

Cannabiz Continues from Front Page

Brad Johnson, Land Use and CEQA lawyer for Rolling Meadow Ranch, stated in his presentation to the Board of Supervisors in March that the Project's opposition doesn't have a factual basis because they were not authorized to be on the property and thus could not examine the project. He argued,

The appellants hired a geologist to provide an opinion, the geologist didn't examine the property, because if he did that would have been trespassing... Fisch Drilling has presented technical data ... that shows the wells are not hydrologically connected.

Johnson stated that any potential impacts had been mitigated and "a technical report" showing significant impact had "not been provided." Johnson said the plaintiffs lacked substantial evidence of a connection between the wells and groundwater resources .

However, CDFW's Northern Region Habitat Conservation Program Manager, Curt Babcock sent a letter to Humboldt County on December 30, 2020. expressing concern that the Rolling Meadows CEQA analysis is reliant on written statements from David Fisch of Fisch Drilling, who is a Licensed Water Well Contractor, but not "a qualified professional" who is able to make water connectivity assertions or to assess aquatic implications.

CDFW recommended, "The applicant retain a qualified professional (e.g. geologist or engineer with hydrogeology background) [to assess] potential impacts."

Humboldt County Planning Director John Ford sided with Johnson, despite the recommendations from CDFW. Ford reasoned,

[CDFW is] raising questions, but they are not saying this has the potential to create a significant adverse impact... They're raising concerns. We believe these concerns have been addressed either through the mitigation or conditions that have been applied to the project.

During the Board meeting on March 9, Ford said public opposition was not sufficient evidence to require an EIR, and that facts must be raised by an expert, which he said had not been done yet, adding, "You can't have proof of significant adverse impact because people, a lot of people, are opposed to a project, it has to be factually based."

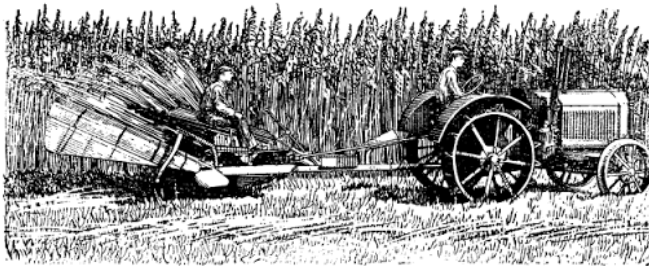
Close neighbor to the project, Mary Gaterud, a plaintiff in the lawsuit, responded to Ford's claim,

How cynical is it that the County uses CDFW, and satellite imagery, as a tool of enforcement in it's Abatement Policy, but does not follow this agency's requests/requirements for this Project? While the Project's stated intent simultaneously exploits and capitalizes on the Abatement Policy...that, in practice, ostensibly puts the Applicant's local competitors out of business, while creating the stated benefit for the Applicant of a local "pool of employees." Is it customary to use the apparatus of County Government, California State Agencies, and Law Enforcement in service of the financial interests of a private individual?

Supervisor Madrone cited the letter from CDFW, local first responders and the Tribe, insisting, "I do believe there are substantial facts that support the controversial nature of the project...I strongly feel an EIR is probably required on the project."

When the board was considering whether to approve the project, a letter from the Intertribal Sinkyone Wilderness Council, a consortium of ten federally recognized California tribes, requested the denial of the permit in order to protect cultural resources, writing that if the project is approved irreparable harm may violate laws that protect cultural resources. As provided by law, the Council requested an opportunity to consult with the County, demanding that the County place the project on hold until the Tribal concerns were adequately addressed.

Protecting cultural resources is an aspect of CEQA and tribal approval is required for all cannabis cultivation permits. Several smaller farmers have been denied permits due to tribal objections, curiously, not this one. The lawsuit additionally



cites possible special treatment given to large farms by the county, "These Violations of CEQA and the State Planning and Zoning Law are not isolated occurrences but instead part of a larger pattern and practice of bending environmental and land use rules to allow large-scale commercial cannabis projects to proceed."

Fourth District Supervisor Virginia Bass began the March 9 Rolling Meadows hearing "with a little housekeeping" to announce that the comment period would not be the standard three minutes, but instead two minutes, arbitrarily limiting the public comments and review, required by CEQA. Also included was a disclosure of ex parte (A Latin Legal term, meaning: From a side- with respect to or in the interests of one side only or of an interested outside party) communications with the property manager, Jim Redd. Redd is the owner of Four Star Realty, The Ranch Specialists, and is a contributor to both Bass and Bohn's political campaigns.

"I did do a site visit..." said Bass.

First District Supervisor Bohn and District Two Supervisor Michelle Bushnell said they, too, had ex parte communications with Rolling Meadow Ranch. Later in the meeting Supervisor Madrone raised the issue of full disclosure in regards to these ex parte communications. He advised the Board,

We are obligated to the public to present enough detail so they can understand what occurred. When we say we went out there, that doesn't do it, that doesn't protect the law... You do need to say where you went, who you met with, when it happened, and what was the general topic of conversation... I think you ought to disclose more detail."

