

ATTACHMENT C

James Feenan

From: Chris <wickboyd@comcast.net>
Sent: Tuesday, November 28, 2023 5:11 PM
To: pbscommissions
Cc: Dolly Riley
Subject: In Word--RVMAC letter re. Faizan Gas Station for Dec. 7 Planning Commission meeting.
Attachments: FINALRV MAC 101 Gas Station Ltr.docx

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please post to your website, along with the prior RVMAC letters (sent just now by separate email). Thank you.

Mendocino County

NOV 29 2023

Planning & Building Services

ATTACHMENT C



Redwood Valley Municipal Advisory Council (RVMAC)

PO Box 243, Redwood Valley, CA 5470

November 17, 2033

To: Mendocino County Planning Commission

From: Redwood Valley Municipal Advisory Council (RVMAC)

SUBJECT: Faizan Corporation Gas Station Proposed at US Route 101 and 9601-9621 N. State St., Redwood Valley (Hearing Date 12/7/23)

POSITION: OPPOSE approval for the subject project.

The Redwood Valley Municipal Advisory Council (RVMAC) met on November 8, 2023 and discussed the subject proposal. Beginning with a RVMAC Special Meeting in 2016, The Faizan gas station project has come before the RVMAC several times, with members of the community expressing concern about a number of issues. Two letters from the RVMAC are attached, wherein those concerns were documented for the Planning and Building Services Department and the Planning Commission. It appears at least two of those issues have been addressed: 1) Disallowing southbound traffic on US 101 from making a left turn across the northbound lanes to access the gas station, which should increase safety and partially mitigate the noise nuisance from noisy air brakes of trucks descending the grade; and 2) Disallowing a variance request for a 65-foot-tall sign. Those are good steps.

Other concerns expressed in the RVMAC letters of 2016 and 2017 remain:

- A) Haz mat runoff into riparian habitat.
- B) Light pollution, from both the excessively large sign and the canopy over the pumps.
- C) Diesel fuels—Idling trucks increase the impact to local residents of diesel, a known carcinogen.
- D) Fuel pumps/charging stations—Not a single electric charging station is identified, while the project calls for 10 fuel pumps, representing an 8-fold increase in fuel pumps for the Redwood Valley area.
- D) Overnight parking/truck stop amenities—Should these be allowed, the community would oppose; and if no public hearings would be done, that opposition must be recorded now.
- E) Alcoholic beverage sales—Again, should these be allowed, the community has concerns, with an already wide array of alcohol purchasing outlets in the area.
- F) Archaeology—This site is a known depository of Native American relics. What consideration is being made for any excavation or grading?

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Additionally, news laws, regulations and concerns relative to climate heating have transpired since our 2016-2017 letters. In 2018, California passed legislation (SB100) calling for 100% renewable energy by 2045. In 2019, the Mendocino County Board of Supervisors declared a "Climate Emergency." A 2021 report from the PUC and CEC stipulates that clean energy is technically achievable by 2045; construction of clean electric generation and storage facilities must be sustained at record-setting rates; and diversity in energy resources and technologies lowers overall costs. Other counties and communities are banning new gas stations (Sonoma County, Santa Rosa, Rohnert Park, Sebastopol, Calistoga, Petaluma, etc.). Where can clean energy be implemented if not at the local level? Even if Mendocino County is not ready to enact an ordinance banning additional gas and diesel fuel pumps, certainly there is room for compromise on the Faizan proposal.

Finally, the proposed granting of a variance to increase the maximum sign area 4 times beyond current limits is excessive. This property fronts residences. A 512 square foot sign is enormous; such an eyesore would be less useful in these times, when everyone uses GPS systems that clearly display fuel stations, restaurants, and other services used by travelers. This is simply overkill, especially as local residents particularly called out their objections to enormous signage and adverse impacts to our treasured night skies.

The Community Action Plan for Redwood Valley, created by the residents of this community, strongly calls for smart, sustainable growth that retains the area's rural character. Like most of the residents of Mendocino County, we live outside the incorporated cities/towns. With development in these rural areas, rarely do huge numbers of citizens walk the County halls to protest unwelcome developments. That may make it easier for County officials to pretend that objections don't exist. In the case of the subject proposal, residents expect that County officials will work harder to at least mitigate our concerns on new, undesirable developments. Redwood Valley residents have spoken loud and clear to the RVMAC; we hope you will take these concerns seriously. Thank you.

Respectfully,

The Members of the Redwood Valley Municipal Advisory Council:

Christine Boyd, Adam Gaska, Kahli Johnson, Marybeth Kelly, Fran Laughton, Jini Reynolds, Dolly Riley (Chair), Patricia Ris-Yarbrough

Cc. Glenn McGourty, Supervisor, 1st District
Julia Krog, Director, County PBS
Clerk of the Board of Supervisors

ATTACHMENTS

This correspondence is the voice of the RVMAC on a matter of concern for the community, and not necessarily the opinion of the Mendocino County Board of Supervisors.

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James Feenan

From: Chris <wickboyd@comcast.net>
Sent: Sunday, November 19, 2023 12:03 PM
To: pbscommissions
Cc: Glenn McGourty; Julia Krog; bos; Katrina Frey; Adam Gaska; Kahli Johnson; Marybeth Kelly; Fran Laughton; jini reynolds; Dolly Riley; Patricia Ris-Yarbrough
Subject: Dec.7 Hearing: Redwood Valley Municipal Advisory Comments on Faizan Gas Station, Redwood Valley--OPPOSE
Attachments: FINALRV MAC 101 Gas Station Ltr.pages

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Redwood Valley Municipal Advisory Council (MAC)

September 8, 2016

To: Adelle Phillips, County of Mendocino PBS
From: Alex de Grassi, RVMAC Standing Committee on Development Review
Subject: Faizan Minor Use Permit & Variance U_2015-0009/V_2105-0001

The Redwood Valley MAC held a special meeting to discuss the above agenda item at our regular Tuesday, September 6 meeting. In addition, a few of the members of the MAC were able to give greater in-depth review of the minor use permit documents sent out from your office on Friday, September 2. As the newly elected chair of the RV MAC Standing Committee on Development Review, I have been asked to present the comments below. As we are a very recently formed referral agency, some of our comments come with questions regarding the review process as well as the particulars of this permit application—they appear below the comment prefaced by the word **Question** in bold letters. Thanks in advance for your patience, and we hope you will be able to respond to those questions at your earliest convenience.

Comments: We are aware that this application is in the final stages of review, but we hope that these comments will be received by the Planning Commission prior to their September 15 meeting for inclusion in that discussion.

- 1) **Fuel Pumps/Charging Stations:** Until recently, Redwood Valley had one gas station with two fuel pumps. In the past year, a second service station/convenience store with 6 fuel pumps was built at Coyote Valley. Should the Faizan Corporation succeed in constructing a service station with 6 pumps, our community will have gone from a 2 pump community to a 14 pump community. Rumor has it that the service station in downtown Redwood Valley is pursuing plans to add 2 additional fuel pumps as well, bringing the total to 16 pumps in the Redwood Valley area. It is hard to believe that an 8 fold increase in fuel supply in Redwood Valley will allow all these businesses to survive, however, **our primary concern** is that apparently none of these service stations are currently providing or plan to provide a single charging station. Given the increasing pressure of global climate change and the increasing demand for electric vehicles in our county, it would seem judicious and forward-looking to consider making charging stations a condition for issuing a use permit for this and any future service station permits in the county.
- 2) **Liquor License:** Being new to the minor review process, the RV MAC is unclear as to whether, or at what stage, mention of a liquor license is typically included in the minor use permit. Because this permit application proposes a 3,000 sq. ft.

Mendocino County

NOV 20 2023

Planning & Building Services

Redwood Valley Municipal Advisory Council

January 27, 2017

To: Danielle Fitts per Mendocino Planning Commission

Cc: Adele Phillips: Project Planner, Geoff Burnet, MC DOT,
Brad Mettam, CalTrans Dist. Dir. for Planning, Chris Boyd RV MAC

From: Alex de Grassi, RVMAC Standing Committee on Development Review

Subject: **Faizan Corporation Project, U_2015-0009/V_2015-0001**
9621 N State St., Redwood Valley 95470

Dear Planning Commission,

At our most recent Redwood Valley MAC meeting on Wednesday, January 11, our Standing Committee on Development Review summarized, to the best of our knowledge, the status of the service station to be constructed on North State Street in Redwood Valley by the Faizan Corporation. However, we only recently discovered that the permit was approved back in September, and many members of the MAC as well as the public in attendance expressed new and continuing concerns about the impact of the project. Consequently, I have been tasked with writing to pass on those concerns.

Those concerns include: traffic safety, noise, runoff and potential pollution of local creeks, lighting, archaeological remains, potential use of diesel fuels and consequent traffic and overnight parking of big rigs, especially if the service station, strategically positioned for truckers, develops into a "truck-stop" providing additional amenities and services for truckers.

Below is an elaboration of the concerns that arose from our recent MAC meeting.

- **Traffic Safety:** One of the conditions in the permit application called for a traffic ordinance to disallow traffic exiting North State Street to cross northbound 101 to enter southbound 101—the so called "right-in, right-out" only ordinance. But the Redwood Valley community has also expressed concern over increased southbound 101 traffic—especially non-local traffic, and in particular big rigs—making left hand turns to access the service station.
- **Noise:** Increased traffic, especially big rigs, coming off the grade using their "jake" brakes to make the aforementioned left hand turn would also create a significant noise nuisance for nearby residents.
- **Runoff:** Though the Initial Study/Environmental Review section of the permit application, under the IV. Biological Resources, checked "no impact" on letter b

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Mendocino County

NOV 20 2023

Redwood Valley Municipal Advisory Council

Planning & Building Services

January 27, 2017

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Cc: Adele Phillips: Project Planner, Geoff Burnet, MC DOT,
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From: Alex de Grassi, RVMAC Standing Committee on Development Review

Subject: **Faizan Corporation Project, U_2015-0009/V_2015-0001**
9621 N State St., Redwood Valley 95470

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(riparian impact), there is continued concern about the potential for surface oils and potential fuel runoff finding their way into nearby Forsythe Creek. What will be the required mitigations for this issue.

- **Lighting:** Some neighbors have complained that they were not consulted about the impact of lighting from the proposed station's tall sign and from the very large canopy. We think it fair that any lighting plans be re-examined to conform with the county's requirement that light shall not disperse beyond the facility site.
- **Diesel Fuels:** If and when the project proposes to sell diesel fuel, the RVMAC and the RV community has asked for formal notification by Planning of such expansion of services because of the potential impacts cited above and below.
- **Overnight Truck Parking/Truck-stop Facilities:** Should the service station offer diesel fuel sales and then offer truckers' amenities such as showers, space for over-nighting in their rigs, there is concern that that would require more parking than is being provided for in the permit.
- **Alcoholic Beverage Sales:** When and if the owners of the property apply for a license to sell alcoholic beverages, the RVMAC and the RV community request that they be informed by Planning at the time such application is referred to Planning and/or the Sheriff by either the ABC or directly from the owner.
- **Archaeology:** While it is stated the one of the conditions for this project is to have an archaeologist onsite during any excavation and grading, the RV community—and in particular members of the Pomo tribes--would like to stress that this site is a known depository of Native American relics, and that special care be taken to monitor any excavation and/or grading. What will those requirements entail?

Thanks for your attention. We respectfully request a letter of response at your earliest convenience.

Sincerely,

Alex de Grassi
RV MAC Development Review Committee Chair

Mendocino County

Redwood Valley Municipal Advisory Council (MAC)

NOV 20 2023

Planning & Building Services

September 8, 2016

To: Adelle Phillips, County of Mendocino PBS

From: Alex de Grassi, RVMAC Standing Committee on Development Review

Subject: **Faizan Minor Use Permit & Variance U_2015-0009/V_2105-0001**

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Comments: We are aware that this application is in the final stages of review, but we hope that these comments will be received by the Planning Commission prior to their September 15 meeting for inclusion in that discussion.

- 1) *Fuel Pumps/Charging Stations:* Until recently, Redwood Valley had one gas station with two fuel pumps. In the past year, a second service station/convenience store with 6 fuel pumps was built at Coyote Valley. Should the Faizan Corporation succeed in constructing a service station with 6 pumps, our community will have gone from a 2 pump community to a 14 pump community. Rumor has it that the service station in downtown Redwood Valley is pursuing plans to add 2 additional fuel pumps as well, bringing the total to 16 pumps in the Redwood Valley area. It is hard to believe that an 8 fold increase in fuel supply in Redwood Valley will allow all these businesses to survive, however, our primary concern is that apparently none of these service stations are currently providing or plan to provide a single charging station. Given the increasing pressure of global climate change and the increasing demand for electric vehicles in our county, it would seem judicious and forward-looking to consider making charging stations a condition for issuing a use permit for this and any future service station permits in the county.
- 2) *Liquor License:* Being new to the minor review process, the RV MAC is unclear as to whether, or at what stage, mention of a liquor license is typically included in the minor use permit. Because this permit application proposes a 3,000 sq. ft.

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convenience store/office building, and because the Faizan Corporation apparently owns and operates a service station/convenience store on East Gobbi street in Ukiah with an off-sale license, it would seem highly likely that they will be pursuing an off-sale license at the proposed site at 9621 N State Street. Given that there are already more per-capita off-sale licenses in Redwood Valley than recommended by the ABC guidelines, and given that there has been a tremendous community outcry and letter writing campaign to the ABC regarding the off-sale license held by the as yet built Dollar General store in downtown RV, the MAC and members of the community are concerned that any additional licenses will have a negative impact on our community. If the service station plans to have alcohol off-sale, it would seem that relevant county agencies as well as the ABC should consider limiting or eliminating altogether the sale of alcoholic beverages at the proposed Dollar General store.

Questions: Therefore, we would kindly request answers to the following:

- a) Does a minor use application of this type require the applicant to state whether some type of liquor license exists or will be pursued?
- b) If yes, does that mean that this Faizan store will not be selling alcoholic beverages?
- c) If no, how do the MACs and the public obtain that information?
- d) Is there any other county review process for liquor licenses?

