vineyard potential. Our project to increase plantings has been an integral part of our overall business strategy and conducting in accordance with the appropriate regulations and authorities.

I understand that an Emergency Ordinance (#3246) has been approved which limits the development of certain types within the Paso Robles Groundwater Basin but we have invested a significant sum already in this project.

By way of support, I have attached copies of our well permit and completion report, a summary of expenditure thus far and copies of grapevine contracts from earlier this year. At this stage the planned vineyard has been fully tilled and cultivated, the blocks have been marked out with posts, roads and avenues are complete as are the irrigation plans. This prepared area also requires ongoing monthly maintenance above what would be required of unprepared land.

In the interests of water conservation we have chosen NOT to install frost protection that means we can utilize existing reservoirs for drip irrigation purposes only. The

Exhibit D

current investment, with money already spent, is in the order of \$750,000 and we are very keen to protect that investment.

I hereby request the issuance of a 'vested right' to continue and complete our project. Please contact me with any questions or comments. Without the guarantee of a 'vested right' it will place an undue financial burden on the business from a loss of funds already expended, as well as the potential loss of valuable jobs in the community.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Cameron". The signature is fluid and cursive, with a prominent initial "C".

Chris Cameron
VP – Director of Winemaking
(805) 434 7896
chris@brokengearthwinery.com

DIEHL & RODEWALD

A PROFESSIONAL CORPORATION

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OF COUNSEL
ANNE M. RUSSELL
LINDA B. WARD

September 23, 2013

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Department of Planning and Building /
Code Enforcement
County of San Luis Obispo
976 Osos Street, Room 300
San Luis Obispo, CA 93408

**Re: Property: 0000 Pear Valley Way / San Miguel, CA
Aka APNs: 027-011-036; 027-061-014; 027-011-034
Our Client: Vino Farms, LLC – File No. 2372**

Dear Staff:

Our office represents Mr. Ledbetter of Vino Farms, LLC, who is acting on behalf of John Hancock Life Insurance Company, the owner of the above-referenced property. Code Enforcement’s Informational Notice of September 16, 2013 to John Hancock Life Insurance Company c/o Mr. Ledbetter has been referred to our office for response. This letter shall constitute our client’s response to the Informational Notice.

The referenced vineyard project is exempt from Urgency Ordinance Number 3246 (the “Urgency Ordinance”) in that new irrigated crop was planted as of August 27, 2013 per Section 5A Subsection 6 of the Urgency Ordinance, and pursuant to Section 6A Subsection 4, the property owner had a “vested right” to complete planting already underway on its property.

With regard to a vested right, Vino Farms reports the following:

1. The subject property consists of approximately 450 acres of land. As of August 27, 2013, 226 acres or 50.2 percent of the total project was planted with grapevines and the owner had contracted for the planting of the entire project
2. The property owner began the development of its vineyard in June 2012, incurred substantial costs for work and materials, and has diligently prosecuted its vineyard development in accordance with existing land use ordinances. As of the date of this letter it has substantially completed the process began 15 months ago.
3. Beginning in June 2012 through January 2013, the property owner’s vineyard manager of Vino Farms had contracted for 100 percent of the grapevines to be planted on the entirety of the

September 23, 2013

Page 2

450-acre parcel. The property owner contractually obligated itself to an excess of \$1,206,000 for grapevines specifically adapted for the land in question. As of August 27th, the Owner had all vines onsite excepting the last truck load.

4. Permitted wells were legally drilled on the property in late 2012, and all supporting installations completed as of March 2013.

5. The irrigation infrastructure including piping, valving for both sprinkler and drip irrigation was installed between June and July of 2013, and fully completed before the adoption of the Urgency Ordinance.

6. All vineyard ground preparation including, grubbing, ripping and soil amendment was done during the period of June 2012 through August 2012 on the entirety of the 450 acres.

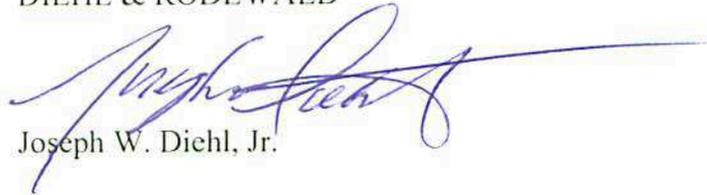
7. All vineyard staking for the entire project was completed as of January 2013.

Our client has committed substantial resources based upon the County's ordinances existing at the time of our client's undertaking to prepare its land for vineyards and install the supporting infrastructure and vines. Our client is contracted for 100 percent of the vines needed to plant at its vineyard. As of August 27, 2013, the property owner had executed its plan and completed planting for 50.2 percent of its total vineyard property.

Under these facts, our client has a vested right to complete its planting and has done so to avoid losing its vines.

Very truly yours,

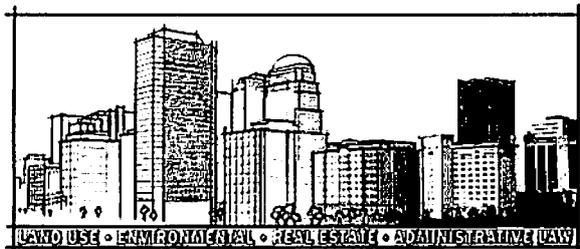
DIEHL & RODEWALD

A handwritten signature in blue ink, appearing to read "Joseph W. Diehl, Jr.", written over a horizontal line.

Joseph W. Diehl, Jr.

JWD:kg

cc: Client



CA LAND USE PROFESSIONALS, LLP

SAN LUIS OBISPO COUNTY
PLANNING/BUILDING
DEPT

2013 SEP 26 AM 9:26

Ellia Thompson
Tel: (323) 931-9686
Cell: (202) 746-1081
Fax: (310) 742-0255

CA Land Use Professionals, LLP
4221 Wilshire Boulevard, Suite 170-1
Los Angeles, California 90010
www.calandusepros.com

September 25, 2013

Handcarried

Mr. Steven Dye
San Luis Obispo County Department of Planning and Building
976 Osos Street, Room 300
San Luis Obispo, CA 93408

Re: Vested Rights for 6065 Vista del Paso Way

Dear Mr Dye:

Our law firm, CA Land Use Professionals, LLP, represents Charles and Elizaeth McCown, the owners of real property located at 6065 Vista del Paso Way (the "Subject Property") in Paso Robles. This letter is provided as a direct response to your letter to the Owners dated September 16, 2013, regarding the Paso Robles Groundwater Basin Urgency Ordinance ("Urgency Ordinance").