Bushnell responded that she was invited to join a community meeting, and that she went out on her own and on behalf of her constituents.

Bass said she had Redd take her to the project site to get an idea of the size and because she, "[D]id not want to drive in the rain."

Supervisor Bohn detailed his ex parte communications, saying he made a trip with Director Ford, Supervising planner Cliff Johnson, and perhaps the applicant, Jim Redd,

"I actually facilitated the meeting out there, so-- we didn't have lunch. I took my own pickup... I don't know what you're looking for. I was facilitating, what we do with everyone who comes in [to get a permit]. I was out there another time, we'd actually gone to Bear to look at their facility because a friend of mine was the project manager on it."

Some community members were concerned about the Supervisors being potentially co-opted. Patty Richards, appellant in the commission appeal, and neighbor to Black Bear and Rolling Meadows posed a question for Rex Bohn (and the Board) about possible conflicts of interest during the public comment period. She said she wants the board to consider another supervisor showing up in the district with a cannabis lobbying group and asked,

Is it common for a Supervisor from another District to show up with the Humboldt Growers Association, advocating for a project, Black Bear, when our own [past] supervisor Estelle Fennel at the time knew nothing about it? ...I want the Board to consider another Supervisor showing up in your District with a cannabis lobbying group."

Over 20 participants including six environmental organizations navigated the zoom virtual public meeting to make their comments in the Board meeting, and all but one opposed the project. The one supporter was Ryan Ryce, who referred to himself as a "property rights advocate."

Ryce is also a Construction Manager at Humboldt County Redwood Company who was assigned by Supervisor Bohn in 2019, to serve on the Humboldt County Resource Conservation District (RCD), which functions to, "Assist landowners in the district, individually and as community groups, to conserve and develop soil and water resources through sound conservation practices and wise land use."

Which is contrary to what the plaintiffs allege is happening. In their press release they state, "The cumulative impacts of the Project, in combination with other projects, including impacts to groundwater resources, biological resources, and wildfire risk, were not adequately analyzed."

Roads to and within the property are a concern of the plaintiffs, emergency responders and the local community. The County feels the roads are adequate. Rolling Meadow Planner Megan Ryan stated, "After review of the analysis provided by the applicants engineer Northpoint consulting, Planning Department, staff determined ... the access road with recommended improvements will accommodate the traffic volume generated by the project."

McCann is about 4 miles as the crow flies miles from Weott, and sometimes over an hour and a half removed from emergency services, one way. The region is also categorized as a high fire risk area. The plaintiffs assert the project could pose increased risks for the general public's health and safety.

The Fruitland Ridge Volunteer Fire Protection District (FRVFPD) First responders in the area addressed the Board of Supervisors in a letter to the editor published on Kym Kemp's Redheaded Blackbelt news site, and adamantly disapproved of the project, asserting the roads were too dangerous for workers, emergency vehicles and did not meet Cal Fire standards:

"There is a likelihood that some sort of medical emergency will occur...with a total arrival time [to the Rolling Meadows property line] for a medical emergency or fire from 42 minutes to 1 hr. 22 minutes... one way. Patient transport out of the scene is equally time consuming."

The applicant has stated that he would not call FRVFPD for any services and instead use an Cal-Ore Lifeflight emergency service.

Supervisor Bohn suggested the applicant give a \$7500 donation to FRVFPD and Ford promptly added this to the list of over 30 additional conditions for approval. It is not clear if FRVFPD has accepted the check.

FRVFPD noted not only were the various access roads inadequate but, "The internal ranch roads within the property were a whole other matter."

"The roads were category two and category four equivalent," said Bob Bronkle the Director of Public Works, who visited the site.

However, this reporter caught up with the original engineer and internal road analyst David Nicoletti, owner of DTN Engineering with over 40 years experience, who described the project as having "less than category 1 roads."

In November of 2018, Nicoletti combed the miles of internal ranch roads to compile a thorough, but so far buried, 128 page road analysis for Rolling Meadows. Nicoletti's report revealed several slides, buried culverts, inadequate turn outs, dangerous cliffs, hairpin turns, grades as steep as 25%, roads as narrow as 8 feet," and more and said, "Existing conditions on this private access road are those of a quad trail."

"Machata kept calling me at all hours of the night, demanding that I lie on the road evaluation," said Nicoletti. He said his business relationship with Machata went sour after he completed the road analysis.

Reportedly similar bullying tactics have been used by Machata according to several neighbors for various reasons.

"[I] refused to lie...because it went against my code of ethics to protect the health and safety of the community and the environment," Nicoletti said and quit participation on the project.

Nicoletti informed Public Works Director Bob Bronkle of inadequate road conditions in emails during his analysis of the project, though his full report was not submitted.

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