- 3) *Traffic Ordinance Amendment:* The staff report and resolution state that conditions of approval for this application are predicated on approval by the Board of Supervisors of an ordinance amendment limiting (restricting?) left-turn and through movement at the North State Street and US 101 intersection. While this ordinance does seem to logically address traffic safety concerns, we did hear from a Redwood Valley resident that no longer being allowed to make a left-turn from the southbound lanes of US 101 onto State Street at that intersection would be an inconvenience.

Question/Clarification: Will this traffic ordinance amendment eliminate all left hand turns by southbound US 101 traffic onto N State Street at the intersection of the two roads?

- 4) *Parking Waiver:* While it appears that parking has not been an issue in the area, we would like to know if the businesses adjacent to the proposed service station/convenience store have been notified of the project and the parking plans. In particular, Mario's Ristorante, as their parking needs are variable, especially in the evening.

Question: Have the adjacent businesses been notified about the parking plans and have they made any comments? Is this standard procedure?

- 5) *Local or Out-of-Town Ownership:* While the owner is a corporation using a local Ukiah address, we are unclear as to whether the Faizan Corporation itself is an out of area or out of the country based corporation.

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Question: Is this a local or out-of-town corporation, and how might that impact the community policy of Smart Growth to keep money in the local economy?

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James Feenan

Mendocino County

From: Cathy Monroe <cathy.monroe@gmail.com>
Sent: Tuesday, December 5, 2023 5:46 PM
To: pbscommissions
Subject: item 6b on Dec. 7 Planning Commission agenda

DEC 06 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commissioners,

I am strongly opposed to approving the application of the Faizan Corporation to establish and operate a gas station on North State Street in Redwood Valley, item 6b on your agenda. I know you are receiving several letters that specify good reasons for denying this minor use permit request, among them being the applicant's questionable record for the proper gas station installation that is essential for avoiding pollution problems. Most importantly, Redwood Valley does not need another gas station especially now that our state and nation are recognizing the need to shift transportation systems away from the burning of fossil fuels. Even a properly installed gas station will become a questionable asset to a community when it is no longer profitable and likely will require the removal of storage tanks and other clean up to change ownership. Adding gas stations at this time appears to be very poor land use planning. I urge you to deny this minor use permit request.

Sincerely, Cathy Monroe

ATTACHMENT C

James Feenan

From: Cass Taaning <cass.taaning@gmail.com>
Sent: Wednesday, December 6, 2023 6:46 PM
To: pbscommissions
Subject: No gas station in Redwood Valley

Mendocino County

DEC 07 2023

Planning & Building Services

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Mendocino Planning Commission

I am writing to protest the proposed 10 pump gas station on North State Street in Redwood Valley.

We have a gas station in Redwood Valley village to serve locals. We have another huge gas station at Coyote Valley to serve locals and travelers.

The area of the proposed gas station on North State Street is a terrible place for additional traffic. I understand that southbound traffic on 101 would be routed over the West Road overpass to access the new gas station on North State Street requiring a left hand turn.

Look at the accident records on the overpass and adjacent intersections. It is very congested. Has no traffic lights. I dare you to be there at 5:30 in the evening when it's dark in the winter and raining. All you see is glare from oncoming traffic. There are no traffic lights or street lights and it's hard to tell where North State Street intersection is. It is a very dangerous area to add additional traffic.

We are moving away from fossil fuels. We need charging stations not more gas pumps. In 20 years when this gas station is obsolete that space will be vacant and no one will want to clean up the underground tanks. No one will want to build anything of value for the community.

If you live in Redwood Valley and imagine what your grandchildren would benefit from it is definitely not another gas station.

The owners of this property have a horrible environmental and business record. They do not care about our neighborhood. They do not care about our County. Mendocino planning Commission I hope you do care.

Please vote no on this gas station.

Sincerely,

Cass Taaning
Redwood Valley
Sixth generation Mendocino resident

ATTACHMENT C

James Feenan

Mendocino County

From: Deb Perkowski <debsperkowski@gmail.com>
Sent: Sunday, December 3, 2023 4:00 PM
To: pbscommissions
Subject: Re: Proposed gas station in Redwood Valley

DEC 04 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear BOS,

I am writing to oppose the proposed gas station development on highway 101 in Redwood Valley. My opposition is solely based on the organization's previous violations and disrespect of code and public safety. They have not earned the public trust.

Kindest regards,

Debra Chaffin-Perkowski



Mendocino County

DEC 06 2023

Planning & Building Services

December 6, 2023

County of Mendocino Planning Commission
C/O Department of Planning and Building Services
Attn: Liam Crowley, Planner II
860 N Bush St
Ukiah, CA 95482
VIA EMAIL: pbscommissions@mendocinocounty.org

Re: City of Ukiah comments, Minor Use Permit & Variance, U_2021-0016/V_2021-0005

Dear Chair Weidemann and Honorable Planning Commissioners:

On behalf of the Planning Division of the City of Ukiah Community Development Department, we respectfully submit the following comments for consideration regarding the aforementioned project, File # U_2021-0016/V_2021-0005.

Comments on Environmental Analysis

- 1. County staff's environmental analysis pertaining to Aesthetics, Section 3.1 (b), finding that the project has "no impact" on scenic resources, appears incomplete. Staff's analysis does not address the visual blight potentially created through the project's proposed 65-foot sign and how the allowance of such a sign may actually encourage the proliferation of billboards and other large signs along the U.S. Route 101 corridor. Such aesthetic impacts, due in part to the interconnectivity of the rural, idyllic corridor between Hopland and Willits, may cause downstream, substantially damaging impacts to the quality and viability of scenic resources in the Ukiah Valley and Mendocino County.**

As stated on Page 7 of the Initial Study/Environmental Checklist:

"Scenic resources" include objects, features, or patterns within the landscape which are visually interesting or pleasing. –And–

"...[T]he entirety of State Route 1 (SR-1) in Mendocino County, the portion of U.S. Route 101 (US-101) between Ukiah and Willits, all of State Route 20 (SR-20), and all of State Route 128 (SR-128) is listed as eligible."

For the portion of US-101 between Ukiah and Willits to remain eligible as a National Scenic Byway, scenic resources must be preserved. Approving billboards or large signs such as proposed within the project may impact the continued future eligibility of this corridor as a Scenic Byway.



COMMUNITY DEVELOPMENT DEPARTMENT

2. **County staff mitigations recommended to reduce the environmental impact of the proposed project on Aesthetics, Section 3.1 (c) and (d), do not appear adequate. Although downcast, shielded external lighting, assumedly affixed to buildings within the proposed project, may mitigate light pollution related to safety and security, no mitigation measures are proposed for the 65-foot sign or the two illuminated fuel canopies and pole signs. As such, the latter illuminated signs will “stand out,” potentially causing an even greater environmental impact to the visual character of the surrounding area.**

County staff state on page 9 of the Initial Study/Environmental Checklist that:

“Therefore, the consolidation of multiple businesses onto one sign that exceeds the maximum sign area requirements would not be significant.” –And–

“If light would not exceed the boundaries of the project site, it is not expected to significantly impact nighttime views.”

It is not necessarily the number of signs located on a project that determines environmental significance, and erection of a 65-foot sign, especially at night, will affect nighttime views. Additional analysis and/or data to support staff’s conclusions in Section 3.1 (c) and (d) should be provided.

3. **Staff environmental analysis pertaining to Transportation, Section 3.17 (a) and (b), appears incomplete. Not all conclusions reached within the traffic study completed by the Applicant’s consultant appear supported by available data.**

The Applicant’s transportation consultant found that of the 5,302 new trips per day expected to be generated by the project:

“The project is expected to be local-serving and would therefore result in a less-than-significant VMT impact.”

As noted within comments submitted by Caltrans, Caltrans disagrees that the project is locally serving. Although County staff note this, staff also utilize the observation from Caltrans that Vehicle Miles Traveled “can be assumed to be less-than-significant for CEQA purposes” as primary justification for determining a less than significant impact. Notably, a GHG emissions generation study for VMT is missing within the analysis. The less-than-significant finding is not adequately supported by presented data.

Additionally, the increased commercial intensity- and resulting traffic- may result in increased traffic safety issues at this location, creating potential impacts to fire and law enforcement services.



Additional study should be undertaken by County staff to verify stated conclusions in Section 3.17.

Comments related to Mendocino County General Plan Consistency

4. The proposed project appears inconsistent with goals and policies within the Mendocino County General Plan, specifically DE-83, DE-85, DE-90, and DE-94 and Planning Principles 2-1a, 2-1b, and 2-1c.

Per the Mendocino County General Plan:

Development Element Policy 83 (DE-83): *Parking lots should be located and designed to 1) appear subordinate to the uses served, 2) be visually attractive, 3) meet normal, not maximum single day expected vehicle demand, and 4) provide for on-site treatment of stormwater.*

- ➔ At 28 parking spaces, and for a project that the Applicant asserts is serving local traffic, the intention of this policy appears unmet.

DE-85: *Viewshed preservation shall be considered when development is in a highly scenic environment, adjacent to or atop a ridgeline or hill, and in similar settings.*

- ➔ The proposed project is located along a U.S. Route that is eligible for designation as a National Scenic Byway. The intention of this policy appears unmet.

DE-94: *Promote infill, reuse, redevelopment, and brownfield redevelopment supported by existing or improved infrastructure.*

- ➔ This is a new commercial retail project not near existing services. It does not promote infill, reuse, redevelopment, or brownfield redevelopment. It may lead to increased sprawl and will not encourage *attractive, compact building designs, mixed land uses, walkable communities, and a range of housing opportunities and choices*, as outlined in DE-90.

Planning Principle 2-1a: *Conservation of Mendocino County's natural resources, farmland, forest land, and open spaces is essential to the rural quality of life desired by residents and visitors alike.*

- *Planned growth and compact development forms are essential to conserving environmental resources, farmland and open spaces.*
- *Direct new commercial and residential growth to cities and community areas where development can be supported by existing or planned infrastructure and public services, and environmental impacts can be minimized.*

- ➔ The proposed project is in a non-urbanized area. It may lead to increased sprawl and it does not conserve environmental resources. The intention of this policy appears unmet.



COMMUNITY DEVELOPMENT DEPARTMENT

Principle 2-1b: *Mendocino County's natural, scenic, recreational, historic, and archaeological resources are vital to the quality of life and shall be protected for the enjoyment and economic prosperity of present and future generations.*

- *Protection and enjoyment of the outstanding scenic, recreational and natural qualities of Mendocino County require long-term supportive economic and social systems.*

- ➔ Erection of a 65-foot sign, two separate illuminated canopies, 28 parking spaces, and 10 fueling pumps will fundamentally alter the visual character of this area. Protection for scenic and natural qualities envisioned in this planning principle appears unmet.

Planning Principle 2-1c: *Emphasize compatibility between human activity and environmental resources and processes at all levels from regional planning to site design.*

- *Encourage safe, cost-effective and environmentally sound community planning and land use decisions.*
- *Emphasize development patterns, sustainable practices and materials that are compatible with natural environments and processes and that protect air and water quality.*

- ➔ As described throughout our letter, the proposed project is expected to have a significant impact on environmental resources. The potential for sprawl from a new fueling station is not compatible with natural environments that protect air and water quality. The proposed project is in conflict with this planning principle.

Comments related to Variance Findings

5. It is our opinion that Variance Findings (D) and (E) are not supported, and as such, the Variance for the 65-foot sign cannot be granted.

As explained throughout this letter, granting of the variance for the 65-foot sign would be detrimental to the public welfare, especially related to natural resource protection and preservation. Additionally, the proposed project is inconsistent with at least seven different policies and planning principles of the Mendocino County General Plan, as described in #4 above.

Conclusion

It is our opinion that for all the reasons mentioned above, neither the Minor Use Permit nor the Variance should be granted for the project at this time. We further suggest the environmental analysis for the proposed project be re-analyzed to determine future foreseen environmental impacts and to verify County staff conclusions.

ATTACHMENT C



COMMUNITY DEVELOPMENT DEPARTMENT

We appreciate the time of the Planning Commission and Mendocino County planning staff in reviewing our comments. Please contact us directly with any questions.

Sincerely,



Craig Schlatter, AICP Candidate
Director, Department of Community Development

CC: Sage Sangiacomo, City Manager
Shannon Riley, Deputy City Manager
Julia Krog, Director, Mendocino County Planning and Building Services
Nash Gonzalez, AICP, Zoning Administrator, Mendocino County Planning and Building Services

ATTACHMENT C

James Feenan

From: Alex de Grassi <alex@degrassi.com>
Sent: Wednesday, November 29, 2023 1:43 PM
To: Chris
Cc: pbscommissions; Glenn McGourty; Julia Krog; bos; Katrina Frey; Adam Gaska; Kahli Johnson; Marybeth kelly; Fran Laughton; jini reynolds; Dolly Riley; Patricia Ris-Yarbrough
Subject: Re: Dec.7 Hearing: Redwood Valley Municipal Advisory Comments on Faizan Gas Station, Redwood Valley--OPPOSE

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

They're back?

Why would anyone want to open a gas station these days with electric cars taking over--especially in an area that already has 2 of them? That's what I would say to the planning commission. Is there anything in the county ordinances restricting building new gas stations?

a

PS please use my alex@degrassi.com e-mail. I don't generally see my gmail and I can't reply with it,.

On Nov 19, 2023, at 12:02 PM, Chris <wickboyd@comcast.net> wrote:

Mendocino County

NOV 29 2023

Planning & Building Services

<FINALRV MAC 101 Gas Station Ltr.pages>

<preview.png>

FaizanFinalRVMACcommentsSE16.doc
PDF Document · 110 KB

<preview.png>

RVMAC+FaizanProjectfollow-upletter
PDF Document · 93 KB

ATTACHMENT C

Redwood Valley Municipal Advisory Council (MAC)

September 8, 2016

To: Adelle Phillips, County of Mendocino PBS

From: Alex de Grassi, RVMAC Standing Committee on Development Review

Subject: **Faizan Minor Use Permit & Variance U_2015-0009/V_2105-0001**

The Redwood Valley MAC held a special meeting to discuss the above agenda item at our regular Tuesday, September 6 meeting. In addition, a few of the members of the MAC were able to give greater in-depth review of the minor use permit documents sent out from your office on Friday, September 2. As the newly elected chair of the RV MAC Standing Committee on Development Review, I have been asked to present the comments below. As we are a very recently formed referral agency, some of our comments come with questions regarding the review process as well as the particulars of this permit application—they appear below the comment prefaced by the word **Question** in bold letters. Thanks in advance for your patience, and we hope you will be able to respond to those questions at your earliest convenience.

