



September 1, 2022

Governor's Office of Planning & Research

VIA EMAIL: [HALLMAT@KERNCOUNTY.COM](mailto:HALLMAT@KERNCOUNTY.COM)

Matthew Hall  
Supervising Planner  
Kern County Planning and Natural Resources Department  
2700 M Street Suite 100  
Bakersfield, CA 93301

**Sep 01 2022**

**STATE CLEARINGHOUSE**

Dear Mr. Hall:

NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE MALIBU VINEYARDS INDUSTRIAL PARKWAY PROJECT, SCH# 2022080056

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Notice of Preparation of a Draft Environmental Impact Report for the Malibu Vineyards Industrial Parkway Project (Project). The Division monitors farmland conversion on a statewide basis, provides technical assistance regarding the Williamson Act, and administers various agricultural land conservation programs. We offer the following comments and recommendations with respect to the project's potential impacts on agricultural land and resources.

#### Project Description

The proposed Malibu Vineyards Industrial Parkway Project involves the development of approximately 8,786,734 square feet of industrial use space, comprised of 24 buildings on approximately 739 acres of existing vineyard. The project is proposed by Malibu Vineyards, L.P. (project proponent), and would be developed over two phases.

The project site is located within unincorporated Kern County, north of Imperial Avenue and generally east of State Route 99 (SR 99), with site access from Saco Road and Imperial Avenue. The project site is just east of the City of Shafter, which is on the west side of SR 99, and approximately one mile north of the City of Bakersfield.

#### Department Comments

The conversion of agricultural land represents a permanent reduction and significant impact to California's agricultural land resources. CEQA requires that all feasible and reasonable mitigation be reviewed and applied to projects. Under CEQA, a lead agency should not approve a project if there are feasible alternatives or feasible mitigation measures available that would lessen the significant effects of the project.

All mitigation measures that are potentially feasible should be included in the project's environmental review. A measure brought to the attention of the lead agency should not be left out unless it is infeasible based on its elements.

Consistent with CEQA Guidelines, the Department recommends the County consider agricultural conservation easements, among other measures, as potential mitigation. (See Cal. Code Regs., tit. 14, § 15370 [mitigation includes "compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements."])

Mitigation through agricultural easements can take at least two forms: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should not be limited strictly to lands within the project's surrounding area.

A helpful source for regional and statewide agricultural mitigation banks is the California Council of Land Trusts. They provide helpful insight into farmland mitigation policies and implementation strategies, including a guidebook with model policies and a model local ordinance. The guidebook can be found at:

[California Council of Land Trusts](#)

Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered. Indeed, the recent judicial opinion in *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814 ("KG Farms") holds that agricultural conservation easements on a 1 to 1 ratio are not alone sufficient to adequately mitigate a project's conversion of agricultural land. KG Farms does not stand for the proposition that agricultural conservation easements are irrelevant as mitigation. Rather, the holding suggests that to the extent they are considered, they may need to be applied at a greater than 1 to 1 ratio, or combined with other forms of mitigation (such as restoration of some land not currently used as farmland).

### Conclusion

The Department recommends further discussion of the following issues:

- Type, amount, and location of farmland conversion resulting directly and indirectly from implementation of the proposed project.
- Impacts on any current and future agricultural operations in the vicinity; e.g., land-use conflicts, increases in land values and taxes, loss of agricultural support infrastructure such as processing facilities, etc.

- Incremental impacts leading to cumulative impacts on agricultural land. This would include impacts from the proposed project, as well as impacts from past, current, and likely future projects.
- Proposed mitigation measures for all impacted agricultural lands within the proposed project area.

Thank you for giving us the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report for the Malibu Vineyards Industrial Parkway 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 regarding our comments, please contact Farl Grundy, Associate Environmental Planner via email at [Farl.Grundy@conservation.ca.gov](mailto:Farl.Grundy@conservation.ca.gov).

Sincerely,

*Monique Wilber*

Monique Wilber

Conservation Program Support Supervisor