Pursuant to your letter, page 2, second bullet point, the following documentation is provided in order to prove a "vested right." Based on the attached documentation, the County should grant a Planning Director Determination that the Owners have established a vested right to utilize the Subject Property for the cultivation of olive trees because the new water use planning started well before the August 27, 2013 date. Based on the use and accompanying documentation, the Owners began planning the new water use for the Subject Project in 2012 by signing a contract with a licensed architect for the preparation of architectural plans for a new barn to be submitted to the County; purchasing farming equipment including a new tractor and deer fencing and other preparation for developing the fields and making them ready for planting prior to the August 27, 2013 date.

In early 2013, the Owners filed for and obtained permits from the County for the construction of an Agricultural Barn to be used to house all equipment related to the production of an olive orchard. They also signed contracts and engaged Miller Drilling to verify adequacy of well and pump for irrigation purposes. The Owners then entered into contracts for the purchase of 400 olive trees along with irrigation supplies in July-August 2013 – all before the passage and implementation of the Urgency Ordinance.

September 25, 2013

For your convenience, we have supplied a timeline of the Owners' activities related to the establishment of the use of the Subject Property and subsequent vested right.

2012 activities:

- Purchase of house and 12 acres, 4 acres of which are planned for irrigated olive orchard of 400 trees
- Membership in the Central Coast Olive Growers association (Attachment 1)
- Payment and Implementation of deer fencing of the property required for an olive orchard - \$18,400(Attachment 2)
- Engagement of an architect, Ken Nagahara, to assist in the preparation of plans for the agricultural barn and submittal of County permit application (Attachment 3)
- Submittal of permit application for the agricultural barn to be used to house the orchard farm equipment, oil storage; bottling facilities, etc.

2013 activities:

- San Luis Obispo County approval of permit #PMT2012-01286 for the agricultural barn (Attachment 4), dated April 26, 2013
- Construction of Agricultural Barn to be used in the cultivation of olives - \$70,600
- Engagement of Troy Javardi for irrigation services, July 30, 2013 (Attachment 5)
- Engagement of Miller Drilling, to verify adequacy of existing well and pump, July 30, 2013 (Attachment 6)
- Purchase of Olive trees from Santa Cruz Olive Tree Nursery, Inc, Invoice and payment dated August 16, 2013 (Attachment 7)
- Engagement of Cal Coast Irrigation, with payment for Irrigation Material for \$3,000 (Attachment 8)
- Purchase of Olive Trees from Debbie Nishihama, Invoice and payment dated August 26, 2013 (Attachment 9)

The Owners are a small family-owned operation and have acted in good faith in purchasing and planning their orchard, signing all necessary contracts for the engineering and construction work of their agricultural barn and obtaining and relying on all required permits from the County long before the Urgency Ordinance was enacted. To date, they have spent more than \$115,000 on items related to the orchard, including the barn, farming equipment, irrigation services, and olive trees. All of the work was contracted and most of it was completed long before the Urgency Ordinance was passed and implemented. Further, the olive trees had been contracted and delivered to the farm, ready to be planted, before the Urgency Ordinance was passed.

In the future, please send a copy of all correspondence regarding this matter to our office. You may contact me at 323.931.9686 or via email at Ellia@calandusepros.com should you have any questions.

September 25, 2013

Thank you in advance for your time and attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Ellia Thompson". The signature is written in black ink and includes a long horizontal flourish extending to the right.

ELLIA THOMPSON, Esq.
CA Land Use Professionals, LLP

JOSEPH CARRASCO VINEYARDS

4540 Highway 46 E

Paso Robles, California 93446

Ph. 805-712-3714

Fax 805-226-2938

October 2, 2013

Planning & Building Department
San Luis Obispo County
James Caruso
976 Osos Street, Room 200
San Luis Obispo, California 93408

Dear Mr. Caruso,

Upon our conversation yesterday I have prepared this package of documents to show evidence and good faith of my vested right to plant a vineyard of approx 25 acres on land owned by my family farm.

This planting will be 25 acres on a 40 acre parcel APN:015-031-0751, at the intersection of Highway 46 E and Jardine Road in Paso Robles, Ca. Of the approximately 40 acres 25 acres will be planted to grapes on a 7 feet x 8 feet row spacing totaling 778 vines per acre.

This parcel also includes two wells and 30,000 gallon water storage tanks. All pumps and tanks are plumbed together.

This parcel also includes a 10,000 case permitted winery & tasting room and house. There will be left approximately 15 acres of open space left in it's natural state.

Much work has been done for site preparation, bushes were grubbed out, trash cleaned up and scraper was used to move dirt in preparation for ripping, then we crossed ripped three times to four feet deep.

I purchased this winery parcel this past April. Soon after

it's purchase I started to put together the Type 02 alcoholic beverage licence. Issue date August 23, 2013. My intentions are to grow the grapes and make wine on our own family farm winery. My older sister and my 21 year old nephew are involved in all aspects of our operation.

Our family is a true family farm we have been farming and ranching since the late 1700's when my ancestors came to America from Spain and Belgium .

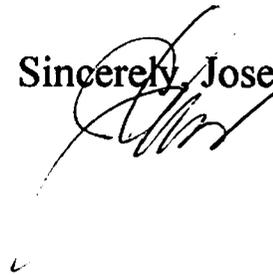
I have enclosed in this document package the following:

- 1) Planting field configuration map (June 1, 2013)
- 2) Irrigation lay out map (July 15,2013)
- 3) Irrigation parts itemized and price quote (Aug 16, 2013)
- 4) Type 02alcoholic beverage license (Aug 23, 2013)
- 5) Pictures of our in-house Cat Challenger tractor ripping vineyard planting site. (Aug 12, 2013)
- 6) Contract to purchase grape vines and payment for half of purchase made (July 5, 2013)

This properties former owner never had the money to invest in planting the vineyard so the winery never could reach it's true potential, then with not having any grapes to process into wine, the winery and tasting room never prospered

Up to this time I have approximately 2.5 million dollars invested in this property. If not allowed to plant it will render this property useless and this loss of money could force my family farm into bankruptcy. I know there are many rural homeowners crying that the loss of their wells will render their homes worthless but with only \$28,000 dollars to drill a new well they are made whole again. In my case the planting of this 25 acre vineyard will make or break my winery property.