Comments: We are aware that this application is in the final stages of review, but we hope that these comments will be received by the Planning Commission prior to their September 15 meeting for inclusion in that discussion.

- 1) *Fuel Pumps/Charging Stations:* Until recently, Redwood Valley had one gas station with two fuel pumps. In the past year, a second service station/convenience store with 6 fuel pumps was built at Coyote Valley. Should the Faizan Corporation succeed in constructing a service station with 6 pumps, our community will have gone from a 2 pump community to a 14 pump community. Rumor has it that the service station in downtown Redwood Valley is pursuing plans to add 2 additional fuel pumps as well, bringing the total to 16 pumps in the Redwood Valley area. It is hard to believe that an 8 fold increase in fuel supply in Redwood Valley will allow all these businesses to survive, however, our primary concern is that apparently none of these service stations are currently providing or plan to provide a single charging station. Given the increasing pressure of global climate change and the increasing demand for electric vehicles in our county, it would seem judicious and forward-looking to consider making charging stations a condition for issuing a use permit for this and any future service station permits in the county.
- 2) *Liquor License:* Being new to the minor review process, the RV MAC is unclear as to whether, or at what stage, mention of a liquor license is typically included in the minor use permit. Because this permit application proposes a 3,000 sq. ft.

ATTACHMENT C

convenience store/office building, and because the Faizan Corporation apparently owns and operates a service station/convenience store on East Gobbi street in Ukiah with an off-sale license, it would seem highly likely that they will be pursuing an off-sale license at the proposed site at 9621 N State Street. Given that there are already more per-capita off-sale licenses in Redwood Valley than recommended by the ABC guidelines, and given that there has been a tremendous community outcry and letter writing campaign to the ABC regarding the off-sale license held by the as yet built Dollar General store in downtown RV, the MAC and members of the community are concerned that any additional licenses will have a negative impact on our community. If the service station plans to have alcohol off-sale, it would seem that relevant county agencies as well as the ABC should consider limiting or eliminating altogether the sale of alcoholic beverages at the proposed Dollar General store.

Questions: Therefore, we would kindly request answers to the following:

- a) Does a minor use application of this type require the applicant to state whether some type of liquor license exists or will be pursued?
- b) If yes, does that mean that this Faizan store will not be selling alcoholic beverages?
- c) If no, how do the MACs and the public obtain that information?
- d) Is there any other county review process for liquor licenses?

- 3) *Traffic Ordinance Amendment:* The staff report and resolution state that conditions of approval for this application are predicated on approval by the Board of Supervisors of an ordinance amendment limiting (restricting?) left-turn and through movement at the North State Street and US 101 intersection. While this ordinance does seem to logically address traffic safety concerns, we did hear from a Redwood Valley resident that no longer being allowed to make a left-turn from the southbound lanes of US 101 onto State Street at that intersection would be an inconvenience.

Question/Clarification: Will this traffic ordinance amendment eliminate all left hand turns by southbound US 101 traffic onto N State Street at the intersection of the two roads?

- 4) *Parking Waiver:* While it appears that parking has not been an issue in the area, we would like to know if the businesses adjacent to the proposed service station/convenience store have been notified of the project and the parking plans. In particular, Mario's Ristorante, as their parking needs are variable, especially in the evening.

Question: Have the adjacent businesses been notified about the parking plans and have they made any comments? Is this standard procedure?

- 5) *Local or Out-of-Town Ownership:* While the owner is a corporation using a local Ukiah address, we are unclear as to whether the Faizan Corporation itself is an out of area or out of the country based corporation.

ATTACHMENT C

Question: Is this a local or out-of-town corporation, and how might that impact the community policy of Smart Growth to keep money in the local economy?

ATTACHMENT C

Redwood Valley Municipal Advisory Council

January 27, 2017

To: Danielle Fitts per Mendocino Planning Commission

Cc: Adele Phillips: Project Planner, Geoff Burnet, MC DOT,
Brad Mettam, CalTrans Dist. Dir. for Planning, Chris Boyd RV MAC

From: Alex de Grassi, RVMAC Standing Committee on Development Review

Subject: **Faizan Corporation Project, U_2015-0009/V_2015-0001
9621 N State St., Redwood Valley 95470**

Dear Planning Commission,

At our most recent Redwood Valley MAC meeting on Wednesday, January 11, our Standing Committee on Development Review summarized, to the best of our knowledge, the status of the service station to be constructed on North State Street in Redwood Valley by the Faizan Corporation. However, we only recently discovered that the permit was approved back in September, and many members of the MAC as well as the public in attendance expressed new and continuing concerns about the impact of the project. Consequently, I have been tasked with writing to pass on those concerns.

Those concerns include: traffic safety, noise, runoff and potential pollution of local creeks, lighting, archaeological remains, potential use of diesel fuels and consequent traffic and overnight parking of big rigs, especially if the service station, strategically positioned for truckers, develops into a “truck-stop” providing additional amenities and services for truckers.

Below is an elaboration of the concerns that arose from our recent MAC meeting.

- **Traffic Safety:** One of the conditions in the permit application called for a traffic ordinance to disallow traffic exiting North State Street to cross northbound 101 to enter southbound 101—the so called “right-in, right-out” only ordinance. But the Redwood Valley community has also expressed concern over increased southbound 101 traffic—especially non-local traffic, and in particular big rigs—making left hand turns to access the service station.
- **Noise:** Increased traffic, especially big rigs, coming off the grade using their “jake” brakes to make the aforementioned left hand turn would also create a significant noise nuisance for nearby residents.
- **Runoff:** Though the Initial Study/Environmental Review section of the permit application, under the IV. Biological Resources, checked “no impact” on letter b

ATTACHMENT C

(riparian impact), there is continued concern about the potential for surface oils and potential fuel runoff finding their way into nearby Forsythe Creek. What will be the required mitigations for this issue.

- **Lighting:** Some neighbors have complained that they were not consulted about the impact of lighting from the proposed station's tall sign and from the very large canopy. We think it fair that any lighting plans be re-examined to conform with the county's requirement that light shall not disperse beyond the facility site.
- **Diesel Fuels:** If and when the project proposes to sell diesel fuel, the RVMAC and the RV community has asked for formal notification by Planning of such expansion of services because of the potential impacts cited above and below.
- **Overnight Truck Parking/Truck-stop Facilities:** Should the service station offer diesel fuel sales and then offer truckers' amenities such as showers, space for over-nighting in their rigs, there is concern that that would require more parking than is being provided for in the permit.
- **Alcoholic Beverage Sales:** When and if the owners of the property apply for a license to sell alcoholic beverages, the RVMAC and the RV community request that they be informed by Planning at the time such application is referred to Planning and/or the Sheriff by either the ABC or directly from the owner.
- **Archaeology:** While it is stated the one of the conditions for this project is to have an archaeologist onsite during any excavation and grading, the RV community—and in particular members of the Pomo tribes--would like to stress that this site is a known depository of Native American relics, and that special care be taken to monitor any excavation and/or grading. What will those requirements entail?

Thanks for your attention. We respectfully request a letter of response at your earliest convenience.

Sincerely,

Alex de Grassi
RV MAC Development Review Committee Chair

DEC 05 2023

James Feenan

Planning & Building Services

From: Julia Krog
Sent: Tuesday, December 5, 2023 7:50 AM
To: pbscommissions
Subject: FW: 12/7/23 Planning Commission Meeting Agenda Item 6b. CASE#: U_2021-0016 & V_2021-0005
Attachments: CONGAS Letter - MCPC - Faizan.pdf

Julia Krog

Director
County of Mendocino
Department of Planning & Building Services
860 N Bush Street, Ukiah, CA 95482
Main Line: 707-234-6650
Fax: 707-463-5709
krogj@mendocinocounty.gov
www.mendocinocounty.gov/pbs



From: CONGAS <congas.contact@gmail.com>
Sent: Monday, December 4, 2023 9:14 PM
To: Julia Krog <krogj@mendocinocounty.org>
Subject: 12/7/23 Planning Commission Meeting Agenda Item 6b. CASE#: U_2021-0016 & V_2021-0005

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Krog

Please see the attached letter regarding the Planning Commission Meeting Agenda Item 6b. CASE#: U_2021-0016 & V_2021-0005 coming up at the meeting this Thursday.
Please let me know if you have any difficulty opening the attachment and/or if you have any questions.

Thank you,
Woody Hastings
Co-coordinator, Coalition Opposing New Gas Stations
707-238-2298

ATTACHMENT C



Date: December 4, 2023

To: Diane Wiederman, Chair, Mendocino County Planning Commission
Planning Commissioners
501 Lowgap Rd., Ukiah, CA 95482 (via email: pbscommissions@mendocinocounty.gov)

From: Woody Hastings, Co-coordinator, Coalition Opposing New Gas Stations

Re: Gas Station Proposal located at 9621 & 9601 North State St, Redwood Valley; APNs 162-100-58 & 162-100-59; Case # U_2021-0016/V_2021-0005 – FAIZAN CORPORATION & 898 MAIN STREET LLC

Dear Chair Wiederman and Commissioners:

The Coalition Opposing New Gas Stations (CONGAS) is a not-for-profit, all-volunteer community-based organization founded in Sonoma County in 2019. Our mission is to halt the permitting of new gasoline/diesel fueling stations. We are motivated by the longstanding social and environmental injustice and harm wrought by extraction and use of fossil fuels, and by the rapidly deepening climate crisis that is upon us. Since 2019 CONGAS has succeeded in halting three new gas station proposals and has played a role in Sonoma County and six cities in the County adopting ordinances that impose a permanent prohibition on the construction of new gas stations. Thank you for the opportunity to comment.

We were shocked to learn that there is a possibility that this particular applicant may be granted a use permit to open a new gas station in Redwood Valley.

Faizan Corporation is not a trustworthy operator. Faizan and its owner Mahmood Alam, were ordered earlier this year to pay a \$500,000 settlement¹ based on findings that the corporation repeatedly failed to comply with state environmental laws related to monitoring, reporting, and remediating problems related to fuel storage at their gas stations.² Faizan, Inc. owns gas stations in Sonoma County and several other Bay Area counties. In Sonoma County, the judgment affected the Chevron gas station at 2225 Cleveland Ave. in Santa Rosa, a well-known location.

Alameda County Superior Court Judge Charles Smiley's ruling³ also affected stations in Alameda, Contra Costa, Lake, Marin, Yolo, and Mendocino counties. In Mendocino County, Faizan was fined for groundwater contamination at the gas station at 390 E. Gobbi Street in Ukiah.⁴

¹ The settlement was negotiated down from what would have been a multi-million dollar fine in exchange for a promise to play by the rules.

² <https://www.pressdemocrat.com/article/news/santa-rosa-gas-station-owner-ordered-to-pay-500k-for-environmental-violati/>

³ <https://da.sonomacounty.ca.gov/faizan-corporation-and-mahmoud-alam-to-pay-500000-to-settle-violations-at-numerous-retail-gas-stations-in-california>

⁴ <https://www.yellowpages.com/ukiah-ca/mip/ukiah-express-5873352>

ATTACHMENT C



Some specific findings in the case include that Faizan:

- *"failed to adequately install, monitor, operate and calibrate equipment on-site designed to detect leaks, and failed to comply with laws regulating hazardous waste and hazardous materials at certain stations"*
- *"failed to label fuel dispensers with the correct octane rating and price per gallon, and falsely advertised the sale of lower-octane gasoline as higher-octane at certain stations"*

This abominable track record alone is enough justification for the Planning Commission to use its discretionary authority and deny this use permit.

There is no need for a new gas station in this location. There are two operating gas stations, Redwood Valley and Coyote Valley Casino gas stations, within a five-mile radius of the proposal site (see map below), so there is no need for another one in this area as gasoline-powered cars are phased out over the coming two decades.

Underground storage tanks are designed to operate for at least 40 years, which, if this gas station is completed in 2025, would bring us to 2065, 20 years *after* the state of California's goal of total fossil fuel phaseout. This is not only a bad business investment, but it is also a bad investment on the part of the County.

County resources are involved in any business operation. There are unique risks associated with gas stations because they are, by definition, hazardous sites where toxic materials are present. The risk, in addition to the real threat to public health, is that Mendocino County taxpayers will be left holding the bag to clean up the site. The County has the opportunity to avoid making the mistake of approving this use permit and it should exercise that authority wisely.

CONGAS strongly urges the Commission to recognize that this applicant is not to be trusted to play by the rules with a new gas station, abide by its 2020 Climate Emergency Declaration⁵ which calls for a rapid *"just transition away from fossil fuels,"* and deny the use permit.

