CEQA's Interplay with Terroir-Based California Wines

By Arthur Pugsley and Michelle Black[*]

California has one of the most environmentally protective laws in the country—the California Environmental Quality Act (CEQA). CEQA's protection of California's unique environment, arguably, has also ensured that environment-based ventures such as winemaking can thrive in the state. (*See, e.g., Galante Vineyards v. Monterey Peninsula Water Management Dist*. (1997) 60 Cal. App. 4th 1109.)

This article focuses on the hypothetical interplay between CEQA and winemaking endeavors. The principles explored in the hypothetical could apply also to solar or renewable energy siting projects, shopping centers, hotels, and other projects where the uniqueness of locations might be thought to constrain project objectives.

I. Introduction: California Wine Is a Growth Industry

California wines are today recognized as among the best in the world. The most prestigious Napa Valley wines command prices as high as hundreds of dollars per bottle. Even inexpensive California wines sit proudly alongside their French cousins. Yet less than 40 years ago California was considered an oenological (winemaking) backwater.

California wines came of age on May 24, 1976, at a blind tasting in Paris. In what is referred to as the Judgment of Paris, two Napa Valley wines, a Chardonnay and a Cabernet Sauvignon, bested France's best. Since that day, French wines have lost their presumption of superiority. Today, a blind tasting comparing France and California would not be "blind" in any meaningful sense. California wines have developed their own distinctive character, and are now

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uniquely California products of place.

The wine industry in California is booming. Forty-eight of the state's 58 counties grow wine grapes, and the state had 2,843 licensed wineries by 2009. As a result, California is the fourth largest producer of wine in the world, behind only Italy, France, and Spain. Over half of the $30 billion in wine consumed by Americans now originates in California. As of 2004, the state's wine industry was responsible for an estimated $45.4 billion in annual economic activity, including tourism. In 2010, the United States passed France as the world's leading wine-consuming nation. With demand for California wines burgeoning in Asia, the wine industry is poised for continued growth.

A. The Concept of "Terroir" Plays a Central Yet Elusive Role in Making a Great Wine

"Terroir" is a French word closely related to the word "territory." While the word has been associated with wine since at least 1549, there is no agreement on its exact definition. Randall Grahm, of Bonny Doon Winery, explains the concept as "the quality found in certain special wines, that transcends the winemaker's personal style or aesthetic. It is…the unique fingerprint of a particular vineyard site." This fingerprint is the product of geology, climate, and intangible cultural factors. These elements combine to yield a poetic definition of terroir as "somewhere-ness." A California wine's "somewhere-ness" could depend on hydrology, and the French concept of *bilan hydrique* (literally, water balance) could prove especially fruitful here. Many great French wineries boast soils that permit a regular but gradual limiting of water and nutrient supply to vines in dry years. In California, with its long and precipitation-free dry season, a gradual, predictable dewatering occurs nearly every year. California thus enjoys almost unlimited potential to express its terroir in its wines.

B. The California Environmental Quality Act and the California Wine Industry

Signed into law by Ronald Reagan in 1970, six years before the Judgment of Paris, CEQA requires agencies to study the environmental impacts of projects before undertaking or permitting those projects. (Pub. Res. Code § 21000 *et seq.*) CEQA imposes a substantive obligation not to approve a project if a feasible alternative exists that has fewer environmental impacts. (Pub. Res. Code §§ 21002, 21002.1.) Agency decisions to approve or disapprove projects often follow what can be a lengthy and expensive review process that culminates in an Environmental Impact Report (EIR). The EIR—and its requirement for detailed analysis of alternatives to a proposed project and mitigation for impacts—is "the heart of CEQA." (*In Re Bay Delta Programmatic EIR Coordinated Proceedings* (2008) 43 Cal. 4th 1143, 1162.) Its purpose is to inform both agencies considering approval of the project and the public as to impacts, alternatives, and mitigation. (Pub. Res. Code § 21061.)