Sincerely, Joseph Carrasco



SAN ANTONIO WINERY

SAN LUIS OBISPO
PLANNING/BUILDING
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PLANNING/BUILDING
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2013 OCT -7 PM 4:12

October 4, 2013

Kami Griffin, Assistant Director
976 Osos Street, Room 200
San Luis Obispo, CA 93408

RE: San Antonio Winery - Application for Vested Rights Exemption under
Section 6(A)(4) of Urgency Ordinance No. 3246

Dear Ms. Griffin:

Pursuant to Section 6(A)(4) of Urgency Ordinance No. 3246, enclosed please find, for the County Planning Department's consideration, San Antonio Winery's application for a vested right exemption. We respectfully request the County review the list of actions taken prior to the enactment of the Ordinance, and the supporting documents and photographs, to determine if the subject project qualifies for a vested right determination pursuant to County criteria that we understand has yet to be finalized. Though not yet finalized, we believe the following information supports a vested right determination by law, regardless of the final criteria developed by the County to evaluate applications.

This application pertains to San Antonio Winery's vineyard project (Project) in Paso Robles. The Project spans two legal parcels, which are approximately 182 acres total, 155 of which are in development as vineyards within the Rural El Pomar area, along Almond Drive, east of the Almond Drive/South El Pomar Drive intersection (APN 034-231-033 and 034-231-042, commonly referred to respectively as Maddalena and Stefano).

Section 6(A)(4) of Urgency Ordinance No. 3246, if extended, would permit the County to grant a vested right exemption to an applicant if there is satisfactory evidence that, prior to August 27, 2013, "an applicant has secured a vested right to complete site preparation, planting, or sale of product." We are aware that the County is currently working to clarify what qualifies as a vested right; however, we also understand that the County has agreed to continue receiving applications for exemptions under section 6(A)(4), regardless.

In support of our application for a vested right, the following actions are submitted as significant investment taken to establish an irrigated vineyard that support showing vested rights.

RIBOLI FAMILY VINEYARD • SANTO STEFANO • ALIENTO DEL SOL
MADDALENA V. NEYARD • SAN SIMEON • SAN ANTONIO • LA QUINTA • KINDERWOOD

SAN ANTONIO

W I N E R Y

- Paid significant non-refundable deposits toward the purchase of grape rootstock, as required by contracts with 3 nurseries (these expenses are highlighted in Exhibit A.1)
- Contractually committed to pay the full balance on 5 of 7 contracts, as the rootstock has already been grafted
- Hired labor contractors to rip and disk 100% of one parcel, 55% of total project
- Cleared 80 acres of almond orchards in preparation for planting
- Obtained a well permit, hired hydrogeologist to drill test holes and drilled a well on Maddalena
- Installed a pump and supporting generator on Stefano. Stefano was purchased with existing well and permit.
- Hired soil and mapping consultants to conduct land surveys for design for vineyard grape blocks
- Hired land use planning consultants to facilitate government permitting and approval processes, including biological assessments
- Obtained quotes for the installation of vineyard irrigation
- Obtained irrigation design and began irrigation installation (53% of one parcel, and 29% of total project)
- Purchased and began installing vineyard stakes, wires, endposts, anchors, drip hose, etc.
- Installed deer fencing and entrance gates
- Planted grapevines on 47% of one parcel, 26% of total project
- Registered a federal trademark for "Maddalena Vineyard"
- Obtained federal trademark Notice of Allowance for "Stefano Vineyard"
- Hired graphic design firm to create 3 *estate* wine labels for wine made with grapes from project properties
- Established tasting room, including long-term lease of the premises, in reliance that San Antonio Winery would grow *estate* grapes on the project's parcels, totaling at \$20,000 per month over 15 years
- Secured long-term ground leases for both parcels, totaling \$16,670 per month over 15 years

In addition to the work completed prior to August 27, 2013, San Antonio Winery has made significant investments in the Paso Robles area. Exhibit M includes a statement of expenditures as of September 30, 2013, totaling \$1,643,386.40. The total expenditures does not include future expenses related to: the balance due on all rootstock contracts with the nurseries; rent due on ground leases over the 15-year lease terms, regardless of when the properties are developed as a vineyard; and rent due on a tasting room lease over 15-year lease term. The majority of these past and future expenses are the result of transactions with Paso Robles businesses and are tied to vineyard development and use specific to the area.

SAN ANTONIO W I N E R Y

The parcels will be planted with *estate* wine grapes, which cannot be replaced by purchasing grapes from other farmers, as federal law requires wines labeled as *estate* be grown on land owned and controlled by the winery. The parcels are part of San Antonio Winery's overall business plan, which has been many years in development, all at considerable expense and based on specific use of the Maddalena and Stefano properties.

Based on the foregoing significant investments, and supporting documents and photographs, we believe we have expended sufficient funds toward the establishment of an irrigated vineyard crop to merit a vested rights exemption pursuant to Section 6(A)(4) of Urgency Ordinance No. 3246. We ask the County to grant this project a vested right to allow the planting and supporting vineyard uses onsite, including irrigation supported by the Paso Robles Groundwater Basin.

Please contact me with any questions or concerns. I can be reached via email at anthony@sanantoniowinery.com or by cell phone at 323-497-5881.

Very truly yours,



Anthony Riboli
San Antonio Winery

Enclosures

October 7, 2013

Kami Griffin, Acting Director
Department of Planning and Building
County of San Luis Obispo
976 Osos Street, Room 200
San Luis Obispo, CA 93408

RE: Request for Determination of Vested Right for Parrish Family Vineyard

Dear Ms. Griffin:

This letter is intended to be recognized as an official request that the County of San Luis Obispo make a determination that a vested right exists to plant vineyards on property owned by David Parrish of Parrish Family Vineyard. The property in question is located at 7810 Almond Drive (APN 034-231-041), is +/- 99 acres in size and is currently planted with +/- 30 acres of irrigated vines.