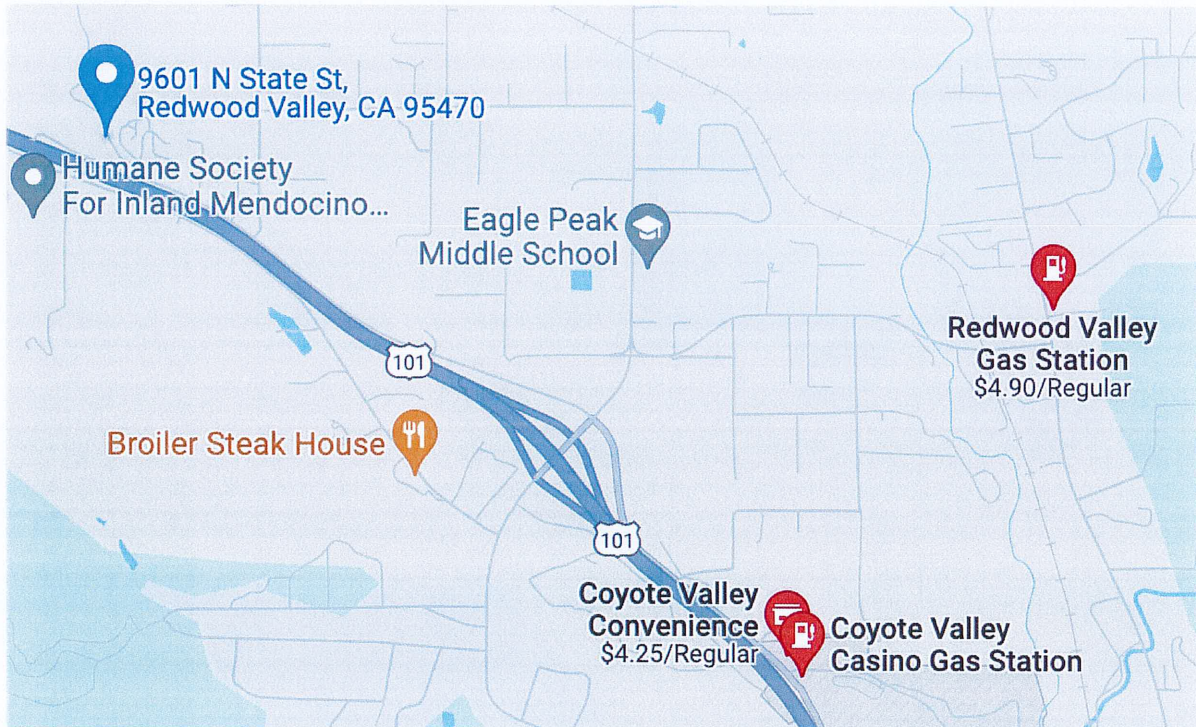
Sincerely,



W. Woodland (Woody) Hastings, Co-coordinator, CONGAS

⁵ <https://www.cedamia.org/wp-content/uploads/2020/08/Mendocino-County-Declaration-of-Climate-Emergency.pdf>

ATTACHMENT C



The proposed site 9601 N. State St. is in blue text in the upper left. Two operating gas stations, Coyote Valley Casino and Redwood Valley are within a five-mile radius. There is no need for another station.

cc:

- Mendocino County Planning Commissioners: Alison Pernell, Clifford Paulin, Elora Babbini, Marie Jones
- Mendocino County Supervisors Glenn McGourty, Dan Gjerde, John Haschak, Ted Williams, Maureen Mulheren
- Julia Krog, Director Planning and Building Services

ATTACHMENT C

James Feenan

Mendocino County

From: Donald Hess <climatedon@icloud.com>
Sent: Tuesday, December 5, 2023 10:28 AM
To: pbscommissions
Subject: Comment on Faizan Corporation hearing December 7th
Attachments: CONGAS Letter - MCPC - Faizan.pdf

DEC 05 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning,

I would like to submit the attached letter as a Public Comment prior to the meeting. Thank you.

Don Hess
Gualala

ATTACHMENT C



Date: December 4, 2023

To: Diane Wiederman, Chair, Mendocino County Planning Commission
Planning Commissioners
501 Lowgap Rd., Ukiah, CA 95482 (via email: pbscommissions@mendocinocounty.gov)

From: Woody Hastings, Co-coordinator, Coalition Opposing New Gas Stations

Re: **Gas Station Proposal located at 9621 & 9601 North State St, Redwood Valley; APNs 162-100-58 & 162-100-59; Case # U_2021-0016/V_2021-0005 – FAIZAN CORPORATION & 898 MAIN STREET LLC**

Dear Chair Wiederman and Commissioners:

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We were shocked to learn that there is a possibility that this particular applicant may be granted a use permit to open a new gas station in Redwood Valley.

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³ <https://da.sonomacounty.ca.gov/faizan-corporation-and-mahmoud-alam-to-pay-500000-to-settle-violations-at-numerous-retail-gas-stations-in-california>

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ATTACHMENT C



Some specific findings in the case include that Faizan:

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There is no need for a new gas station in this location. There are two operating gas stations, Redwood Valley and Coyote Valley Casino gas stations, within a five-mile radius of the proposal site (see map below), so there is no need for another one in this area as gasoline-powered cars are phased out over the coming two decades.

Underground storage tanks are designed to operate for at least 40 years, which, if this gas station is completed in 2025, would bring us to 2065, 20 years *after* the state of California's goal of total fossil fuel phaseout. This is not only a bad business investment, but it is also a bad investment on the part of the County.

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CONGAS strongly urges the Commission to recognize that this applicant is not to be trusted to play by the rules with a new gas station, abide by its 2020 Climate Emergency Declaration⁵ which calls for a rapid *"just transition away from fossil fuels,"* and deny the use permit.

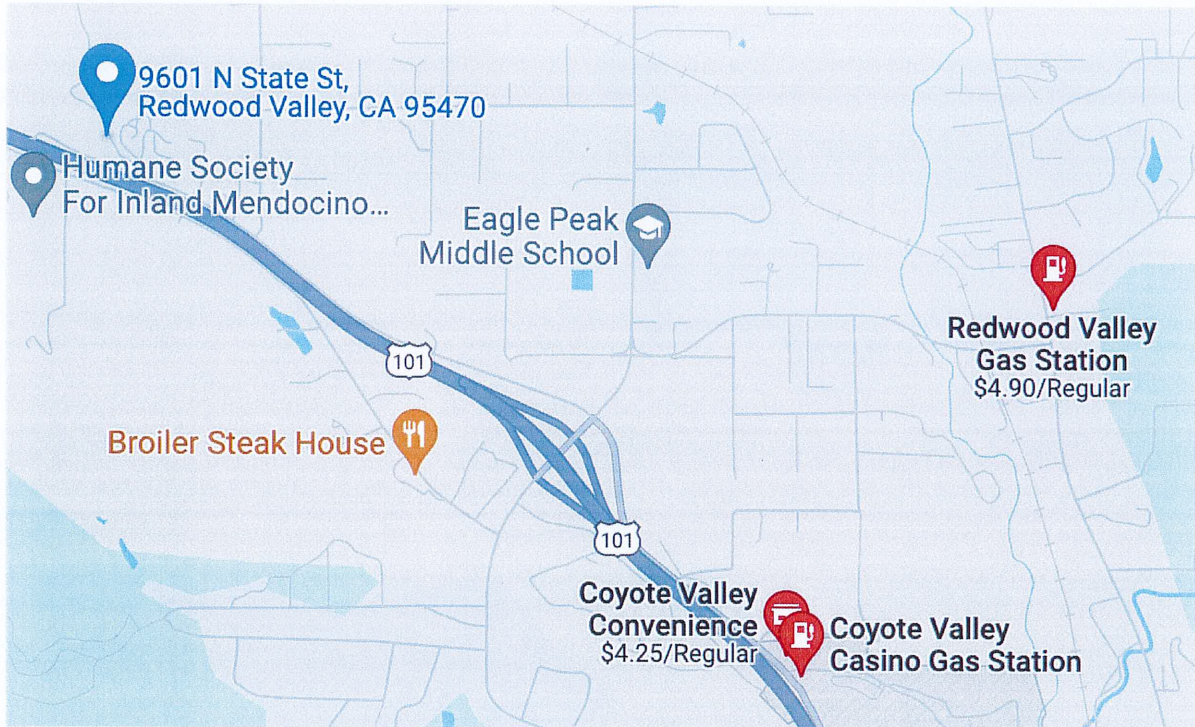
Sincerely,



W. Woodland (Woody) Hastings, Co-coordinator, CONGAS

⁵ <https://www.cedamia.org/wp-content/uploads/2020/08/Mendocino-County-Declaration-of-Climate-Emergency.pdf>

ATTACHMENT C



The proposed site 9601 N. State St. is in blue text in the upper left. Two operating gas stations, Coyote Valley Casino and Redwood Valley are within a five-mile radius. There is no need for another station.

cc:

- Mendocino County Planning Commissioners: Alison Pernell, Clifford Paulin, Elora Babbini, Marie Jones
- Mendocino County Supervisors Glenn McGourty, Dan Gjerde, John Haschak, Ted Williams, Maureen Mulheren
- Julia Krog, Director Planning and Building Services

ATTACHMENT C

James Feenan

From: encores-fence.04@icloud.com
Sent: Wednesday, November 29, 2023 1:50 PM
To: pbscommissions
Subject: Public Comment Letter - U_2021-0016/V_2021-005 Faizan Corporation
Attachments: GRI Letter to Planning Commission (Faizan) - Final.pdf

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Planning Commission,

Attached please find our letter to the Commission regarding the above noted application for a Minor Use Permit. Please post this letter along with the other gathered comments regarding this issue which is coming before the Commission on December 7. Thank you.

Don Hess
For the GrassRoots Institute, Climate Crisis Workgroup

Mendocino County

NOV 29 2023

Planning & Building Services

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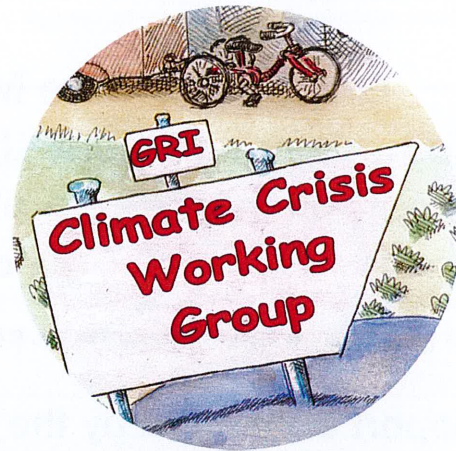
Climate Crisis Workgroup

GrassRoots Institute

GrassRoots Institute
PO Box 1607
Mendocino, CA 95460

November 29, 2023

Diana Wiederman, Chair
Mendocino County Planning Commission
501 Lowgap Rd.
Ukiah, CA 95482



RE: U 2021-0016/V 2021-0005 – FAIZAN CORPORATION & 898 MAIN STREET LLC

Dear Chair Wiederman and Commission Members,

In a careful review of the above Minor Use Permit application by Mahmood Alam and the Faizan Corporation, the Grassroots Institute has found more than sufficient grounds for the Commission to deny approval. Aside from the noted opposition by local citizens, the thin business justification for a gas station at the chosen location and the urgent need to reduce greenhouse gas emissions, we have concluded that the public record alone is sufficient to disqualify and deny the application as it unequivocally shows that the applicant has acted over the years with flagrant disregard for adhering to state laws and regulations concerning gasoline storage tank safety, as well as pricing and labeling regulations. We invite you to read our complete report, which follows below. Thank you.

The GrassRoots Institute, Climate Crisis Workgroup

Carrie Durkee
Esther Faber
Alicia Gilbert
Don Hess
Peter McNamee
Eileen Mitro
George Reinhardt
Jim Schoonover
Marcy Snyder
Sandy Turner
Merry Winslow

Cc: Julia Krog, Director Planning and Building Services
Supervisor Glenn McGourty
Supervisor Dan Gjerde
Supervisor John Haschak
Supervisor Ted Williams
Supervisor Maureen Mulheren

GRI Calls on the Mendocino County Planning Commission to deny the Minor Use Permit application to establish and operate a new Chevron gas station in Redwood Valley

Re: U_2021-0016/V_2021-0005 – FAIZAN CORPORATION & 898 MAIN STREET LLC

Report Submitted by the GrassRoots Institute of Mendocino County, Climate Crisis Workgroup

There are so many problems with this application and the owner/applicant, it is hard to know where to begin. So, we will start by just listing some of the major problem areas that really stand out to us, followed by a more detailed description and elaboration further down. And finally, we will provide a summary conclusion and a list of references and documentation we have used in our research for the Planning Commission to refer to, as needed. We above all want the Commission to understand that we are not anti-business. Rather, our focus is on the development of business projects in Mendocino County that are sustainable, that avoid unnecessary environmental and health risks, that provide a needed service to County residents and visitors into the future and that respect local community development concerns.

6 Compelling Reasons to Deny the Minor Use Permit

1. In 2019 Mahmoud Alam and Farah Alam were the subject of a Cleanup and Abatement order by the Regional Water Control Board as a result of Underground Storage Tank (UST) leaks contaminating groundwater in Ukiah. Then, in 2023 the applicant, Mahmood Alam and Faizan Corporation, was ordered to pay a \$500,000 fine as part of a Permanent Injunction they agreed to after being charged in 2022 with failure to comply with a host of UST safety standards & other violations at 12 gas stations owned or managed by the applicant in Northern California.
2. The applicant has admitted in the Minor Use Permit application that the proposed site in Redwood Valley presents difficulties for a business, which may ultimately increase the risk of failure and possible publicly-financed remediation. Required traffic safety mitigation measures insisted upon by CalTrans will create additional challenges for access to the site.
3. The proposed Chevron gas station will be competing with 2 existing gas stations in Redwood Valley, one of which is operated by the Pomo Tribe a mere 3/4 mile away.
4. Some of the evaluations made in the Mitigated Negative Declaration are questionable and others fail to take into account information that we feel is entirely relevant.
5. Both the local Redwood Valley Municipal Advisory Council (RVMAC), the local tribe and others in the community have firmly come out against this proposed new gas station.
6. Approval of this Minor Use Permit would directly fly in the face of and contradict Mendocino County's Climate Emergency Declaration passed by the Board of Supervisors unanimously in 2020, which calls for a "just transition away from fossil fuels."

1. Faizan Corporation investigated by multiple jurisdictions for violating State environmental regulations and fined \$500,000

From the Sonoma County District Attorney's Press Release:

"On January 5, 2023, Alameda County Superior Court Judge Charles Smiley entered a \$500,000.00 stipulated judgment against Mahmoud Alam, and Faizan Corporation, a California corporation of which Alam is the chief executive officer, in Case No. 22CV023017. This judgment settles allegations that Alam and Faizan Corporation failed to follow state laws governing the operation of retail gas stations at locations in Sonoma, Alameda, Contra Costa, Lake, Marin, Mendocino, and Yolo Counties. In Sonoma County, this involved the Chevron gas station located on Cleveland Avenue in Santa Rosa which is operated by the defendants. Owners and operators of underground storage tanks (USTs) at retail gas stations in California are subject to fair yet stringent environmental rules and requirements, designed to prevent underground petroleum releases to surface and ground waters.

Prosecutors alleged that Alam and Faizan Corporation failed to adequately install, monitor, operate, and calibrate important equipment on-site designed to detect leaks, and failed to comply with laws regulating hazardous wastes and hazardous materials at certain stations. Additionally, prosecutors alleged defendants failed to label fuel dispensers with the correct octane rating and price per gallon, and falsely advertised the sale of lower-octane gasoline as higher-octane at certain stations." ^[1]

Read the full 2023 Court judgment and Permanent Injunction here:

https://www.grassroots-institute.org/files/ugd/a1fa14_185bc1671a184a6dae198e385839ec1c.pdf

From the Complaint for a Permanent Injunction and Civil Penalties, filed by Alameda County District Attorney Nancy O'Malley:

"Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, brings this law enforcement action to protect public health and the environment from harm due to releases of hazardous substances, including harm from groundwater and surface water contamination and indoor air impacts from leaking Underground Storage Tanks (UST's), and from other violations, including unfair and unlawful business practices ..."

