

Law Offices of
THOMAS N. LIPPE, APC

329 Bryant Street
Suite 3D
San Francisco, CA 94107

Telephone: 415-777-5600
Facsimile: 415-777-9809
email: lippelaw@sonic.net

October 20, 2008

Department of Conservation, Development and Planning
County of Napa
1195 Third Street, Suite 210
94599-3092
Attn: Mary Doyle

Re: Upper Range/Rodgers Vineyard Conversion Project, Erosion Control Plan # 02-454; Draft Environmental Impact Report

Dear Ms. Doyle:

This office represents Earth Defense for the Environment Now ("EDEN") with respect to the Upper Range/Rodgers Vineyard Conversion Project, Erosion Control Plan # 02-454, and Supplemental Draft Environmental Impact Report ("DEIR"). I write today to submit the following comments on EDEN's behalf. EDEN objects to the approval of this project and its Erosion Control Plan.

A. OAK WOODLANDS IMPACTS.

1. The Supplemental DEIR Misinterprets CEQA Section 21084.

My January 22, 2007 comment letter assumed that "the project is exempt from the specific requirements and procedures set forth in section 21083.4," but argued "it is not exempt from the remainder of CEQA, including the requirements under section 21081 to identify all significant impacts of the project and to implement all feasible mitigation measures that substantially reduce significant impacts."

The Supplemental DEIR apparently accepts this comment, because it provides an assessment of the impacts of removing a third of the on-site oak woodlands. However, the Supplemental DEIR states: "Section 21083.4(d)(3) operates to exempt "conversion of oak woodlands on agricultural land that includes land that is used to produce or process plant and animal products for commercial purposes" from the specific provisions of section 21083.4." This assertion raises two questions.

First, is the project exempt from the specific requirements of section 21083.4? I have consulted on this issue with the California Oak Foundation ("COF"), a proponent of the Oak Woodland Conservation Act in the legislature. In COF's opinion, since this property has never been