The following hypothetical illustrates potential tensions between the objective of creating a terroir-based wine and complying with CEQA:

A rising star in the wine world wants to produce a terroir-based wine expressing California's best qualities. He has identified an ideal site in the rugged hills above Paso Robles in San Luis Obispo County. The site is steeply sloping and erosion prone, with a mix of oak trees. The site will catch winter storms, and gradually dry out during the long dry season, yielding a very favorable *bilan hydrique*. The mineral rich soils and local climate are favorable. The vintner believes the site could produce a world-class terroir-based Roussane, the market for which is underdeveloped with great upside potential. The county is supportive, and the local wine growers association senses an opportunity to develop Paso Robles' reputation for excellence in white wines, as it has already done for reds. However, the site provides habitat for

a state threatened species of snake. Closer to town, the winemaker is investigating a flatter site without threatened species, which he believes would produce a good, but not great terroir-based Roussane. He purchases an option on the hillside site and applies to the county for a permit with the objective of developing a vineyard that produces a terroir-based Roussane.

II. Threshold Matters: Is the Vineyard a "Project" under CEQA Requiring an EIR?

The county, which would most likely be the "lead agency" (that is, the prime permitting authority), first must determine if CEQA applies to the proposed vineyard. (Pub. Res. Code § 21067.) CEQA applies to any discretionary "project," which includes issuance by a public agency of permits, licenses, and entitlements. (Pub. Res. Code § 21065.) However, the term "project" does not include ministerial issuance of permits. (Pub. Res. Code § 21080.) If a decision maker must apply judgment to the permit application, the decision is discretionary. If the decision maker need only ensure that a form is correctly filled out, the permit is ministerial, and the county must issue the permit as-of-right. (14 Cal. Code Regs. ("Guidelines") § 15369.) In most of California, a vineyard will require at least some discretionary review by the host county. A major exception is Mendocino County, which allows both vineyards and wineries as as-of-right uses. (Mendocino County Inland Zoning Code, § 20.052.010.) In the hypothetical, CEQA would not apply to Mendocino County's issuance of a ministerial permit for an agricultural use. However, CEQA would still apply to any future permitting required for the threatened species, or for appropriations of water associated with the vineyard.

Assuming the vineyard is a "project," the county would next usually prepare an Initial Study to guide its decision whether or not to prepare an EIR. An EIR is required "whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact." (*No Oil v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75; Pub. Res. Code

§ 21080(d).) CEQA embodies a legal "preference for an EIR to be prepared," meaning the threshold legal requirement to prepare an EIR is low, even if countervailing substantial evidence exists to support the agency decision not to prepare an EIR. (*Mejia v City of Los Angeles* (2005) 130 Cal. App. 4th 322, 332; Guidelines § 15064(f)(1).) Since any reviewing court will treat the existence of substantial evidence of a potential impact as a matter of law, giving no deference to the agency determination, the safest course of action is to prepare an EIR if it is at all arguable that the vineyard may have environmental impacts. (*See City of Antioch v City Council* (1986) 187 Cal. App. 3d 1325, 1331.) In the vineyard hypothetical, potential impacts on the threatened species, use of water, alteration of the landscape from its natural setting, and potential for erosion on a steep site all present at least "arguable" questions of environmental impact, so an EIR should be prepared. The potential impacts on a threatened snake, if backed by substantial evidence, might automatically trigger the EIR requirement even in the absence of any other impacts. (Guidelines § 15065(a)(1).)

The county would also notify responsible and trustee agencies about its decision to prepare an EIR and solicit their input. Responsible agencies are agencies that may have permitting jurisdiction, such as the Fish and Game Commission, because of the presence of the threatened snake. (Pub. Res. Code § 21069.) Trustee agencies are agencies with jurisdiction over resources held in trust for the people of California. (Pub. Res. Code § 21070.)

III. Incorporating "Terroir" in the Formulation of Project Objectives

A. An EIR Must Evaluate a Reasonable Range of Potentially Feasible Alternatives

Just as the EIR is "the heart of CEQA," the alternatives analysis is the "core of the EIR." (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 564 Cal. 3d 553, 564.) An EIR must include a reasonable range of potentially feasible alternatives to the proposed project.