The Property overlies the Paso Robles Groundwater Basin and is subject to County Ordinance No. 3246 dated August 27, 2013. Section 4.A.1, of the Ordinance states that New or Expanded Irrigated Crop Production shall not be established, commenced or initiated on lands overlying the Basin. Section 6.A.4 of the Ordinance provides an exemption "Where satisfactory evidence can be provided that, prior to the effective date of this Ordinance, an applicant has secured a vested right to complete site preparation, planting, or sale of product."

David Parrish of Parrish Family Vineyard hereby requests that the County confirm that the actions taken by David Parrish of Parrish Family Vineyard prior to the August 27, 2013 demonstrate that David Parrish of Parrish Family Vineyard has secured a vested right and is therefore permitted to complete the installation of the subject vineyard.

The Property consists of approximately +/- 99.1 acres, 30 acres of the site is currently planted in vineyards. Planting is underway for an additional +/- 60 acres of irrigated vines. David Parrish of Parrish Family Vineyard took the following actions to prepare the site for planting prior to adoption of the Ordinance. Each action individually, and all the actions taken together, constituted substantial investments that would be impaired if Parrish Family Vineyard were prevented from planting vineyards on the Property.

Improvements:

- (1) The well serving the new planting was installed by the previous owners in 1998.
- (2) The irrigation pumps were installed August 2012
- (3) The site was prepped for planting (ripped) on August 2 and 3, 2013
- (4) 70% of the required irrigation was installed by August 20, 2013

Contracts:

- (1) PFV contracted with Duarte Tree & Vines (Contract # 41497) and ordered 33,441 grape vines for a total contract amount of \$123,038.64. In order to secure the contract and vines a deposit was paid on 4/1/13 for the amount of \$66,654.75. Please see copy of contract and deposit check in Exhibit D.
- (2) PFV contracted with Duarte Tree & Vines (Contract #42930) and ordered 17,800 grape vines for a total contract amount of \$49,306.00. In order to secure the contract and vines a deposit was paid on 4/1/13 for the amount of \$24,653.00. Please see copy of contract and deposit check in Exhibit D.
- (3) PFV contracted with Duarte Tree & Vines (Contract #43284) and ordered 18,709 grape vines for a total contract amount of \$75,584.36. In order to secure the contract and vines a deposit was paid on 4/1/13 for the amount of \$18,896.09. Please see copy of contract and deposit check in Exhibit D.
- (4) PFV contracted with Bennett & Bennett Irrigation Systems (Quote #13-2345) for irrigation equipment for a total of \$210,488.82. A \$46,000 deposit was provided. Please see a copy of the signed agreement and copy of check enclosed as Exhibit E.
- (5) PFV contracted with Mercier California LLC, (Contract #130515) for 5,142 grape vines for a total contract amount of \$16,812.58. In order to secure the contract and vines a deposit was paid on 6/3/2013 for the amount of \$8,406.29. Please see copy of the agreement and deposit check in Exhibit F.
- (6) PFV contracted with Mercier California LLC, (Contract #130502) for 7,008 grape vines for a total contract amount of \$23,322.62. In order to secure the contract and vines a deposit was paid on 6/3/2013 for the amount of \$11,661.31. Please see copy of the agreement and deposit check in Exhibit F.
- (7) PFV signed a proposal with A & P Ag Structures for vertical trellis system for the total amount of \$234,990.67. Please see copy of proposal as Exhibit G.
- (8) PFV signed an agreement with California Agricultural Soilworks for soil ripping for the amount of \$7,300.00 (Invoice #13-317). Please see copy of invoice as Exhibit H.
- (9) PFV ordered compost from Vineyard Professional Services (i.e. Pacific Organics) for the amount of \$5,326.20. Please see PO Request, Invoice and truck receipt as Exhibit I.
- (10) PFV has the vineyard surveying by Dan King Surveying on 8/15/13 for the amount of \$1,640.00. Please see enclosed invoice as Exhibit J.

The actions described above illustrate that substantial investments and actions have been made by the owners to plant approximately 60 acres of vineyards on the Property. All actions were taken prior to the adoption of the Ordinance.

Parrish Family Vineyards took all actions that would normally be performed by a property owner for the planting of vineyards, including preparations to install an irrigation system, rip the site for planting, and purchase root stock. These activities began in April 2012, nearly one and one-half years prior to the adoption of the Urgency Ordinance. We believe that taking those actions discussed above, including the payment of \$202,467.53 in non-refundable contract payments and deposits, constitute a vested right to continue planting of vineyards on the Property.

We therefore request that the County confirm, that the actions described above secured a vested right to plant vineyards on the subject property. We understand that the County will not make a determination on Vested Rights until such time as the Board of Supervisor's has defined the meaning of "Vested Right". The being said we are submitting this application to further demonstrate the true 'pipeline' nature of the project and the continual efforts of our clients. We would appreciate the County's reviewing the materials provided and if additional information is required provided feedback at your earliest convenience.

Regards,

Jamie Kirk
On behalf of Parrish Family Vineyards

2013 OCT -7 PM 4:12

October 7, 2013

Kami Griffin, Acting Director
Department of Planning and Building
County of San Luis Obispo
976 Osos Street, Room 200
San Luis Obispo, CA 93408

RE: Request for Determination of Vested Right for Creston Valley Vineyard

Dear Ms. Griffin:

This letter is intended to be recognized as an official request that the County of San Luis Obispo make a determination that a vested right exists to plant vineyards on certain property owned by Creston Valley Vineyards Inc. The property in question is located at Gate 4 road, off Camp 8 Road, approximately 4 miles NE of Creston. The property includes approximately 328 acres on APNs 035-371 27, 28, 29, 37, 38, 39, & 40 in addition to APN035-381-012, and APN 035-361-005 & 006.

The Property overlies the Paso Robles Groundwater Basin and is subject to County Ordinance No. 3246 dated August 27, 2013. Section 4.A.1, of the Ordinance provides that New or Expanded Irrigated Crop Production shall not be established, commenced or initiated on lands overlying the Basin. Section 6.A.4 of the Ordinance provides an exemption "[w]here satisfactory evidence can be provided that, prior to the effective date of this Ordinance, an applicant has secured a vested right to complete site preparation, planting, or sale of product."