Read the the original 2022 Complaint and list of charges here:

https://www.grassroots-institute.org/files/ugd/a1fa14_7c143ca2aa764e37bec66870ea2ed7f4.pdf

Astonishingly, Planning and Building Services has recommended approval of the Mitigated Negative Declaration for this Minor Use Permit application despite the demonstrated record of systematic violations of rules and regulations designed to protect the public and the environment from petroleum-based pollution. District Attorneys in 7 Counties in Northern California were involved in the investigation of 12 gas stations, including 5 stations in Mendocino County. Mahmood Alam, a resident of Alamo in Contra Costa County and CEO of Faizan Corporation, was charged with no fewer than 64 Health and Safety Code violations, mostly involving petroleum storage tank operational safety and monitoring. It is important to

note that even a small amount of gasoline leaking from an underground storage tank (UST) can lead to serious ground and water pollution and is difficult and expensive to clean up.^[2] And, needless to say, not complying with numerous state-mandated storage tank safety standards while selling the less expensive 89 octane gas and claiming it is the more expensive 91 octane (a direct injury suffered by consumers) most likely lowered the applicant's operating expenses and therefore increased net profits.

Cleanup and Abatement Order

Furthermore, earlier in 2019 Mahmood Alam and Farah Alam, the Dischargers, were subject to a Cleanup and Abatement order by the Regional Water Quality Control Board, which detected gasoline in groundwater at their gas station at 390 Gobbi St. in Ukiah causing the City of Ukiah to remove from service a nearby public water supply well. The Dischargers were also charged with failing to properly handle contaminated soil removed from the site. At the time, the Mendocino County Environmental Health Division (MCEHD) was involved in the investigation of these Health and Safety Code violations.

Read the Full Cleanup and Abatement Order here:

https://www.waterboards.ca.gov/northcoast/board_decisions/adopted_orders/pdf/2019/19_0014_Express_Mart_CAO.pdf

Remarkably, there is not a single word that we could find in the application, associated attachments, the CEQA Initial Study nor the Mitigated Negative Declaration about these charges filed against the applicant, the subsequent permanent injunction nor the Cleanup and Abatement Order. This raises legitimate questions about transparency on the part of Planning and Building Services. Why were these 3 highly relevant documents related to applicant's past, deplorable performance as a Gas Dispensing Facility operator not initially included in the materials provided to the Public and to the Commission along with the Mitigated Negative Declaration?

2. Applicant readily admits it is a difficult business location

In the applicants original Minor Use Permit application, the applicant states “Historically businesses have had trouble succeeding in this location. At least part of the problem is communication with the traveling public and getting them to slow and turn off the highway.”

And furthermore, the applicant states, “Time has proven that unless a special approach is deployed to communicate with passing motorists and a special effort is made to attract neighboring residents that this cycle will continue to repeat itself.” Hence, the request for a variance for an enormous 65 ft. sign. However, PBS has recommended denial of the requested variance for a 65 ft. sign in place of a less visible 25 ft. sign that is typically approved for this type of project. Without the requested 65 ft. sign - vehemently opposed by members of the local community, is the financial viability of the project already doomed? The applicant states, “obtaining the sign height variance is vital for the growth and prosperity of our gas station and the entire strip center.”

In addition, the applicant states, “approximately 80% of our potential business would come from the highway 101 Southbound traffic.” Yet, CalTrans will insist on the permanent closure of the Southbound left turn onto N. State St. (at UVA drive) by the installation of a median barrier due to known safety issues (2 motorists have been killed using this crossing several years ago, according to CalTrans). This, for all intents and purposes, leaves this new fossil fuel station for the most part dependent on Northbound traffic, unless Southbound travelers choose to take the longer route to the proposed station via the West Rd. interchange.

There is also a curious dependency on “Hope” for this project to succeed. Hope, however, is not generally a solid strategy for business success. The applicant states, “The hope is to attract and establish other businesses that could benefit and market to the same public community and travelers as well.” There is no guarantee that building a new gas station in this location will attract other businesses, especially given the access challenges once required highway changes are implemented. And, customers at gas stations typically only spend a few minutes filling up and then move on to their destinations. If the goal is to attract customers who will spend more than just a couple minutes filling up their gas tanks, then a much more attractive option would perhaps be to build a more future-oriented, state-of-the-art EV Charging facility which necessarily involves customers spending a minimum of 20 minutes, if not a bit longer, charging their vehicles. This would provide ample time for customers to relax a bit and spend some time in nearby, local businesses. But, alas, applicant has shown no interest in an EV charging proposal for this location, according to RVMAC.

The Planning Commission needs to seriously take into consideration the consequences of a failed business, but not based on any concern about financial ramifications for the applicant. The fact that the type of business being considered here is not just a typical or anodyne business operation but one in which hazardous and flammable materials are stored underground and dispensed above ground should give the Commission pause. A gas station business failure inevitably leads to clean-up and remediation actions or - worst case scenario - an abandoned brownfield site requiring public funds for clean-up.

3. Redwood Valley already has 2 community gas stations. Do we really need another gas station here, or in Mendocino County?

Redwood Valley already has a community gas station at 7751 N. State St., a mere 3/4 of a mile from the applicant's proposed site and also a second one a little further away at 8551 East Rd. The closest existing station is owned by the local Native American Tribe, the Redwood Valley Rancheria. A new Chevron gas station so close to this existing station will necessarily create competition and may jeopardize the existing station's profitability. While competition in a normal business environment can be a positive thing, when there is competition by similar businesses ultimately vying for a shrinking customer base (given the ongoing transition to EVs) what could happen is that one business may choose to abandon operations rather than continue to lose money.

The decline in demand for petroleum based fuel is inevitable and the State of California is actively planning for this eventuality. Legislative bill SBX1-2 passed this year and signed by Governor Newsom mandates state agencies to "Prepare a Transportation Fuels Transition Plan" by the end of 2024. Furthermore, these state agencies are tasked to "Monitor progress toward the state's reliable, safe, equitable, and affordable transition **away from petroleum fuels in line with declining instate petroleum demand.**"^[3] All this on top of stated California goals to have 250,000 EV chargers by 2025, 5 million EVs on the roads by 2030 and an end to new combustion engine vehicle registrations in 2035.^[4,5]

The writing is on the wall for all to see clearly as California sets a new EV sales record.^[6] Allowing a third gas station to be constructed in an area that, going forward, likely can only support the two existing stations just does not add up and perhaps is unfair to the existing stations. And furthermore, the construction of any new gas station in Mendocino County as we enter a transition period of prolonged decline in petroleum demand makes little sense.^[7] Mendocino County currently has 60 fuel outlets according to the California Energy Commission (CEC), a number that, compared with Sonoma County, is twice as many based on population. Finally, gasoline sales in Mendocino have declined by 18% since 2019, again according to the CEC.^[8]

County	Population (2020)	Fuel Outlets	Outlets per 10,000
Mendocino	91,601	60	6.5
Sonoma	488,863	160	3.25
Humboldt	136,463	79	5.8

Formula used: Fuel Outlets / (Population/10,000) = Fuel Outlets per 10k habitants

Estimated Gas Sales in Mendocino County (in millions of gallons):

2019: 44
2022: 36

4. Community Opposition

Going all the way back to 2016, the Redwood Valley Municipal Advisory Council (RVMAC) has been reviewing this proposal, listening to local citizens, posing questions and expressing reservations and finally, voting unanimously in both 2022 and 2023 in opposition to the application for a Minor Use Permit in its recommendation to the Planning Department. The GrassRoots Institute thinks that community opposition to such a project should be given considerable weight in the deliberations of the Planning Commission. Imposing an unwanted and unneeded hazardous materials business project such as a gas station on a community that has expressed, in no uncertain terms, its opposition would only serve the narrow, mercantile interests of the applicant and not the interests of the community.

Among the many concerns expressed by RVMAC are the following:

1. Potential for hazardous material runoff into riparian habitat and Forsythe Creek
2. Light pollution at night from the large sign and station canopy
3. Local air pollution from idling diesel trucks
4. Alcoholic beverage sales at the proposed convenience store
5. Lack of adequate parking if trucks are permitted to spend the night
6. Increased noise pollution from big rigs slowing down to use the station
7. Traffic safety for vehicles either exiting 101 or entering 101 from N. State St.
8. Lack of any consideration for EV charging at the proposed station
9. Belief that there are already enough gas stations in Redwood Valley
10. Questions as to whether or not Faizan Corporation is a local business entity.

The Redwood Valley Rancheria is also reportedly opposed to the project, in 2021 citing concerns about the proposed signage and the lack of EV charging stations.

5. Some concerns about Mendocino County's Mitigated Negative Declaration and Transportation Impact Study (TIS)

Note: text in italics are quotations or statements directly from the Mitigated Negative Declaration (MND) or other related documents with text in bold for our emphasis.

Zoning Consistency: Both parcels are within the Limited Commercial (C-1) zoning district defined in Chapter 20.088 of the Mendocino County Code (MCC). The Limited Commercial district is intended...

*"...to create and enhance areas where public facilities and services are available. It is also intended to facilitate a balance between jobs and housing, provide for the possibility of live/work spaces, and provide additional opportunities for affordable housing. A limited number of retail commercial goods and services are desired **primarily to meet day to day needs of local residents** and to facilitate livable/walkable communities and live/work opportunities. Typically this district would be applied in conjunction with residential uses and **would permit only those uses which do not significantly increase traffic, noise or other impacts.**"*

It is difficult for us to see how the granting of a Minor Use Permit for a Chevron gas station here is compatible when commercial projects in a C-1 zoning district are required *"primarily to meet day to day needs of local residents."* As CalTrans notes in its letter of August 11, 2023, *"The discussion in the TIS, indicating that the project is local-serving, is problematic for a large gas station or truck stop adjacent to a US Highway, as the majority of the trips are clearly not local. Gas stations primarily attract pass-by trips and the primary purpose for non-pass-by trips are generally limited to employee trips or to the convenience store."*

Furthermore, one could qualify as a "stretch" for the County to argue that the project does "not significantly increase traffic, noise or other impacts." Necessarily, there will be increased traffic and potentially noise as well, especially if large trucks are breaking from highway speeds to stop at the station.

Even CalTrans, in its Feb. 18th, 2022 letter to PBS, states: *"This project does not appear to conform with the C-1 Limited Commercial District zoning, as defined by the Mendocino County Code, Chapter 20.088"*

And, the County has somehow determined that there would be *"Less than significant impact"* for the following questions:

Section 3.8 Greenhouse Gas Emissions

Would the project ... Generate greenhouse gas emissions (GHG), either directly or indirectly, that may have a significant impact on the environment?

Would the project ... Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

It is our position that total GHG emissions from a fossil fuel (gas) station (direct and indirect) need to take into consideration all stages of the gasoline product's life cycle, from extraction,

ATTACHMENT C

to transportation (pipeline or otherwise), to the refinery, to storage tanks to tanker trucks and finally to the fossil fuel station and the combustion of the product(s) once sold to the consumer. Perhaps this is not the way it is looked at by the CEQA Initial Study, but arguably it should be viewed this way.

For the second question, see further below for a discussion of Mendocino County's Climate Emergency Declaration and how we argue that it clearly applies here.

One other curious observation is the County's apparent willingness to accommodate the applicant's desire to keep open the median at the intersection of Hwy 101 and North State Street, as expressed in the Transportation Impact Study (TIS). However, CalTrans convincingly disabuses the County of this idea in its letter of August 11, 2023:

"The Revised TIS suggests alternatives to a median closure and constructs arguments that claim that the US 101/North State Street intersection is not currently experiencing collision rates above the Statewide average, therefore it is not expected to result in a safety risk with project trips added to the system identified in the analysis. The following reactions to the Revised TIS **identify the flaws** in the premise that keeping the US 101 median open will continue to operate safely ..." It is worth reading the entire CalTrans letter, however, to fully appreciate the arguments made by the State challenging the conclusions of the County's TIS.

One might reasonably think that the County, at this point, with some of the questionable findings in the MND and its TIS, is inexplicably bending over backwards to justify the granting of the Minor Use Permit for Mahmood Alam and the Faizan Corporation. Frankly, the reasons for this are not clearly understood by us at this time.

6. Mendocino County calls for a “just transition away from fossil fuels”

In 2019 the Mendocino County Board of Supervisors (BoS) created the Mendocino County Climate Action Advisory Committee (MCCAAC). One of the enduring acts of this committee was the drafting of a Climate Emergency Declaration,^[9] which was subsequently passed unanimously by the BoS in 2020. This document spells out in no uncertain terms the intent of the County to support a transition away from a dependency on fossil fuels. The combustion of these fuels, being the principal cause of greenhouse gas emissions and a warming planet, have resulted in catastrophic fires, extended drought, power outages and increasingly intense, damage-causing storms in Mendocino County and throughout California.

Here are a few key paragraphs from the Mendocino County Climate Emergency Declaration:

*WHEREAS, the County of Mendocino **must do everything in its power** to encourage a swift conversion to an ecologically, socially, and financially sustainable economy.*

*NOW, THEREFORE BE IT RESOLVED, the COUNTY OF MENDOCINO declares that **a climate emergency threatens humanity** and the natural and built environments; and*

*BE IT FURTHER RESOLVED, that the COUNTY OF MENDOCINO joins a worldwide call for **a just transition away from fossil fuels** and an urgent collaborative climate mobilization effort focused on enacting policies that dramatically reduce heat-trapping emissions, and rapidly catalyzing a mobilization at all levels of government to restore a safe climate; and*

*BE IT FURTHER RESOLVED, the COUNTY OF MENDOCINO commits to ongoing education and **active engagement of all County staff, members of committees and commissions**, contractors, consultants, residents and independent community groups in alignment with the goals of mitigation, drawdown and adaption; and*

*BE IT FURTHER RESOLVED that the Board of Supervisors commits to **addressing the climate implications of all policies and actions that come before the Board** that have the potential to impact greenhouse gas emissions, ...*

And on a somewhat related matter, last September, the State of California filed a lawsuit against all of the major oil companies, including Chevron, in a move to hold these companies liable and accountable for the alleged lies and deceptions perpetrated on the public related to fossil fuels and climate change.^[10]

“Oil and gas companies have privately known the truth for decades — that the burning of fossil fuels leads to climate change — but have fed us lies and mistruths to further their record-breaking profits at the expense of our environment. Enough is enough,” said Attorney General Rob Bonta.

