



State of California • Natural Resources Agency
Department of Conservation
Division of Land Resource Protection
801 K Street • MS 14-15
Sacramento, CA 95814
(916) 324-0850 • FAX (916) 327-3430

Edmund G. Brown Jr., Governor
John M. Lowrie, Assistant Director

May 23, 2016

VIA EMAIL: ASINGEWALD@CO.SLO.CA.US

Mr. Airlin M. Singewald
County of San Luis Obispo
Department of Planning and Building
976 Osos Street, Rm. 200
San Luis Obispo, CA 93408-2040

Dear Mr. Singewald:

CASS WINERY CONDITIONAL USE PERMIT AND MITIGATED NEGATIVE DECLARATION,
SCH# 2016041077

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Conditional Use Permit and Mitigated Negative Declaration for the Cass Winery project. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act, California Farmland Conservancy Program, and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project and the potential impacts on agricultural land and resources.

PROJECT DESCRIPTION

The proposal consists of expanding the existing wine production facility and related visitor serving uses by 1) constructing a new 13,279 square foot barrel storage/administration building with an approximately 6,327 square foot covered patio area, 2) constructing a new 4,128 square foot eight room bed and breakfast inn, 3) improving an existing agricultural road to serve as a secondary access road from the new barrel storage building and the bed and breakfast inn to Geneseo Road, 4) increasing the existing temporary events program from six annual events with up to 80 attendees each to 20 annual events with up to 200 attendees each, 5) using an existing 1,760 square foot commercial kitchen and seating area as a restaurant, and 6) increasing annual wine production from 5,000 cases to up to 20,000 cases.

DEPARTMENT COMMENTS

Government Code (GC) § 51242 enables local governments to enter into Williamson Act contracts on land that is devoted to agricultural use and located in an area designated as an agricultural preserve. In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual agricultural and/or open space use, as opposed to potential market value. Because the Williamson Act provides a preferential tax assessment on contracted land in exchange for limiting the land to agricultural uses, any use other than the agricultural or open space use for which the property was placed under contract must be found to be compatible.

With regard to the proposed events, restaurant, and bed and breakfast on contracted land, the Department supports activities of an agribusiness venture on land under a Williamson Act contract as long as the facilities and activities support and promote the agricultural commodity being grown on the premises. However, it must be shown that these uses and facilities would be inherently related to the site's existing agricultural operation; and the number of attendees does not abuse the Williamson Act's leniency in allowing counties to determine the permanent or temporary human population of the agricultural area.¹

The statute on temporary population increases was written to protect agricultural lands from uses that can hinder or impair agricultural operations and as such should not be taken lightly. Activities that claim to promote products grown on site should be validated with evidence that their attributes are unique enough to justify the tax benefits meant for agricultural production, as opposed to a use that could occur on non-contracted or urban lands. The events, restaurant, and bed and breakfast as described in the proposed amendment, will increase the temporary population of the site multiple times throughout the year, which can hinder agricultural operations on- and off-site.

Because the Williamson Act provides tax benefits in exchange for devoting land to agriculture or open space, the types and scale of the proposed events, restaurant, and bed and breakfast are not consistent with the Act's intent. As such, the Department cannot agree with the County's determination of insignificant impact.

The Department is concerned that the County has underestimated the effects of the proposed project and that the increased population and traffic will have a negative effect on the subject property and its agricultural productivity. These types of negative effects are not limited to the project site and can often radiate to other agricultural lands. It is suggested that the County carefully consider how this project, as proposed, will remain consistent with the principles of compatibility and not cause an undue hardship on agricultural productivity of the proposed project site and agricultural operators in the surrounding area.²

DEPARTMENT RECOMMENDATIONS AND CONCLUSIONS

The Department strongly recommends to the County that if the owners of the property under contract wish to have these events and uses, they file for nonrenewal for the portion of the property where the events, restaurant, and bed and breakfast would be located. It is preferred the landowner wait for the contract to expire via nonrenewal prior to the County considering such a use. However, the landowner may choose to submit a petition for partial cancellation in order to terminate that portion of the contract prior to its expiration via nonrenewal.

Cancellation of a contract is an option under limited circumstances and conditions as set forth in Government Code § 51280 et seq. Cancellation, if approved, would eliminate any conflicts with the Williamson Act. The Department has prepared a Cancellation Advice Paper for guidance regarding the cancellation process and is available to answer any questions.³

¹ Government Code § 51220.5 - Legislative Findings: Compatible Uses (Temporary Population Increases)

² Government Code § 51238.1 (a)(1) - Legislative Findings: Principles of Compatibility

³ Land Conservation Act Cancellation Advice Paper -

http://www.conservation.ca.gov/dlrp/lca/basic_contract_provisions/Documents/Cancellation%20Advice%20Paper%20Final_Amended_7.21.2014.pdf

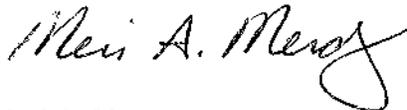
Mr. Airlin M. Singewald

May 23, 2016

Page 3 of 3

Thank you for the opportunity to provide comments on the Conditional Use Permit and Mitigated Negative Declaration for the Cass Winery project. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions concerning our comments, please contact Farl Grundy, Environmental Planner at (916) 324-7347 or at Farl.Grundy@conservation.ca.gov.

Sincerely,

A handwritten signature in cursive script that reads "Meri A. Meraz". The signature is written in black ink and is positioned above the printed name and title.

Meri A. Meraz
Conservation Program Support Supervisor
Division of Land Resource Protection

cc: San Luis Obispo County Farm Bureau