Creston Valley Vineyards Inc. hereby requests that the County confirm that investments, contracts, and actions taken by Creston Valley Vineyards Inc. prior to the August 27, 2013 demonstrate that Creston Valley Vineyards Inc. has secured a vested right and is therefore permitted to complete the installation of the subject vineyard.

The Property consists of approximately 328.2 acres, of which 209.7 acres is currently planted in vineyard. Planting is underway for the final Phase 5 of the remainder 73.6 acres. Creston Valley Vineyards Inc. took the following actions to prepare the site for planting prior to adoption of the Ordinance. Each action individually, and all the actions taken together, constituted substantial investments that would be impaired if Creston Valley Vineyards were prevented from planting vineyards on the Property.

Improvements:

- (1) CVV is preparing to complete the 5th Phase of their vineyard planting project. All that remains to be planted of the 328 acres parcel is 73.6 acres of vineyard which is the planned Phase 5.
- (2) The site was prepared for planting (ripping & disking) in late 2012.
- (3) Early 2013 a test well was drilled. Please see well information in tab 4, 5, & 6.
- (4) A second test well was drilled shortly thereafter. This well resulted in sufficient reserves and the well was completed and operational. Please see well information in tab 4, 5, & 6.
- (5) Installation of main line and laterals for irrigation system in March 2013. Please see details of irrigation investments in tab 9.
- (6) Began installation of drip line in May 2013 and are currently approximately 85% complete. Please see details of irrigation investments in tab 9.

Contracts:

- (7) CVV has grape purchasing contracts with Vina Robles and several other regional wineries.
- (8) CVV is under a vineyard management and operation contract with Viticultural Management, Inc.
- (9) CVV is contracted for the purchase of approximately 22,000 vine stock for the total investment of \$80,000.00. In order to secure the contract and vine stock a deposit of \$37,290 was paid in March of 2013. Please see agreement in tab 7.
- (10) CVV signed a sales agreement with Sunridge Nurseries, Inc for \$50,311.80 and \$78,568.60 respectively. Please see sales agreement in tab 7.
- (11) Completed surveying and staking February 2013. Please see photos of staking in tab 10.

The actions described above constitute substantial investments and actions to plant the remaining +/- 73 acres of vineyards on the Property. All actions were taken prior to the adoption of the Ordinance.

Creston Valley Vineyards took all actions that would ordinarily be performed by a property owner for the planting of vineyards, including preparations to drill a new well, install an irrigation system, rip the site for planting, purchase root stock and enter into a grape sales contract with a winery. Planning for the final phase of planting began in 2011, almost two years prior to the adoption of the Urgency Ordinance. We believe that taking those actions, including the payment of \$436,481 in non-refundable contract payments and deposits, created a vested right to continue planting of vineyards on the Property.

We therefore request that the County confirm, that the actions described above secured a vested right to plant vineyards on the subject property. We understand that the County will not make a determination on Vested Rights until such time as the Board of Supervisor's has defined the meaning of "vested Right". The being said we are

submitting this application to further demonstrate the true 'pipeline' nature of the project and the continual efforts of our clients. We would appreciate the County's reviewing the materials provided and if additional information is required provided feedback at your earliest convenience.

Regards,

Jamie Kirk
On behalf of Creston Valley Vineyards.

2013 OCT -7 PM 4:12

October 7, 2013

Kami Griffin, Acting Director
Department of Planning and Building
County of San Luis Obispo
976 Osos Street, Room 200
San Luis Obispo, CA 93408

RE: Request for Determination of Vested Right for Four Paws Vineyard

Dear Ms. Griffin:

This letter is intended to be recognized as an official request that the County of San Luis Obispo make a determination that a vested right exists to plant vineyards on certain property owned by Jeffery and Sarah Crowley of Four Paws Vineyard. The property in question is located at 2625 Four Paws Way, Paso Robles CA which includes approximately +/- 81 acres on APNs 035-091-019

The Property overlies the Paso Robles Groundwater Basin and is subject to County Ordinance No. 3246 dated August 27, 2013. Section 4.A.1, of the Ordinance provides that New or Expanded Irrigated Crop Production shall not be established, commenced or initiated on lands overlying the Basin. Section 6.A.4 of the Ordinance provides an exemption "Where satisfactory evidence can be provided that, prior to the effective date of this Ordinance, an applicant has secured a vested right to complete site preparation, planting, or sale of product."

Four Paws Vineyard hereby requests that the County confirm that the actions taken by the Four Paws Vineyard prior to the August 27, 2013 demonstrate that the Four Paws Vineyard has secured a vested right and is therefore permitted to complete the installation of the subject vineyard.

The Property consists of approximately +/- 81.19 acres, of which approximately 65 acres are plantable with vineyards. Four Paws Vineyard took the following actions to prepare the site for planting prior to adoption of the Ordinance. Each action individually, and all the actions taken together, constituted substantial investments that would be impaired if Four Paws Vineyard were prevented from planting vineyards on the Property.

Improvements:

1. FPV permitted and drilled a new well at the cost of \$50,830.00. Please see well permit and well test enclosed as Exhibit A.
2. The site was prepared for planting (ripped) in July of 2013 by Mark Switzer at a cost of \$27,630.00.
3. The site was further prepared for planting by turning the soil (disked) at the cost of \$4,600.00.

Contracts:

4. FPV executed a management contract with Roberts Vineyard Services. Please see contract enclosed as Exhibit B.
5. FPV executed purchase agreement with J. Lohr Winery Corporation date May 31, 2013. Please see grape purchase agreement enclosed as Exhibit C
6. FPV entered into an agreement with Smithco Fence for perimeter fencing around the entire property. Please see proposal as Exhibit D.
7. FPV executed an agreement with Pacific Ag Water Inc. for underground irrigation system. Agreement dated August 23, 2013 attached as Exhibit E.
8. FPV has the property surveyed by Pacific Coast Survey & Design Group, Inc. on July 30, 2013. Invoice and survey maps attached as Exhibit F.
9. FPV executed a sales agreement with Vintage Nurseries on August 15, 2013 for the total of \$260,255.04. In order to secure the contract and vine stock a deposit of \$65,063.76 was paid. Sales agreement enclosed as Exhibit G.
10. FPV completed a soils analysis with 10 test pits and samples analyzed by FGL Analytical Chemists for approximately \$2,475. Soil analysis report enclosed as Exhibit H.
11. FPV purchased the property in January of 2013, with the intent of planting a vineyard. Escrow statement enclosed as Exhibit I.