(Guidelines § 15126.6(a).) While this mandate does not require analysis of "every conceivable alternative" to the project, there must be enough of a range of alternatives to permit reasoned choice by the agency and to ensure that the agency can abide by the substantive requirements of CEQA. (*Ibid*.) An important part of the development of a reasonable range of alternatives consists of the development of project objectives. The project objectives should disclose the primary and any secondary purposes of the proposed project. (*Ibid*.) The basic function of the project objectives is not to give the project applicant free reign to circumscribe what should be considered reasonable alternatives to the project, but rather, objectives should assist the lead agency in developing a reasonable range of alternatives to the project proposed by the applicant. (Guidelines § 15126.6(a).) The reviewing agency must ultimately exercise its independent judgment on the range of alternatives selected for study, so allowing a project applicant to dictate the project objectives can render an EIR vulnerable to legal challenges. In the vineyard hypothetical, a reasonable range of alternatives would naturally include the vintner's preferred site for his terroir-based Roussane vineyard. It would also likely include the flatter, less desirable site, since this site could be potentially feasible and may have fewer environmental impacts than the steep site (although it would likely require more water). Alternative locations are the "key question" and "first step" in any alternatives analysis. (Guidelines § 15126.6(f)(2)(A).) The county should also investigate the availability of nearby properties that are potentially suitable for vineyard development, as well as the "no project" alternative. (Guidelines § 15126.6(e).) Typically, the county would also consider one or more "reduced build" scenarios derived from the applicant's preferred alternative.

B. Can the Applicant's Objectives Be Used to Exclude Alternatives?

The county need not discuss in detail alternatives it decides are infeasible. A brief

mention in the Initial Study or EIR that such alternatives were rejected without detailed discussion is sufficient. (Guidelines § 15126.6(c).) However, the county must ensure that a reasonable range of alternatives is considered, so it would be unwise at this early stage to allow the objective for a "terroir-based Roussane" to block consideration of otherwise potentially feasible alternatives (including alternative sites). While CEQA contains no iron clad rules on when and how to exclude alternatives, it is clear that mere interference with project objectives is insufficient grounds for rejection of an alternative. (Guidelines § 15126.6(a), (b).) Also, the lead agency bears the responsibility to ensure the EIR meets the test of "adequacy, completeness, and a good faith effort at full disclosure" and imposes on the agency the duty to "find out and disclose all it reasonably can." (Guidelines §§ 15151, 15144.) Eliminating alternatives at an early stage based on the narrow objective of producing a particular varietal at a particular level of quality would likely be seen as inconsistent with these mandates. Producing a good Roussane from the flat site near town, or other types of grapes at another location entirely should not be excluded too early in the process.

C. Can the Applicant's Objectives Be Used to Reject Alternatives Considered in the EIR?

The question of whether an EIR contains a reasonable range of alternatives is a legal question reviewed de novo in a judicial challenge. (*Vineyard Area Citizens for Responsible Development v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 435.) The standard of review governing the rejection of alternatives based on inconsistency of project objectives is a less clear-cut question. On one hand, CEQA contains a clear legal prohibition on approving a project that will have significant, adverse environmental impacts if feasible alternatives with fewer impacts are available. (Pub. Res. Code § 21002.) Viewed in this light, a reviewing court might see the rejection of an alternative as a procedural flaw subject to de novo review. On the other hand,

once an EIR is prepared, the agency receives the benefit of the doubt on factual questions if there is substantial evidence to support the agency action; the rejection of an alternative could be seen as a factual determination that the alternative is not feasible. (Guidelines § 15384; Pub. Res. Code § 21081.5.) Several recent published cases discuss the extent to which an applicant's objectives can limit the alternatives considered, with varying levels of judicial deference toward agency reliance on applicants' objectives.

In *In Re Bay Delta Programmatic EIR* (2008) 43 Cal. 4th 1143, the California Supreme Court upheld the adequacy of an EIR for the CALFED Bay-Delta program against a challenge that the document was inadequate for failing to analyze, as inconsistent with project objectives, an alternative that would reduce current water diversions. The Court of Appeal, in invalidating the EIR, relied on the plain language of the statute in holding an alternative need not be consistent with *every* project objective to be feasible under CEQA, but rather must merely meet *most* of the basic project objectives. (Guidelines § 15126.6(b).) Yet the Supreme Court reversed. For the Bay-Delta program, the Supreme Court defined a feasible alternative as one that meets *every* project objective. The Supreme Court referenced the history of political conflict regarding water diversions from the Delta and concluded the objectives were all essential to the success of the program, deeming an "integrated approach to achieving all four objectives concurrently as the very foundation of the Program." (43 Cal. 4th at 1164.) With *In Re Bay Delta*, the Supreme Court seems to have carved out a deferential exception for objectives for large public projects, when achieving all objectives is essential to reach a political consensus on a hotly-contested issue.