Given this context, it is not hard to conclude that granting a Minor Use Permit to green-light the construction of yet another, “business as usual” fossil fuel infrastructure project in Mendocino County flies in the face of both the spirit and the intent of the County’s Climate Emergency Declaration.

Conclusion

The Planning Commission now has an opportunity to do the right thing and use its discretionary powers to deny the approval of this unneeded, unwanted and ill-conceived fossil fuel infrastructure project. Even without the dubious history of the applicant being charged with countless violations of petroleum storage tank safety regulations, the project should be denied on the merits alone. Knowing this history of safety violation accusations, however, now makes denial of this application an absolute public health and safety imperative.

Furthermore, well into the 21st century with humanity facing a climate emergency^[11] and as the State of California methodically moves forward with an aggressive transition to emissions-free transportation, the construction of yet another 20th century style, fossil fuel infrastructure project destined to eventually become obsolete makes no sense.

And finally, operating a hazardous materials site such as a Chevron gas station means being entrusted by public entities such as the Planning Commission to faithfully follow all safety laws and requirements. Those who repeatedly fail to take this responsibility seriously and instead systematically avoid or ignore State mandated health and safety measures end up putting the public and the environment at risk. Projects like this should not warrant approval just because the applicant somehow receives the blessing of Planning and Building Services. The Planning Commission has a much greater responsibility in these matters and needs to act with the broader public interest in mind.

So in conclusion, for the multitude of reasons set forth in this document and the various statements made by others elsewhere in opposition to this project over the years, the requested Minor Use Permit for this new Chevron gas station in Redwood Valley should be denied, with prejudice.

References

1. **Sonoma County DA** - *Faizan Corp. fined \$500,000 for Environmental Safety Violations*
<https://da.sonomacounty.ca.gov/faizan-corporation-and-mahmoud-alam-to-pay-500000-to-settle-violations-at-numerous-retail-gas-stations-in-california>
2. **EPA** - *Underground Storage Tanks*
<https://www.epa.gov/ust>
3. **State of California** - *SBX1-2*
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320241SB2
4. **California Assembly** - *Text of the California Climate Crisis Act (AB 1279)*
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB1279
5. **State of California** - *Executive Order N-79-20*
<https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>
6. **Autoweek** - *California Sets New EV Sales Record*
<https://www.autoweek.com/news/a44773527/california-ev-sales-record-2023/>
7. **BCG** - *Is There a Future for Service Stations?*
<https://www.bcg.com/publications/2019/service-stations-future>
8. **California Energy Commission** - *Retail Fuel Outlet Annual Reporting*
<https://www.energy.ca.gov/data-reports/energy-almanac/transportation-energy/california-retail-fuel-outlet-annual-reporting>
9. **Mendocino Co. BoS** - *Declaration of Climate Emergency (unanimous vote in 2020)*
<https://www.cedamia.org/wp-content/uploads/2020/08/Mendocino-County-Declaration-of-Climate-Emergency.pdf>
10. **State of California** - *California files Lawsuit against Big Oil*
<https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-lawsuit-against-oil-and-gas-companies>
11. **BioScience** - *Entering uncharted territory. 15,000 scientists recognize climate emergency.*
<https://academic.oup.com/bioscience/advance-article/doi/10.1093/biosci/biad080/7319571>

ATTACHMENT C

James Feenan

From: pbscommissions
Sent: Monday, November 20, 2023 2:14 PM
To: Liam Crowley; James Feenan; Julia Krog
Subject: FW: Faizan Corp New Gas Station Permit Application

Mendocino County

NOV 20 2023

Planning & Building Services

From: Peter McNamee <pmcnamee@sbcglobal.net>
Sent: Monday, November 20, 2023 11:33 AM
To: pbscommissions <pbscommissions@mendocinocounty.org>
Subject: Faizan Corp New Gas Station Permit Application

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Commissioners & Staff -

I'm writing to oppose approval of the requested permit by the Faizan Corp. to build a new gas station (U 2021-0016/V 2021-0005) in Mendocino County.

In establishing a regulatory process for the orderly permitting of building construction, Mendocino County stated its purpose to be:

" This Division is adopted to protect and promote the public health, safety, morals, peace, comfort, convenience, prosperity and general welfare; and further, the purpose of this Division is to prescribe land use regulations and a zoning plan for the County of Mendocino deemed necessary to promote forestry and agriculture; to provide open space for light and air **and to prevent** and fight fires and other **hazards**; to prevent undue dispersion or concentration of population; to promote orderly community development; **to lessen congestion of streets and highways**; and to facilitate adequate provisions for community utilities such as transportation, schools, parks and other public requirements."

I've taken the liberty to underline and highlight pertinent sections of the County Code that I believe justify denying this request for the following reasons.

Mendocino County's Board of Supervisors adopted a resolution recognizing that our county is confronting a climate crisis that requires reducing our emissions of greenhouse gases as quickly as possible to avoid climate disasters ruining the health and well-being of county residents. The largest emitter of greenhouse gases in Mendocino County are internal combustion engine vehicles. Adding a new gas station will encourage the continued emission of greenhouse gases in our county and is in opposition to the County's Climate Crisis policy.

Mendocino County already has twice the number of gas stations per county resident than our neighboring counties of Sonoma and Humboldt. There is no need for any additional gas stations to meet the transportation needs of the county.

By 2035, California will ban the sale and registration of new internal combustion engine autos & light truck vehicles in the State. By doing so, the State has put California on course to eliminate fossil fuel vehicles by 2045. As California transitions away from fossil fuel vehicles there will be less and less demand for gas stations to meet consumer needs in the county. In order to insure that existing gas stations remain economically able to maintain safe operating conditions,

ATTACHMENT C

its in the. County's public health and safety interests to prohibit the addition of new gas stations in the County. Prohibiting new gas stations will allow the existing stations time and a viable business model option to transition to zero emission fueling options or close safely without leaving blight and toxic brownfields in our communities.

Lastly, fossil fuel gas stations by their nature are a hazard to the health and safety of customers and the communities where they are located. This is a fact that by law is stated on every fossil fuel pump in every gas station. While in the past the need to fuel our transportation system justified the level of health & safety hazard that gas stations represented, that is no longer true. In fact, the County and State government has recognized that to protect the health & safety of the public and to insure the common good, we must phase out our use of fossil fuels as quickly as possible and transition to a zero emission transportation fleet.

For all of the above reasons, I urge the Commission to deny the applicant's permit to build the proposed new gas station.

Sincerely,
Peter McNamee
Member GrassRoots Institute of Mendocino County

[Sent from Yahoo Mail for iPad](#)

ATTACHMENT C

James Feenan

Mendocino County

From: Eileen Mitro <climateactionmendocino@gmail.com>
Sent: Wednesday, December 6, 2023 10:25 PM
To: pbscommissions
Subject: Item 6b on December 7, 2023 agenda

DEC 07 2023

Planning & Building Services

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We certainly do not need another gas station. There is one just a mile or so south and visible from the freeway. Also this corporation has had a history of many unsafe practices.

We must turn away from fossil fuels and work to cut carbon emissions that are causing our planet to be unlivable sooner than anyone expected. Another gas station is antithetical to that effort.

Thank you,
Eileen Mitro

ATTACHMENT C

James Feenan

Mendocino County

From: Gretchen Anderson <ganderson@vmm-law.com>
Sent: Tuesday, December 5, 2023 1:30 PM
To: pbscommissions
Cc: Julia Krog; Liam Crowley; Brian Momsen; Haji M.Alam
Subject: Faizan Corporation U_2021-0016, V_2021-0005
Attachments: LtrPlanningCommission12.5.23.pdf

DEC 05 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Attached please find correspondence regarding the above-referenced matter.

Thank you

Gretchen Anderson

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Vannucci Momsen Morrow
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Thank you

ATTACHMENT C

VANNUCCI MOMSEN MORROW

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December 5, 2023

Mendocino County Planning Commission
860 N Bush St,
Ukiah, CA 95482
pbscommissions@mendocinocounty.org

RE: Faizan Corporation U_2021-0016, V_2021-0005

Dear Planning Commissioners:

This office represents Faizan Corporation and Mahmood Alam regarding the above-referenced applications. This letter shall address and oppose conditions of approval 33 and 34 of the draft resolution prepared by Building and Planning Staff, as well as the proposed denial of the requested variance for sign height. Please make this letter part of the public record for the hearing on this matter currently scheduled for December 7, 2023.

Exactions Requiring Public Improvements to U.S. 101

Proposed Condition 33 requires the applicant, at its sole expense, to permanently close the median on U.S. 101 between N. State St. and Uva Dr. Proposed Condition 34 requires the applicant, at its sole expense, to construct acceleration/deceleration lanes on U.S. 101 adjacent to the N. State St and Uva Dr. exits, neither of which currently have on ramps or off ramps. Both these conditions were suggested by Caltrans and if adopted, would necessitate the applicant to apply for additional permits from Caltrans. Neither of these conditions was suggested by the County Department of Transportation.

Notably, Faizan applied to the County of Mendocino for a similar project with four fewer pumps in 2016 which the County approved without either of these conditions. While there was concern regarding North State Street's interface with U.S. 101 in the 2016 planning process, Caltrans and County Staff were satisfied with conditions of approval prohibiting left turns. No condition of approval required the applicant to obtain additional permits for work on U.S. 101.

The reason Faizan did not develop the project after the 2016 application was approved was because a neighboring resident who had committed to granting a parking easement at the public hearing, reneged on that commitment. Faizan has since resolved that issue, but in the meantime, the 2016 permit expired such that a new application was submitted in 2021.

As shown in Attachment G to the current Staff Report, on February 18, 2022, Caltrans submitted a letter in response to Staff's request for comments on this application which in relevant part asked that the traffic study prepared for the 2016 project application be updated because of both the passage of time and the fact that the current application proposed a ten-pump station instead of six pumps. It is my understanding from discussions both with the applicant and County Staff that Caltrans, at least initially, did not request that the traffic study address the N. State St/Uva Dr interface with U.S. 101 because Caltrans had already approved its own project to construct a cable median barrier which, when finished, would prevent cross traffic over the freeway.

Faizan paid for the updated traffic study. Thereafter, on March 3, 2023, Caltrans submitted an updated letter to County Staff which is attached as Exhibit H to the Staff Report which in relevant part states that after a meeting with its Traffic Safety Branch the previous week, Caltrans determined that its cable median project that originally proposed to block cross traffic and left turns over U.S. 101 between N. State St and Uva Dr "cannot be extended further north" and will end a few hundred feet south of the intersection. The letter then demands that Faizan update the traffic study again to include an analysis of the N. State St/Uva Dr interfaces with U.S. 101 and the cross traffic. Faizan paid its consultant to perform this scope of work. The updated study does not recommend that the median be closed but does recommend the acceleration/deceleration lanes. Not surprisingly, Caltrans in later correspondence requests that the applicant pay for both measures. County Staff, going along with Caltrans, is now recommending Conditions 33 and 34.

The U.S. Supreme Court in the decisions of *Nollan v. California Coastal Commission* 483 U.S. 825 (1987) and *Dolan v. City of Tigard* 512 U.S. 374 (1994) applied the "heightened scrutiny" level of judicial review to examine certain conditions cities or other government entities apply to development projects. In contrast to a more deferential standard, heightened scrutiny places the burden of proof on the city to establish an "essential nexus" and a "rough proportionality" between a project's impacts and the particular requirement imposed. If the regulation goes too far, courts have held that such regulations are a "taking" in violation of The Fifth Amendment of the U.S. Constitution such that the government must pay just compensation to the property owner.

In *Dolan*, a hardware store owner applied to expand the size of its parking lot which would have resulted in a larger paved surface and increased traffic. The City conditioned approval on the property owner dedicating roughly 10% of its property to be used as a floodplain between the proposed parking lot and an adjacent creek and as a bike path. The U.S. Supreme Court held that these conditions did have an essential nexus to the project's impacts as they mitigated increased run-off and increased traffic. However, the Supreme Court also held that these conditions were not "roughly proportional" to the project's impacts and that the property owner was shouldering too much of the burden for public improvements such that proposed conditions were an unconstitutional taking.

In this case, a local contractor with experience with construction work on US 101, Ernie Wipf will appear at the hearing and testify that applicant satisfying conditions 33 and 34 will cost roughly \$2 million and significantly delay the gas station project. Caltrans suddenly cutting their proposed cable barrier project a few hundred feet short of the Uva Dr./N. State St interface

Pg. 3

on March 3, 2023, after initially not even requesting that the applicant's traffic study consider this intersection, does not pass the "smell test." Caltrans had planned to close the median between N. State St. and Uva Dr. and construct the deceleration/acceleration lanes all along before seeing a golden opportunity to stick these construction costs on a private party. Any other assumption is naive. But for Faizan's permit application, Caltrans likely would have completed this scope of work already.

The costs of public improvements should not be borne solely by a private property owner. Of course, left turns and cross traffic over a four-lane freeway is a not a desirable condition and never has been. The traffic from Faizan's project may increase the risk of collisions to some degree but so do other factors such as the large newly constructed casino a mile to the south and population growth in general. Eventually the U.S. 101 median between N. State St. and Uva Dr. will have to be closed as has been the case all over the state on this highway when population and development in a once rural area reaches a certain threshold. This burden should not be put on one gas station project because the proposed number of pumps has increased from six to ten. This is not Costco.

