



BRIAN FINEGAN
A PROFESSIONAL CORPORATION
ATTORNEY AT LAW
SIXTY WEST ALISAL STREET, SUITE 1
POST OFFICE BOX 2058
SALINAS, CALIFORNIA 93902

AREA CODE 831
SALINAS TELEPHONE 757-3641
MONTEREY TELEPHONE 375-9652
FACSIMILE 757-9999
E-MAIL: brian@bfinegan.com

August 28, 2009

Courtney Grossman
Planning Manager
City of Salinas
68 West Alisal Street
Salinas, California 93901

Re: Salinas Ag-Industrial Center Draft Program EIR

Dear Mr. Grossman:

On behalf of the applicant, The Uni-Kool Partners, I submit the following comments on the Draft Program EIR for the Salinas Ag-Industrial Center.

Agricultural Resources

One of the principal areas of concern with respect to the Salinas Ag-Industrial Center is the subject of the conversion of agricultural land. The subject occupies twelve pages of text in the Draft EIR (pages 2-12 through 2-13).

Although the conversion of agricultural land is a matter of significant concern to the City, the region and the state, the DEIR correctly focuses on three important considerations that distinguish this project from other projects involving ag land conversions:

- 1) The purpose of the Salinas Ag-Industrial Center is to provide facilities and services essential to the continued viability and expansion of agriculture in the Salinas Valley. As the Specific Plan states: The project is "a key component in implementing the General Plan's vision of maintaining the agricultural industry as Salinas' primary industry."
- 2) The applicant has worked closely with the County's primary agricultural land conservancy, the Ag Land Trust, to structure an agreed-upon mitigation program for the Salinas Ag-Industrial Center. Prior to filing its project application,

The Uni-Kool Partners entered into a mitigation agreement with the Ag Land Trust providing for the creation of agricultural buffers and ag land conservation that significantly exceed the granting of traditional conservation easements. A copy of the agreement (referred to herein as the Mitigation Agreement) is enclosed, and its terms are explained in detail below.

3) By addressing the need for agricultural support facilities in a comprehensive and cohesive manner, the project has the potential to discourage scattered and piecemeal conversion of other valuable agricultural farmlands.

Two issues related to the conversion of agricultural land that are mentioned in the DEIR require further amplification in the context of the Mitigation Agreement: agricultural buffers and conservation easements.

1. Agricultural Buffers

Agricultural land borders the project site on the southwestern side for the full length of the project, and on a portion of the southeastern (Harris Road) side. As noted in Section 2.2 of the DEIR, the Specific Plan calls for a 70-foot wide agricultural buffer along the southwest boundary of the project, and a 20-foot wide buffer along the southeasterly boundary.

In fact, the effective buffer areas on both sides of the project area are significantly wider than the area designated within the buffer easement. The 70-foot wide buffer along the southwest boundary is part of an 84-foot wide road right-of-way (Street B). Furthermore, the project design includes an additional 22 feet of vegetated bio-swale along the interior (project) side of Road B. See Specific Plan page 6-12, Figure 6.6.) Thus the entire area of separation between adjacent agricultural operations and project uses is at least 106 feet.

Similarly, the ultimate right-of-way of Harris Road (currently 65 feet) will be 94 feet, plus a 22-foot vegetated swale along the interior (project) side. (See Specific Plan page 6-10, Figure 6-3.) Thus the entire area of separation between operations southeasterly of Harris Road and project uses is at least 116 feet.¹

Major public roads (such as Street B and Harris Road), particularly with separations of 100 feet or more, have in the past been recognized and accepted as adequate agricultural buffers. In this case, the width of the agricultural buffers was reviewed with and agreed upon by the Ag Land Trust as being adequate.

¹ As noted in John Bailey's letter of August 20, 2009 to Assistant City Attorney Christopher Callihan, the assessor parcel numbers of the parcels southeasterly of Harris Road have been changed. Consequently, Section 1© of Appendix F, and the DEIR text on page 3-32, should be amended to reflect that the new assessor parcel numbers for the Harris Place Industrial Complex are APNs 177-191-001, -002, -003, -004, -005, -011, -013, -014 and -015.

Unlike the typical case in which agricultural buffers are intended to separate agricultural uses from non-agricultural uses (usually residential use), in this case the project itself consists of agricultural (albeit ag-industrial) uses. Consequently, the typical agricultural/residential land use conflict that buffers are intended to address does not exist in this case.

For all of the above reasons, the agricultural buffers as proposed by the project are more than adequate.

2. Conservation Easements

The DEIR contains a number of references to City policy calling for the use of agricultural land conservation easements "to provide for the permanent protection of agricultural land." Policy COS-12 of the City's General Plan provides for the payment of a mitigation fee "that could be used to purchase easements through a mitigation bank." Typically, such conservation easements are granted to a land conservation organization such as the Ag Land Trust.

In this case, The Uni-Kool Partners have agreed to convey to the Ag Land Trust not just a conservation easement, but fee title to 196.9 acres of prime row crop land known as the Odello Ranch (APN 253-014-003) west of the City of Salinas. Thus the Ag Land Trust can not only preserve and protect the land for agricultural purposes (as they would be able to do with a conservation easement), but in addition they will have the rent from the property that they can use to acquire conservation easements on other farmlands. The rent will far exceed the amount that would ever be received by way of a mitigation fee.

It is clear that this unprecedented arrangement contributes significantly more to the overall ag land conservation effort than a mere conservation easement or the payment of in-lieu fees. Consequently, the following should be substituted for Mitigation Measure AG-1 in the final EIR:

"The applicant shall dedicate to the Ag Land Trust fee title to 196.9 acres of prime row crop land known as the Odello Ranch (APN 253-014-003)."

This substitute measure, as noted above, is more effective than the granting of a mere conservation easement for the purpose of mitigating the direct loss of agricultural land: as owner of fee title, the conservancy will have total control over the agricultural use of the property. Furthermore, the Ag Land Trust will derive significant rental income from the farming of the property which it can use to finance acquisition of other agricultural conservation easements. The substitution of this "fee title" mitigation will not cause any potentially significant effect on the environment; it will simply assure that the 196.9 acres remains in its historic farming use.