The actions described above illustrate that substantial investments and actions have been made by the owner to plant approximately 65 acres of vineyards on the Property. All actions were taken prior to the adoption of the Ordinance.

Four Paws Vineyard took all actions that would ordinarily be performed by a property owner for the planting of vineyards, including preparations to drill a new well, install an irrigation system, rip the site for planting, purchase root stock and enter into a grape sales contract with a winery. The Crowley's purchased the property in January 2013 with the intent of planting a vineyard. Preparations to plant a vineyard began in December 2012 approximately 9 months prior to the adoption of the Urgency Ordinance. We believe that taking those actions discussed above, including the payment of \$65,063 in non-refundable contract payments and deposits, constitute a vested right to continue planting of vineyards on the Property.

We therefore request that the County confirm, that the actions described above secured a vested right to plant vineyards on the subject property. We understand that the County will not make a determination on Vested Rights until such time as the Board of Supervisor's has defined the meaning of "vested Right". The being said we are submitting this application to further demonstrate the true 'pipeline' nature of the project and the continual efforts of our clients. We would appreciate the County's reviewing the materials provided and if additional information is required provided feedback at your earliest convenience.

Regards,

Jamie Kirk

On the behalf of Jeffery & Sarah Crowley, of Four Paws Vineyard.

2013 OCT 22 PM 1:38

October 22, 2013

To: Kaml Griffin, Assistant Director, Department of Planning and Building

From: Bryan & Suzanne Riley

Re: Request for Exemption to Paso Robles Urgency Ordinance based on a "vested right".

Property Address: 3360 Redtail Place, Creston, Calif.

This is an unirrigated parcel and the property already has an existing permitted well on it. It is located on the very extreme edge of the Paso Robles Water Basin and the Basin border actually runs right through my property. The parcel is just under 24 acres and I am only planning to plant around 12 acres of grapes. Water conservation is an issue for everyone and I have planned to irrigate on a 1:1 ratio as I am respectful of the land and want to be conscious of my usage.

Thank you for taking the time to review my situation and request for an exemption from the ordinance. I am requesting an exemption due to a "*vested right*" in the property and a severe financial hardship if I am unable to plant grapes, of which I already have a signed contract with Vintage Nurseries to purchase vines. The signed contract with Vintage Nurseries is for \$48,564.65; this was dated as of 5/31/13 and I have already paid a substantial down payment when it was signed. Another large deposit is due the end of the year. This is in addition to all the other expenses I have incurred in the site preparation: deer fencing, grading and ripping the land, digging holes for stakes, purchase of T-posts, various equipment/materials, working with PG & E for the electrical, etc... --- all these expense were incurred prior to the effective date of the Urgency Ordinance.

The possibility that we may not be able to pursue this is causing my wife and I much anxiety as I am fearful all the money, energy and time I have put into this will cause not only a tremendous financial loss now, but also as to possible future income of which we are to be dependent upon.

To provide a brief background, I have been preparing the site and planning to plant about 12 acres of grapes since the purchase of the land last November, as that was always my intent. My wife and I have been married over 30 years and have 3 children in college, which has created a financial burden in itself. However, we have both worked very hard and it has always been a dream of mine to own a little land and grow grapes. We love the Paso area- the people, community and lifestyle. Last November, an opportunity came along to purchase the Redtail property and I took much of our money from our "nest egg" to buy the

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land and had it tested specifically for the feasibility of growing grapes and decided to make my dream come true.

Since the purchase last November, I have been busy with the site preparation and doing much of the physical work myself, along with my son when he is home on break from college. I have to be very careful with the expenses and am constantly watching my pennies.

I have attached a breakdown of all the expenses incurred along with the supporting documentation- see attached. Total money expense I have incurred \$206,516.49 up to effective date of the Urgency Ordinance in August.

I appreciate the hard work, time and energy the County is putting to the water conservation issue, which affects all of us and as a community we should work together for solutions; however, based on my small area for crop irrigation am requesting an exemption.

If there is anything additional you need from me please let me know. I want to work with the Planning Department and County so we can come together during this difficult and challenging process.

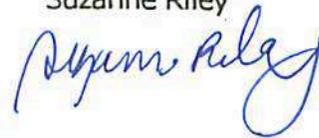
Thank you again for your time and consideration and I look forward to hearing from you as soon as possible.

Sincerely,

Bryan Riley



Suzanne Riley



Mailing address: 503 Grand Canyon Drive
Paso Robles, Calif. 93446

e-mail: *sriley305@gmail.com*

Javadi Vineyard Ranch
P.O. Box 2710
Paso Robles, CA 93447

October 29, 2013

Board of Supervisors
976 Osos Street, Room 300
San Luis Obispo, CA 93408

RE: Urgency Ordinance No. 3246

Troy and Lorraine Javadi
3745 Linne Road, Paso Robles
APN: 020,271,010 & 020,271,023 & 020,271,022

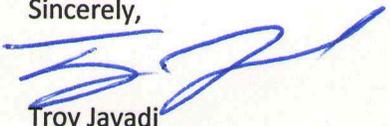
To Whom It May Concern:

In 2012, I purchased the property neighboring my 32 acre vineyard at 3890 Meadowlark Road, Paso Robles with the intention of expanding my vineyard acreage to 52 acres. We are a small farming company that has slowly expanded our acreage over time. The reason for the purchase was to develop more vineyard acreage. This was the sole reason for the purchase of the property.

In 2013, we used this property for an irrigated horse hay crop with moveable sprinkler pipes.

Please grant vested rights to continue this vineyard project.