The Court repeated CEQA's usual rule that failure to meet all objectives is not fatal to the feasibility of an alternative. (43 Cal. 4th at 1164–1165.) Therefore, it does not appear that the

actual holding of *In Re Bay Delta* should be extended past a small class of extremely large and historically contentious public projects. The Court did provide some guidance with potentially general applicability, however. "Although a lead agency may not give a project's purpose an artificially narrow definition, a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal." (43 Cal. 4th at 1166.) The Court cited the example of a project objective of developing a coastal resort as a valid reason for eliminating inland locations from consideration in the EIR. (43 Cal. 4th at 1166, *citing Citizens of Goleta Valley* (1990) 564 Cal. 3d 553.) This represents a fairly deferential standard to project applicants' objectives, as it is unclear why a *coastal* resort should be considered the basic objective, as opposed to development of an economically viable resort, regardless of location. By extension, the logic of *In Re Bay Delta* and *Citizens of Goleta Valley* could be applied to the terroir-based Roussane project to rule out any alternatives that would not produce a terroir-based wine, with "terroir-based" roughly analogous to "coastal" in the hierarchy of project objectives.

At least one case from the Court of Appeal, involving a vineyard and wine processing facility, lends support to this deferential view of applicants' objectives. The court in *Sierra Club v. County of Napa* (2004) 121 Cal. App. 4th 1490 rejected a claim by the Sierra Club that the county violated CEQA by not adopting a reduced build alternative that would have avoided the significant wetlands impacts of the Beringer winery's preferred alternative. This case centered mostly on the issue of determining the feasibility of alternatives, but the Court briefly addressed the relationship of the applicant's objectives to determinations by the lead agency as to the feasibility of those alternatives. (121 Cal. App. 4th at 1509.) The court held, "[t]he EIR was not required to analyze the effects of a project that Beringer did not propose," implying an extremely

deferential standard for an applicant's objectives that is hard to reconcile with the language of Guidelines Section 15126.6(b). (121 Cal. App. 4th at 1509.) Because the case discusses the issue only briefly, and includes a holding on outer edges of deference to project applicants' objectives, this case should be viewed with caution. Taking the holding of this case to its logical extreme, only the exact project preferred by the applicant could ever be considered feasible under CEQA, which is a result clearly contrary to the plain language of the statute.

On the other hand, several other recent published decisions have shown much less deference to the applicant's stated objectives when determining whether an alternative is feasible. *Preservation Action Council v. City of San Jose* (2006) 141 Cal. App. 4th 1336 involved a successful challenge to an EIR that rejected a reduced build alternative allowing for preservation of an historic building because the alternative did not meet the applicant's objective for the size and layout of the project. The court approvingly quoted from a comment in the record that the objectives were "unnecessarily restrictive and inflexible" and vacated the approval of the EIR, holding (in likely dicta) that an adequate EIR would have had to show the rejected alternative was "operationally infeasible." (141 Cal. App. 4th at 1360, 1356.) Applying this case to the vineyard hypothetical, the applicant's desire for a "terroir-based Roussane" would not be controlling and alternatives that did not meet this objective should not be ruled out as infeasible.

Similarly, *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th 587 involved Steve Jobs' proposal to demolish an existing historic home and construct a new house on the same site. The town argued that, by definition, any alternative not involving demolition of the existing house was infeasible because it was inconsistent with the project objective of demolishing the house. (147 Cal. App. 4th at 593–595.) The court rejected the narrow

adherence to the applicant's project objectives and instead recast the basic project objective as development of a single family home. (147 Cal. App. 4th at 595, n.4.) The court showed little deference to the applicant's objective of demolition, holding, "[t]he willingness of the applicant to accept a feasible alternative, however, is no more relevant than the financial ability of the applicant to complete the alternative. To define feasible as appellants suggest would render CEQA meaningless." (147 Cal. App. 4th at 601.) Applying this holding to the vineyard hypothetical, it would likely make little difference that the objective is a "terroir-based Roussane." The basic project objective would likely be recast as development of an economically viable vineyard, without consideration of the quality of the wine, the exact location of the vineyard, or the varietal involved.