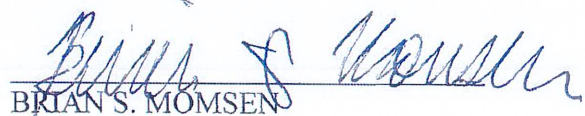
Requested Sign Variance

A variance is a permit issued to a landowner to build a structure or engage in some action not otherwise permitted under the current zoning regulations. The statutory justification for a variance is that the owner would otherwise suffer a unique hardship under general zoning regulations because a particular parcel is different from the others to which the regulation applies due to its size, shape, topography location or surroundings. (Government Code 65906) In this case, as will be shown by photographs at the hearing, Faizan's parcel has a depressed elevation, and a hillside obscures the view of any low height sign to traffic on U.S. 101 driving north to south. These factors are nowhere to be found in the Staff's Report's analysis. The Staff report also only looks at Starbucks on Perkins St and the Coyote Valley Casino to the north as it's "comps" so to speak, for similarly situated properties with signage higher than 35 feet. The Report has a photo of the gas station sign for Jensen's Truck Stop as an exhibit but does not discuss Jensen's Truck Stop. There is a sign over 35 feet at Jensen's Truck stop and that parcel, unlike this project, is not depressed in elevation, nor is there a hill obstructing the view of drivers on 101.

There is not much of a sample size for similarly situated gas station properties along U.S. 101 in Mendocino County and Staff should consider comparing properties from other counties. It is common all over the State that gas stations adjacent to US 101 like Faizan's herein display a sign taller than 35 feet.

Very truly yours,
VANNUCCI MOMSEN MORROW

BY:


BRIAN S. MOMSEN

ATTACHMENT C

Jocelyn Gonzalez-Thies

From: Jocelyn Gonzalez-Thies
Sent: Monday, December 4, 2023 3:19 PM
To: Jocelyn Gonzalez-Thies
Subject: FW: RV gas station

Mendocino County

DEC 04 2023

Planning & Building Services

From: Mary Monroe <marywatersmonroe@gmail.com>
Sent: Monday, December 4, 2023 11:55 AM
To: pbscommissions <pbscommissions@mendocinocounty.org>
Subject: RV gas station

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please, please, please... We do NOT need another gas station in Redwood Valley. Traffic where West Rd. And N. State St. Cross is already a big problem! It also appears that this proposed buyer of the Mario's location has had multiple environmental violations.

The community of Redwood Valley has strong opinions about keeping our small town safe, uncongested and clean. Please do not approve another gas station out here

Mary Monroe
13010 Tomki Rd
RV

ATTACHMENT C

James Feenan

Mendocino County

From: dollypriley@gmail.com
Sent: Friday, November 10, 2023 12:06 PM
To: pbscommissions
Subject: CASE# U_2021-0016 & V_2021-0005

NOV 13 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

RE: Redwood Valley 101 Gas Station at 9621 & 9601 N State St.

Dear Planning Commission,

I oppose 10 new gas pumps by Faizon Corporation at 9621 and 9601 N. State St. in Redwood Valley. The Redwood Valley Municipal Advisory Council (RV MAC) opposed this project on 1-12-22, saying the following: Coyote Valley has a large gas station nearby; Charging stations are more appropriate to climate change issues; and noise pollution from trucks' air brakes disturbs area neighbors.

On 11-8-23 the RV MAC voted again to support the denial of the 10-pump project, again asking why no electric charging stations were considered.

In 2018 the CA state legislature passed SB 100, the "100% Clean Energy Act of 2018," which requires 100% renewable energy by 2045. Other states have passed similar laws. The goal of the law is to have all electricity come from renewable and zero carbon resources. This was following in 2021 with the SB 100 Joint Agency Report from the PUC and CEC, which provides:

- Clean energy by 2045 is technically achievable through multiple pathways;
- Construction of clean electric generation and storage facilities must be sustained at record-setting rates; and
- Diversity in energy resources and technologies lowers overall costs.

Please do not allow 10 more gas pumps in Redwood Valley. At lease hold off your approval until the Faizon Corporation will consider the new law, SB 100, and come back with half of the fuel stations to be electric charging stations. It is CA law, it's clearly what the citizens want, and it's the way to save the planet. Please do not approve this project at this time. Thank you, Dolly Riley, Redwood Valley

Sent from [Mail](#) for Windows

ATTACHMENT C

James Feenan

From: Dolly Riley <dollypriley@gmail.com>
Sent: Sunday, November 5, 2023 12:07 PM
To: pbscommissions
Subject: Re: 101 gas station, Public hearing case# U_2021-0016 & V_2021-0005

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The Redwood Valley Municipal Advisory Council did respond with a unanimous vote to request denial of the proposed gas station at 9621 & 9601 North State St. in Redwood Valley. This occurred at our regular meeting on January 12, 2022. Please see attached minutes.

We meet next week on 11-8-23 and will again respond.

Thank you, Dolly Riley, Chair RV MAC

Mendocino County

NOV 13 2023

Planning & Building Services

RV MAC Minutes 1

pages 3,4

Pien- There have reportedly been a lot of problems with the portal making it hard to
What's happening with the equity grant and the enhanced enforcement? Glenn- We
Sattie- Would like John Burkes and Sheriff Kendall to come to a MAC meeting and tal
cannabis committee drafted a letter to take to the Supervisors to remind them of w
willingness to allow us to send this letter

out? Jackson County declared an emergency to bring in state help in regards to the
market accidentally invited in. This is an option we are still very interested in becau
given we are having issues with finding

new hires for the Sheriff's Department. What's the plan? The MAC cannabis committ

Dolly- We'll have to wait to discuss it until the next meeting, but please make sure t
to the members so we can have the information for an informed vote to support the

Glenn- We should hear from the Sheriff and John Burkes to figure out what's going o

Dolly- Does the group prefer to hear from Burkes and the Sheriff more than Maryann

Sattie- Yes.

Dolly- Sattie will be in charge of contacting them. I will let Maryann know she will be

5. **Development Review Ad Hoc Subcommittee: Marybeth, Jini, Patricia**

Member Chris Boyd motioned to approve. A second was made by Member Sattie Cl

The motion passed with the following vote:

7 In Favor 0 Opposed
— Abstained 1 Absent

A vote was taken and members voted unanimously to recommend denial of the pro
Marybeth stated she finally got through to the planner after talking to Alex Degra
demand for another gas station and convenience store given that Coyote Valley is
concern that that putting in a gas station will increase accidents from Uva Drive. Th
be approved only on the grounds that left turns would be prohibited, and the large
There has been plenty of pushback on this. Chris- We went to a public hearing at th
protests. They withdrew the proposal earlier because it was controversial especially

we thought the Chevron station on Lake Mendocino Drive was closing down but they
we need to advocate for charging stations and well-functioning businesses there. Gi

ATTACHMENT C

James Feenan

Mendocino County

From: Tom Rawles <tomrawles3@gmail.com>
Sent: Sunday, December 3, 2023 2:53 PM
To: pbscommissions
Subject: North State St Gas Station

DEC 04 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To: Mendocino County Planning Commission

Concerns Regarding: U_2021-0016/V_2021-0005 (Faizan Corporation)

As an adjoining property owner, I have many concerns regarding this development. I have a 40 ft easement that runs through the middle of the proposed project. I have yet to have had any communication from the Faizain Corporation to address this issue of how my easement will not be blocked, thus preventing my family and myself from entering our family home and ranch. The easement must always be kept clear to maintain ranching operations and home deliveries. Additionally, emergency vehicles will need access to my property in the case of an emergency.

I have a copy of an email to my mother (deceased 12/03/2020) from Brian Momsen, an attorney representing the Fazian Corporation, dated 8/24/2015, stating that Mr. Alam had redesigned the proposed gas station not to interfere with my easement; however, since I have not had any communication with any representatives of the Fazian Corporation I'm unclear which plan is being presented at the 12/07/2023 meeting.

How will the previously mentioned concerns of blocking entrances to homes and ranch operations be resolved?

Lastly, there are several safety concerns regarding traffic exiting and entering North State from Highway 101 that CALTRANS should address and advise the commission before approval of the application.

Respectfully,

Thomas (Tom) Rawles
9581 North State St
Redwood Valley CA, 95479
707-391-7577

ATTACHMENT C

ATTACHMENT C

James Feenan

From: Jini Reynolds <jini@pacific.net>
Sent: Tuesday, November 21, 2023 8:19 PM
To: Chris
Cc: pbscommissions; Glenn McGourty; Julia Krog; bos; Katrina Frey; Adam Gaska; Kahli Johnson; Marybeth Kelly; Fran Laughton; Dolly Riley; Patricia Ris-Yarbrough
Subject: Re: Dec.7 Hearing: Redwood Valley Municipal Advisory Comments on Faizan Gas Station, Redwood Valley--OPPOSE
Attachments: FINALRV MAC 101 Gas Station Ltr.pages

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Looks good. Thank you

Sent from my iPhone

Mendocino County

NOV 27 2023

Planning & Building Services

On Nov 19, 2023, at 12:03 PM, Chris <wickboyd@comcast.net> wrote:

Redwood Valley Municipal Advisory Council (MAC)

September 8, 2016

To: Adelle Phillips, County of Mendocino PBS
From: Alex de Grassi, RVMAC Standing Committee on Development Review
Subject: Faizan Minor Use Permit & Variance U_2015-0009/V_2105-0001

The Redwood Valley MAC held a special meeting to discuss the above agenda item at our regular Tuesday, September 6 meeting. In addition, a few of the members of the MAC were able to give greater in-depth review of the minor use permit documents sent out from your office on Friday, September 2. As the newly elected chair of the RV MAC Standing Committee on Development Review, I have been asked to present the comments below. As we are a very recently formed referral agency, some of our comments come with questions regarding the review process as well as the particulars of this permit application—they appear below the comment prefaced by the word **Question** in bold letters. Thanks in advance for your patience, and we hope you will be able to respond to those questions at your earliest convenience.

Comments: We are aware that this application is in the final stages of review, but we hope that these comments will be received by the Planning Commission prior to their September 15 meeting for inclusion in that discussion.

- 1) **Fuel Pumps/Charging Stations:** Until recently, Redwood Valley had one gas station with two fuel pumps. In the past year, a second service station/convenience store with 6 fuel pumps was built at Coyote Valley. Should the Faizan Corporation succeed in constructing a service station with 6 pumps, our community will have gone from a 2 pump community to a 14 pump community. Rumor has it that the service station in downtown Redwood Valley is pursuing plans to add 2 additional fuel pumps as well, bringing the total to 16 pumps in the Redwood Valley area. It is hard to believe that an 8 fold increase in fuel supply in Redwood Valley will allow all these businesses to survive, however, our primary concern is that apparently none of these service stations are currently providing or plan to provide a single charging station. Given the increasing pressure of global climate change and the increasing demand for electric vehicles in our county, it would seem judicious and forward-looking to consider making charging stations a condition for issuing a use permit for this and any future service station permits in the county.
- 2) **Liquor License:** Being new to the minor review process, the RV MAC is unclear as to whether, or at what stage, mention of a liquor license is typically included in the minor use permit. Because this permit application proposes a 3,000 sq. ft.

01/16

FaizanFinalRVMACcommentsSE16.doc
PDF Document • 110 KB

Redwood Valley Municipal Advisory Council

January 27, 2017

To: Danielle Fitts per Mendocino Planning Commission

Cc: Adele Phillips: Project Planner, Geoff Burnet, MC DOT,
Brad Mettam, CalTrans Dist. Dir. for Planning, Chris Boyd RV MAC

From: Alex de Grassi, RVMAC Standing Committee on Development Review

Subject: Faizan Corporation Project, U_2015-0009/V_2015-0001
9621 N State St., Redwood Valley 95470

Dear Planning Commission,

At our most recent Redwood Valley MAC meeting on Wednesday, January 11, our Standing Committee on Development Review summarized, to the best of our knowledge, the status of the service station to be constructed on North State Street in Redwood Valley by the Faizan Corporation. However, we only recently discovered that the permit was approved back in September, and many members of the MAC as well as the public in attendance expressed new and continuing concerns about the impact of the project. Consequently, I have been tasked with writing to pass on those concerns.

Those concerns include: traffic safety, noise, runoff and potential pollution of local creeks, lighting, archaeological remains, potential use of diesel fuels and consequent traffic and overnight parking of big rigs, especially if the service station, strategically positioned for truckers, develops into a "truck-stop" providing additional amenities and services for truckers.

Below is an elaboration of the concerns that arose from our recent MAC meeting.

- **Traffic Safety:** One of the conditions in the permit application called for a traffic ordinance to disallow traffic exiting North State Street to cross northbound 101 to enter southbound 101—the so called "right-in, right-out" only ordinance. But the Redwood Valley community has also expressed concern over increased southbound 101 traffic—especially non-local traffic, and in particular big rigs—making left hand turns to access the service station.
- **Noise:** Increased traffic, especially big rigs, coming off the grade using their "jake" brakes to make the aforementioned left hand turn would also create a significant noise nuisance for nearby residents.
- **Runoff:** Though the Initial Study/Environmental Review section of the permit application, under the IV. Biological Resources, checked "no impact" on letter b

RVMAC+FaizanProjectfollow-upletter
PDF Document - 93 KB

Jini Reynolds

Redwood Valley Municipal Advisory Council

January 27, 2017

To: Danielle Fitts per Mendocino Planning Commission

Cc: Adele Phillips: Project Planner, Geoff Burnet, MC DOT,
Brad Mettam, CalTrans Dist. Dir. for Planning, Chris Boyd RV MAC

From: Alex de Grassi, RVMAC Standing Committee on Development Review

Subject: **Faizan Corporation Project, U_2015-0009/V_2015-0001
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ATTACHMENT C

(riparian impact), there is continued concern about the potential for surface oils and potential fuel runoff finding their way into nearby Forsythe Creek. What will be the required mitigations for this issue.

- **Lighting:** Some neighbors have complained that they were not consulted about the impact of lighting from the proposed station's tall sign and from the very large canopy. We think it fair that any lighting plans be re-examined to conform with the county's requirement that light shall not disperse beyond the facility site.
- **Diesel Fuels:** If and when the project proposes to sell diesel fuel, the RVMAC and the RV community has asked for formal notification by Planning of such expansion of services because of the potential impacts cited above and below.
- **Overnight Truck Parking/Truck-stop Facilities:** Should the service station offer diesel fuel sales and then offer truckers' amenities such as showers, space for over-nighting in their rigs, there is concern that that would require more parking than is being provided for in the permit.
- **Alcoholic Beverage Sales:** When and if the owners of the property apply for a license to sell alcoholic beverages, the RVMAC and the RV community request that they be informed by Planning at the time such application is referred to Planning and/or the Sheriff by either the ABC or directly from the owner.
- **Archaeology:** While it is stated the one of the conditions for this project is to have an archaeologist onsite during any excavation and grading, the RV community—and in particular members of the Pomo tribes--would like to stress that this site is a known depository of Native American relics, and that special care be taken to monitor any excavation and/or grading. What will those requirements entail?