Sincerely,



Troy Javadi
805-610-7171

Exhibit D



Vesting Rights for 6680 Linne Road, Paso Robles

larry

to:

Kgriffin

10/29/2013 03:01 PM

Hide Details

From: larry <larry@mcgourty.com>

To: Kgriffin@co.slo.ca.us

Dear Ms. Griffin,

We are writing to assert our vesting rights on our property an 6680 Linne Road in Paso Robles. For several years we have been developing our property in stages for a small 4 to 5 acre vineyard.

We have (1) installed our deer fencing, (2) installed an 8" deep Ag well, and (3) have upgraded our tank storage facilities.

We own and operate Bonofiglio Vineyards, LLC. We are in the specialty wine grape growing business for small wineries and have successfully developed a 7 acre sustainably farmed vineyard in Mendocino County of white Rhone variety grapes, ideally suited for growing in that climate. The planned vineyard in Paso Robles is the next step we are working towards to adding red varieties to our portfolio.

We are planning to install a low water use vineyard of Italian varieties, primarily Nero D'Avola, ideally suited for our hot arid climate. We are in discussions with Chiarito Vineyards in Ukiah, Mendocino County, the only registered source of certified grafting wood and Glenn McGourty the UCANR representative for Vineyards in Mendocino County, to obtain material for planting. Mr. McGourty, an expert in Mediterranean variety viticulture, has visited and studied our site and found it very suitable for this application.

Our local water situation is stable and we are only awaiting a more favorable damp Spring season to begin planting. Hopefully we can begin in 2014.

Sincerely yours,

Lawrence and Susan McGourty
6680 Linne Road
Paso Robles, CA 93446
ph: 805 238 6392
em: larry@mcgourty.com

Raj & Leverne Cornelius

4620 Highway 41 East

APN: 042-211-019

Paso Robles

Vested Rights Methodology

We bought this 23.8 acre property (4620 Highway 41 East, Paso Robles) in 2012 with the single-minded purpose of planting a vineyard. Although, there is a domestic well on the property, it would not provide sufficient water for the 20 acre vineyard. The purchase of the property was made contingent on drilling a test well and demonstrating that the well would deliver at least 150gallons per minute of good quality water, which it did. (Attached is the Well Completion Report in PDF)

We contracted with Troy Javadi of Benchmark to develop the vineyard for us in 5 acre blocks. (Attached is the letter from Troy Javadi in PDF).

Miller Drilling finished the 600foot deep well on October 4, 2012, and installed the 3-phase 15hp pump on May 22, 2013.

On April 1, 2013 we contracted with PG&E to bring in 3-phase power to the property for the well pump. The first 5 acre block irrigation system was installed and the vines were planted in August 2013, significantly delayed because of schedule delays on the part of PG&E. PG&E finally brought 3-phase power to the site in mid October 2013, and for 3 months we needed to rent a generator to support the irrigation of the newly planted vines.

Not knowing when power would become available on the site, we did not prepare the block 2 ground for planting and also did not order the vines for block 2. Compared with the PG&E delays, both of these are short lead time items

Now, with the basic infrastructure of (a) soil testing, (b) well with pump, 3-phase power, and (c) irrigation system design in place, we are now ready to plant the next 5 acre block, but are being held back by Ordinance No. 3246.

The chronological vineyard development information shown in the table below, should adequately demonstrate our intent and the financial commitment made toward

Exhibit D

achieving our goal of a small, but viable family vineyard. Please note that a 5 acre vineyard is not a viable vineyard. We request that we be granted vested rights based on the work done and investment made in the short time of ownership of this property.

Item	Work Activity	Cost	Completion Date
Site Purchase	Site Purchase	\$ 480,000.00	10/5/2012
Miller Drilling	Well Drilling	\$ 32,975.00	10/4/2012
Miller Drilling	3-phase, 15hp Pump Installation	\$ 15,605.85	5/22/2013
Troy Javadi	Block 1 Planting		8/8/2013
Miller Drilling	15hp VFD Drive for Pump	\$ 4,436.24	9/29/2013
PG&E	Bring 3-phase power to Site	\$ 13,774.26	10/15/2013
Mike Roach Electric	Bring 3-phase power to Pump	\$ 18,418.48	10/20/2013
TOTAL COST	Land & Infrastructure	\$ 565,209.83	

Please let us know if there is any additional evidence we need to provide. Our mailing address is

Raj & Leverne Cornelius

228 Delphi Circle

Los Altos, CA 94022

OCT 31 2013

PLANNING & BUILDING

October 21, 2013

Kami Griffin, Acting Director
San Luis Obispo Planning and Building Department
976 Osos Street, Room 300
San Luis Obispo, Ca 93408

Via Email and Regular Mail

RE: Vesting rights for Dana and Marsha Merrill APNs

Dear Ms. Griffin,

Our property consists of two legal parcels:

033-181-026	237.80 acres
033-481-026	36.98 acres

Total	274.80 acres

There are 95.2 net vine acres of existing vineyard roughly 15 years of age and 62.5 additional plantable acres of vineyard. The balance is made up of grazing lands, home, roadways, well sites and equipment yard areas and agricultural support buildings.

While we are complying with what we understand to be the process, we are not waiving any rights should the ordinance be declared invalid in the future. We acquired this property in September 2012 and based our purchase on regulations in effect at that time. It was not possible to know the provisions for compliance of a future regulation and believe that it is problematic now to hold landowners to a standard which they could not have reasonably known about.

Nonetheless, we believe that we are justified in completing development of irrigated crop acreage as required by the Urgency Ordinance (UO), specifically to winegrape vineyards for the reasons outlined herein. We have supporting materials and documentation which can be provided to you upon request. I have attached a map designating existing vineyard (Numerical block numbers) and Plantable Lands (PL) (Letter block numbers). Specifically our justifications are as follows:

1. Prior Irrigated crop lands within past 10 years: 18.2 acres (Block A) . Formerly Permanent irrigated pasture, this area is to be planted to winegrapes.
2. Vested Rights: We have received well and electrical connection permits and have completed required inspections from the County, entered into contracts and paid deposits on nursery plants for 2014 planting, invested in additional water and other infrastructure as well as other costs including but not limited to mapping and soil evaluation costs.
3. Internal Offset Program (IO): We have completed significant projects to reduce applied irrigation water applications on acreage that will more than offset water use due to completion of planting on acres not covered by 1 or 2 above.