Save Round Valley v. County of Inyo (2007) 157 Cal. App. 4th 1437 is a dramatic example of a court refusing to allow applicant's objectives to dictate the outcome of the alternatives analysis. In *Save Round Valley*, an applicant had a stated objective of developing a subdivision at the foot of Mount Whitney with an expansive view and proximity to running water. The applicant flatly refused to consider a land swap alternative with the federal Bureau of Land Management for a less sensitive, but less spectacular, site. The court nonetheless ruled the EIR defective for failing to consider the land swap alternative. "[T]he willingness or unwillingness of a project proponent to accept an otherwise feasible alternative is not a relevant consideration." (157 Cal. App. 4th at 1460.) While the county could not force the applicant to accept the land swap, it could refuse to approve the project in the applicant's preferred location. An "applicant's feeling about an alternative cannot substitute for the required facts and independent reasoning" required by CEQA. (157 Cal. App. 4th at 1460, n.10.) The subdivision with the spectacular view is analogous to the "terroir-based Roussane," while the land swap

alternative is analogous to a site that would produce a viable wine of lesser quality.

Thus, relying on the applicant's project objectives to rule alternatives infeasible is a risky legal strategy. While some courts have shown significant deference to the project objectives articulated by the applicant, others have not. An agency—and an applicant whose project is on the line—might not want to risk the delays and expenses that could be incurred from such an uncertain legal strategy. The safer course for the lead agency is to embrace CEQA's requirement for independent reasoning and judgment.

D. The Concept of Terroir Provides a Legitimate Basis to Support a Statement of Overriding Considerations

Fortunately, agencies need not play "CEQA roulette" with project objectives and alternatives if they are favorably inclined towards an applicant's project. CEQA allows for a transparent solution that carefully balances the benefits of the project against the environmental harms but still allows the project to go forward. At the conclusion of the EIR process, an agency can make findings that "specific economic, legal, social, technological, or other considerations…make infeasible…the alternatives identified in the environmental impact report" (Pub. Res. Code § 21081(a)(3)) *and* that the "overriding…benefits of the project outweigh the significant effects on the environment." (Pub. Res. Code § 21081(b).) This provision allows a "Statement of Overriding Considerations" (SOC) to be issued that permits approval of a project with otherwise significant environmental impacts.

The SOC is not a license to ignore inconvenient realities explained in an EIR, or to skip right to the step of weighing costs and benefits without first analyzing a project's potentially significant impacts or developing mitigation for them. Case law involving SOCs is surprisingly scarce, but it seems clear a court will review an SOC as rigorously as the underlying EIR, applying the appropriate standard of review from *Vineyard Area Citizens*. (*Vineyard Area*

Citizens for Responsible Development v. City of Rancho Cordova (2007) 40 Cal. 4th 412, 435 [procedural questions reviewed de novo; factual questions reviewed for substantial evidence].)

Moreover, an agency must "affirmatively demonstrate that, notwithstanding a project's impact on the environment, the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation measures." (*Mountain Lion Foundation v. Fish and Game Comm.* (1997) 16 Cal. 4th 105, 134.) An agency may only reject mitigation measures—and by extension alternatives—if such mitigation is "truly infeasible," lest it make a decision "wholly inconsistent" with the statutory language. (*Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal. 3d 376, 403 [alternatives are a type of mitigation]; *City of Marina v. Board of Trustees* (2006) 39 Cal. 4th 341, 368–369.) The use of these strong modifiers by the Supreme Court suggests that lower courts should vigorously review claimed findings of infeasibility at the conclusion of the EIR process.

The SOC does not merely allow an agency to do what it was inclined to do all along. The SOC findings must be based on substantial evidence in the administrative record, although it need not necessarily appear in the EIR itself. (Pub. Res. Code § 20181.5.) The unadorned preferences of a project proponent are unlikely to constitute substantial evidence. (*See Preservation Action Council v. City of San Jose* (2006) 141 Cal. App. 4th 1336, 1356.) Moreover, the SOC must make a "good faith effort to inform the public" why a project is being approved despite significant environmental impacts. (*Woodward Park Homeowner's Ass'n v. City of Fresno* (2007) 150 Cal. App. 4th 683, 720.) The SOC provides a mechanism for project approval, "but only after the elected decision makers have their noses rubbed in those environmental effects, and vote to go forward anyway." (*Vedanta Society of So. Cal. v. California Quartet Ltd.* (2000) 84 Cal. App. 4th 517, 530.) In this respect, the SOC functions as

an important final mechanism ensuring transparency in the decision making process. The Supreme Court has repeatedly held that CEQA serves the dual functions of environmental protection and governmental transparency, so the SOC should not be considered to give agencies carte blanche to ignore their own analysis. (*See, e.g., Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 564.)

In the vineyard hypothetical, the county could possibly determine that the flatter vineyard site without threatened species habitat was feasible under CEQA, but nonetheless issue a SOC finding (after incorporation of all feasible mitigation measures) that the economic and social importance of producing a "terroir-based Roussane" in the county outweighed the negative environmental effects—but only so long as the county had substantial evidence in the record to support those conclusions.[1] The county might also balance the relative water needs of the two sites to find that the hilly site would require less water than the flatter site, as would be likely. Of course, selection of the hilly site would require significant mitigation for the impacts to the threatened snake, likely by purchasing a conservation easement for suitable but unprotected habitat nearby, and possibly by making reasonable operational changes to the project itself.

IV. Streamlining the CEQA Review Process and Enabling Agency Decisions that Withstand Judicial Scrutiny

The need for substantial evidence to support a SOC highlights the importance of developing a good administrative record. Luckily, agencies have significant control over the contents of the administrative record and can use that control to better support their CEQA decisions. Courts evaluate EIRs for "adequacy, completeness, and a good faith effort at full disclosure." (Guidelines § 15151.) However, data collection activities can enhance the quality of

[1] Of course, the County would be required to comply with the Endangered Species Act with regard to impacts to protected species.

an EIR and provide the evidentiary foundation required to withstand judicial review.

A. Map and Rank the Terroir Within County Borders

Although terroir has a significant subjective and cultural component, the concept is sufficiently scientifically rigorous to lend itself to objective description. Counties with major winegrowing industries could map and rank the terroir of the county. Using such characteristics as slope, water balance, local precipitation and climate, and soil types, the county could develop objective criteria in geographical information system (GIS) format to pinpoint the areas most likely to have the best terroir for wine grapes. Proposals on areas ranked high would benefit from the substantial evidence of the suitability of the site for the proposed use. Site suitability is a major factor in the evaluation of alternatives. (Guidelines § 15126.6(f)(1).) This information would also support agency findings or SOCs when balancing environmental and non-environmental considerations at the project approval stage.

B. Incorporate Best Management Practices for Vineyards into the County Code

Since the best terroir is likely sloping to at least some extent, erosion is a likely issue in any proposal for a terroir-based wine. Counties should therefore come up with Best Management Practices (BMPs) for erosion control from vineyards, and develop a mechanism to ensure that BMPs are implemented. Napa County has experience with BMPs along the Napa River, and could be a useful source of information. Counties could also develop policies to encourage sustainable and biodynamic wine growing. In addition to the environmental benefits, there is evidence that biodynamic practices enhance the expression of terroir in wines, so these policies could present a win-win situation. Sustainable practices should be integrated into a comprehensive BMP program aimed at vineyards.

C. Incorporate by Reference into the EIR Studies Supporting the Economic, Social, Technological, and Environmental Bases of Terroir

A growing body of literature addresses the scientific basis of terroir. CEQA allows incorporation of relevant documents by reference into an EIR (Guidelines § 15150), and incorporation of such documents could provide substantial evidence for issuance of a SOC. Much of the literature on terroir is in French, so translations or summaries of incorporated documents would need to be provided. Agencies should be cautious when incorporating documents by reference, as overly aggressive use of the tool can alienate courts reviewing an EIR. Additionally, such information may also provide ammunition to those opposing an EIR, SOC, or project approval. However, appropriately incorporated documents can assist agencies and the public in understanding the environmental impacts of the project and the agency's decision making process, so the strategy should be considered.

V. Conclusion: CEQA and Terroir-based California Wines Are Compatible

While CEQA imposes rigorous mandates on agencies reviewing proposals for vineyards, CEQA fortunately does not mandate mediocrity from California wines. The law requires a transparent, honest assessment of the environmental impacts of converting lands into vineyards, but contains mechanisms to ensure that terroir-based vineyards can be approved, even if the approval involves significant environmental impacts. Indeed, some aspects of terroir-based vineyards, particularly reduced water use and incorporation of biodynamic practices, may qualify as mitigation under CEQA. With a commitment to transparency, conscientious record building, and mitigation, even an environmentally challenging site can become a terroir-based vineyard that reflects positively on California's history and evolution as one of the great wine producing areas of the world. Let's drink to that.