The specifics are as follows:

Prior Irrigated Acreage: Block A consisting of 18.2 acres (“Blocks” are analogous to “Fields” a term generally used in agriculture for a distinct crop area within a farm or ranch) has been irrigated within the past 10 years. It was planted to irrigated permanent pasture that is estimated to have used 3.8 acre feet per acre or 69.2 acre feet per year (Source: Crop Water Use, Department of Water Resources, California April 1986). This block will be planted to winegrapes which will save 51 acre feet of water annually assuming winegrape use at 1 acre foot per acre per year. The ranch wide irrigation system for vineyards is drip only, no overhead sprinklers are utilized. We assert that Block A is not subject to the UO and also point out that additionally it is part of our IO program.

Block B consisting of 10.0 acres was historically partially irrigated to crops such as sweet corn but it appears that may have been only on perhaps 2 acres of the total. We are informing you of this past irrigation but it is not part of our formal justification.

Blocks B through E we are asserting both Vested Rights and our IO program as justification to complete our development on PL acreage.

There are approximately 95.2 net vine acres of existing winegrapes (no allowance for turn space at row ends, ranch roads, etc) that are approximately 15 years of age. At the time of purchase, it was calculated that an additional 62.5 net vine acres were plantable and are in various stages of development. The balance of the land is used for roads, equipment storage, two residences, shop buildings and grazing lands. Planting is to be completed in 2014 and 2015.

Our assertion of Vesting relates to both specific actions within our plantable vineyard blocks B through E, and also general irrigation infrastructural improvements to the ranch overall to accommodate ultimately a total (including the existing 95.2 acres of vineyard) of 157.7 acres. The infrastructure consists of, but is not limited to, wells, irrigation systems, roads, fencing and support structures is designed to support the larger vineyard operation. We relied on regulations in effect prior to the ordinance effective date and also were issued well drilling and electrical connection permits (the only type required for an agricultural development). Our expenditures thus far were based on being able to complete development of the PL acreage.

In total, our IO program is summarized as follows:

PL winegrape annual projected use:	62.5 acres @ 1 ac ft/ac = 62.5 acre feet required
Offset (IO) Savings Block A (Pasture to Vineyard, net)	18.2 acres – net save = (51.0) ac ft saved
Offset (IO) existing vineyard retrofit 95.2 acres	(57.7) ac ft saved

Net Additional (Saved) applied irrigation water annually	(46.2) ac ft saved

Thus our IO program alone saves 46.2 acre feet of water annually net of the completion of an additional 62.5 acres of vineyard planting.

Other specific points to review:

1. Our purchase of these parcels clearly shows that we paid a premium for the PL acreage which were either irrigated by the previous owner or those planned and/or suitable for future vineyard

development. In addition to the land component which I would estimate at not less than worth a premium of \$10,000 per acre , the previous owner had invested in irrigation and fencing infrastructure which we acquired via purchase.

2. We then, but prior to the UO effective date, invested additional funds for pumps, mainlines, and electrical system upgrades (some of which secured County permits) to support the completion of future planting on the open lands.
3. We were granted 4 new well permits from the County and have completed 3 wells with the intention to use them to irrigate the plantable acreage, prior to 8/27/13. Electrical connection permits as required were also obtained from the County for new wells and also retrofit of existing equipment to support our overall development plan
4. As previously mentioned, our IO program has been commenced on this property that has or will reduce the applied volume of irrigation water on the existing 95.2 acres that will offset new irrigation on the PL acreage . Basically, we converted 37.1 acres from two 1 gallon emitters per vine to a single ½ gallon emitter per vine, a 75% savings in applied water. On the balance of the existing acreage, we plugged one of the 1 gal/hour emitters to save 50% of the applied water applied. The savings calculation is a follows:

Convert 37.1 acres of existing vineyard from 2 gal per hour (gph) to .5 gph	(28.8) ac feet/yr
Plug 1 emitter/vine on 57.9 acres of existing vineyard	(28.9) ac feet/yr

Total Additional (Saved)	(57.7) ac feet/yr

This equates to removing 57.7 vine acres worth of applied irrigation to the existing vineyard blocks using an annual average application rate of 1 acre foot per acre.

5. Nursery contract was signed and deposits paid to Sunridge Nursery prior to the UO effective date
6. Financing was obtained from Farm Credit to support the development of the plantable lands as evidenced by \$2 Million in new financing in 2013.
7. Tillage has not yet been completed due to erosion concerns on sloping adjacent lands with winter approaching
8. Deer Fencing is complete for blocks A-C ; regular fencing on the balance which may not need full height deer fencing

A Blocks review follows:

Block A : 18.2 acres has been discussed above. Its irrigated permanent pasture historical water use will be converted to winegrape irrigation which will save water beyond its use to offset other acreage irrigation.

Block B: 10 acres is served by existing and upgraded irrigation systems and will have it use offset by our IO program

Exhibit D

Block C: 10.1 acres had existing mainlines and a pumping plant installed with planting envisioned for Spring of 2014. The infrastructure was upgraded and plants were ordered, contracts executed and deposits paid prior to 8/27/13. The IO program offsets also more than cover any irrigation use.

Block D consisting of 20.8 acres has vested rights as well permits were issued, 3 of 4 wells drilled and offsetting and expanded irrigation system improvements were completed in 2013 prior to the ordinance effective date. This block is also more than covered by our IO program as has been discussed.

Block E consisting of 3.4 acres has vested rights as well permits were issued, 3 of 4 wells drilled and offsetting and expanded irrigation system improvements were completed in 2013 prior to the ordinance effective date. The IO program similarly more than covers any irrigation use.

In summation, we believe that we clearly qualify to complete the development of 62.5 acres of vineyard on our property for the reasons outlined above. Thank you for your consideration and please let us know if additional information or explanation is necessary.

Sincerely,



Dana Merrill, Owner

w/encl

We will provide back up documentation upon request including the following:

Nursery Contract

Farm Credit Financing

Drip Hose invoice 2013 retrofit

Emitters purchase 2013 retrofit

Well Permits wells 4,5,6,7

Invoices for well and pump work 2013 – F and T, Mazzi Well Drilling

Pump and well equipment and labor invoice copies – Cal West Rain

Mike Bobbit mapping