Thanks for your attention. We respectfully request a letter of response at your earliest convenience.

Sincerely,

Alex de Grassi
RV MAC Development Review Committee Chair

ATTACHMENT C

Redwood Valley Municipal Advisory Council (MAC)

September 8, 2016

To: Adelle Phillips, County of Mendocino PBS

From: Alex de Grassi, RVMAC Standing Committee on Development Review

Subject: **Faizan Minor Use Permit & Variance U_2015-0009/V_2105-0001**

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- 1) *Fuel Pumps/Charging Stations:* Until recently, Redwood Valley had one gas station with two fuel pumps. In the past year, a second service station/convenience store with 6 fuel pumps was built at Coyote Valley. Should the Faizan Corporation succeed in constructing a service station with 6 pumps, our community will have gone from a 2 pump community to a 14 pump community. Rumor has it that the service station in downtown Redwood Valley is pursuing plans to add 2 additional fuel pumps as well, bringing the total to 16 pumps in the Redwood Valley area. It is hard to believe that an 8 fold increase in fuel supply in Redwood Valley will allow all these businesses to survive, however, our primary concern is that apparently none of these service stations are currently providing or plan to provide a single charging station. Given the increasing pressure of global climate change and the increasing demand for electric vehicles in our county, it would seem judicious and forward-looking to consider making charging stations a condition for issuing a use permit for this and any future service station permits in the county.
- 2) *Liquor License:* Being new to the minor review process, the RV MAC is unclear as to whether, or at what stage, mention of a liquor license is typically included in the minor use permit. Because this permit application proposes a 3,000 sq. ft.

ATTACHMENT C

convenience store/office building, and because the Faizan Corporation apparently owns and operates a service station/convenience store on East Gobbi street in Ukiah with an off-sale license, it would seem highly likely that they will be pursuing an off-sale license at the proposed site at 9621 N State Street. Given that there are already more per-capita off-sale licenses in Redwood Valley than recommended by the ABC guidelines, and given that there has been a tremendous community outcry and letter writing campaign to the ABC regarding the off-sale license held by the as yet built Dollar General store in downtown RV, the MAC and members of the community are concerned that any additional licenses will have a negative impact on our community. If the service station plans to have alcohol off-sale, it would seem that relevant county agencies as well as the ABC should consider limiting or eliminating altogether the sale of alcoholic beverages at the proposed Dollar General store.

Questions: Therefore, we would kindly request answers to the following:

- a) Does a minor use application of this type require the applicant to state whether some type of liquor license exists or will be pursued?
- b) If yes, does that mean that this Faizan store will not be selling alcoholic beverages?
- c) If no, how do the MACs and the public obtain that information?
- d) Is there any other county review process for liquor licenses?

- 3) *Traffic Ordinance Amendment:* The staff report and resolution state that conditions of approval for this application are predicated on approval by the Board of Supervisors of an ordinance amendment limiting (restricting?) left-turn and through movement at the North State Street and US 101 intersection. While this ordinance does seem to logically address traffic safety concerns, we did hear from a Redwood Valley resident that no longer being allowed to make a left-turn from the southbound lanes of US 101 onto State Street at that intersection would be an inconvenience.

Question/Clarification: Will this traffic ordinance amendment eliminate all left hand turns by southbound US 101 traffic onto N State Street at the intersection of the two roads?

- 4) *Parking Waiver:* While it appears that parking has not been an issue in the area, we would like to know if the businesses adjacent to the proposed service station/convenience store have been notified of the project and the parking plans. In particular, Mario's Ristorante, as their parking needs are variable, especially in the evening.

Question: Have the adjacent businesses been notified about the parking plans and have they made any comments? Is this standard procedure?

- 5) *Local or Out-of-Town Ownership:* While the owner is a corporation using a local Ukiah address, we are unclear as to whether the Faizan Corporation itself is an out of area or out of the country based corporation.

ATTACHMENT C

Question: Is this a local or out-of-town corporation, and how might that impact the community policy of Smart Growth to keep money in the local economy?

ATTACHMENT C

James Feenan

Mendocino County

From: Dolly Riley <dollyriley@gmail.com>
Sent: Monday, November 20, 2023 3:29 PM
To: pbscommissions
Subject: Fwd: Documents from Sonoma County DA's office on Faizan Corp
Attachments: People v. Faizan, et al. FE CMP.pdf; People v. Faizan, et al FE FJ.pdf

NOV 20 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

RE: planning commission December 7 hearing on Faizon 101 gas station in Redwood Valley. Please do not approve this project, I have attached to judgments against Faizan corporation. Thank you, Dolly Riley

Begin forwarded message:

From: Donald Hess <climatedon@icloud.com>
Date: November 20, 2023 at 11:11:31 AM PST
To: Dolly Riley <dollyriley@gmail.com>
Cc: Peter McNamee <pmcnamee@sbcglobal.net>
Subject: Documents from Sonoma County DA's office on Faizan Corp.

Hi Dolly,

I just received these documents from the DA's office. Incredibly, there are a countless serious of violations that Faizan was accused of and for which a settlement was finally reached whereby Faizan agreed to a \$500,000 fine. This includes 4 stations in Ukiah and one in Fort Bragg. See attached for all the details.

Don

Pursuant to your request, attached are the filed Complaint and Final Judgment and Permanent Injunction in People of the State of California v. Faizan Corporation and Mahmood Alam, Case No. 22CV023017.

Thank you.

*SONOMA COUNTY DISTRICT ATTORNEY'S OFFICE
Environmental & Consumer Law Division*

NANCY E. O'MALLEY
DISTRICT ATTORNEY OF THE COUNTY OF ALAMEDA
ALYCE SANDBACH, STATE BAR NO. 141894
DEPUTY DISTRICT ATTORNEY
CONSUMER AND ENVIRONMENTAL PROTECTION UNIT
7677 OAKPORT STREET, SUITE 650
Oakland, California 94621
Telephone: (510) 383-8600
Facsimile: (510) 383-8615
Additional Plaintiff's counsel listed in Appendix hereto

Attorneys for The People of the State of California

*Exempt from Fees
Government Code section 6103*

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

12/02/2022 at 01:04:49 PM

By: Angela Linhares,
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

FAIZAN CORPORATION, a California
Corporation and MAHMOOD ALAM,

Defendants.

Case No. **22CV023017**

**COMPLAINT FOR PERMANENT
INUNCTION, CIVIL PENALTIES, AND
OTHER RELIEF**

(Health & Safety Code, Div. 20, Chapters 6.5
6.67, 6.7 and 6.95; Bus. & Prof. Code § 17200
et. seq.)

Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, brings this law
enforcement action to protect public health and the environment from harm due to releases of
hazardous substances, including harm from groundwater and surface water contamination and
indoor air impacts from leaking Underground Storage Tanks (UST's), and from other violations,
including unfair and unlawful business practices, and alleges the following based on information
and belief.

PLAINTIFF

1
2
3 1. Plaintiff, the PEOPLE OF THE STATE OF CALIFORNIA, (the "People"), brings this
4 action by and through Nancy E. O'Malley, District Attorney of Alameda County; Diana Becton,
5 District Attorney of Contra Costa County; Susan J. Krones, District Attorney of Lake County; Lori
6 E. Frugoli, District Attorney of Marin County; C. David Eyster, District Attorney of Mendocino
7 County; Jill R. Ravitch, District Attorney of Sonoma County; and Jeff Reisig, District Attorney of
8 Yolo County.

9 2. Pursuant to California Health and Safety Code sections 25299.01 and 25299.02, the
10 People may bring a civil action for civil penalties and an injunction based on violations of the State's
11 statutory scheme entitled "Underground Storage of Hazardous Substances," relating to underground
12 storage tanks (UST's) containing fuel, which is set forth in Chapter 6.7 of Division 20 of the California
13 Health and Safety Code (hereinafter "Chapter 6.7"), and which pursuant to which implementing
14 regulations have been issued, which are set forth in California Code of Regulations, Title 23, Division
15 3, Chapter 16.

16 3. Pursuant to California Health and Safety Code sections 25181 and 25182, the People may
17 bring a civil action for civil penalties and an injunction based on violation of the State's statutory
18 scheme entitled "Hazardous Waste Control Act," which is set forth in Chapter 6.5 of Division 20 of
19 the California Health and Safety Code (hereinafter "Chapter 6.5"), and pursuant to which
20 implementing regulations have been issued, which are set forth in California Code of Regulations,
21 Title 23, Division 4.5.

22 4. Pursuant to California Health and Safety Code sections 25515.6, 25515.7, and
23 25515.8, the People may bring a civil action for penalties and an injunction based on violations of the
24 State's statutory scheme entitled, "Hazardous Materials Release Response Plans and Inventory,"
25 which is set forth at Chapter 6.95 of Division 20 of the California Health and Safety Code (hereinafter
26 "Chapter 6.95") and pursuant to which implementing regulations have been issued, which are set forth
27 in California Code of Regulations, Title 19, Division 2, Chapter 4.
28

5. Pursuant to California Health and Safety Code section 25270.12 (b) and (d), the People may bring a civil action for civil penalties and an injunction based on violations of the State's statutory scheme entitled "Aboveground Petroleum Storage Act" (APSA), set forth in Chapter 6.67 of Division 20 of the California Health and Safety Code (hereinafter "Chapter 6.67").

6. Pursuant to California Business and Professions Code sections 17203, 17204, and 17206, the People may bring a civil action for civil penalties and an injunction based on violations of the State's Unfair Competition Law (UCL) at California Business and Professions Code, section 17200.

DEFENDANTS

7. Defendant FAIZAN CORPORATION is now, and at all times mentioned in this Complaint was, a California corporation duly registered with the California Secretary of State with its principal business address at 390 East Gobbi Street, Ukiah, California.

8. Defendant MAHMOOD ALAM is an individual who, at all times relevant herein, was the Chief Executive Officer of Defendant FAIZAN CORPORATION and was in a position of responsibility which allowed him to influence corporate policies and activities, including those related to Defendant FAIZAN CORPORATION'S compliance with applicable laws and regulations.

9. At all times relevant herein, Defendant MAHMOOD ALAM had the power and authority to prevent and promptly remedy Defendant FAIZAN CORPORATION'S violations of law, including violations alleged below that are indicated herein to be strict liability public welfare and regulatory offenses.

10. Defendant MAHMOOD ALAM failed to exercise his responsibilities, power and authority to use reasonable means to discover, prevent and remedy such strict liability public welfare and regulatory violations, and is liable for Defendant FAIZAN CORPORATION'S commission of such violations under the Responsible Corporate Officer Doctrine.

11. At all times relevant to the facts alleged herein, Defendants were legally responsible for compliance with the provisions of the Health and Safety Code, including Chapters 6.5, 6.67, 6.7, and 6.95 of Division 20, and corresponding implementing regulations, at Defendants' facilities in California.

12. In this Complaint, when reference is made to any act or omission of either Defendant, such allegations shall include the acts and omissions of owners, officers, directors, agents, employees, contractors, vendors, affiliates, and representatives of any such Defendant or Defendants while acting within the course and scope of their employment or agency on behalf of either or both Defendants.

13. Each Defendant is a "person" as defined by Health and Safety Code sections 25118(l)(g), 25270.2, 25281 and Business and Professions Code section 17201.

TOLLING OF STATUTES OF LIMITATIONS

14. Plaintiff has entered into a series of tolling agreements with Defendants to toll any applicable statute of limitations. As a result of those agreements, the period of time from July 31, 2019, to February 15, 2022 inclusive will not be included in computing the time limited by any statutes of limitation applicable to the causes of action alleged herein against Defendant FAIZAN CORPORATION and the period of time from September 30, 2021, to June 15, 2022, inclusive will not be included in computing the time limited by any statutes of limitation applicable to the causes of action alleged herein against Defendant MAHMOOD ALAM. The California Judicial Council's Emergency Rule 9(a) tolled the statute of limitations and repose for all civil causes of action that exceed one hundred eighty (180) days from April 6, 2020 through October 1, 2020. As such, Emergency Rule 9(a) will have an impact on any applicable statute of limitations related to the claims asserted in this matter

JURISDICTION AND VENUE

15. Defendants, at all times mentioned herein, have transacted business within, *inter alia*, one or more of the following Counties: Alameda, Contra Costa, Lake, Marin, Mendocino, Sonoma, and Yolo, and all or some of the violations of law hereinafter described have been committed within said counties.

16. This court has jurisdiction pursuant to Article 6, section 10 of the California Constitution, Health and Safety Code sections 25181, 25182, 25270.12, Health and Safety Code section 25299.01, 25299.02, 25515.6 and 25515.7.

17. Venue is proper in Alameda County pursuant to Health and Safety Code sections 25183 and 25299.03 and California Code of Civil Procedure section 393, subdivision (a) because a cause of action or some part of a cause of action arose in Alameda County.

GENERAL ALLEGATIONS

18. At all relevant times alleged herein, including during the commission of the violations set forth below, Defendants owned, operated, managed, and/or controlled retail motor vehicle fuel facilities in all or some of the following counties: Alameda, Contra Costa, Lake, Marin, Mendocino, Sonoma, and Yolo, including at the following locations:

- a) 712 Lewelling Boulevard in San Leandro;
- b) 2799 Clayton Road in Concord;
- c) 5200 Main Street in Kelseyville;
- d) 170 Merrydale Road in San Rafael;
- e) 998 South State Street in Ukiah;
- f) 390 East Gobbi Street in Ukiah;
- g) 615 Talmage Road in Ukiah;

- h) 1460 North Lovers Lane in Ukiah;
- i) 1004 South Main Street in Fort Bragg;
- j) 2225 Cleveland Ave. in Santa Rosa;
- k) 29029 County Road 6 in Dunnigan; and
- l) 1785 South Main Street in Lakeport.

FIRST CAUSE OF ACTION

**Violation of Underground Storage of Hazardous Substances Law
(Health and Safety Code, Division 20, Chapter 6.7, Section 25281 *et seq.*)**

19. The People reallege and incorporate by reference all paragraphs above.

20. At all times mentioned herein, Defendants were owners and/or operators of underground storage tanks (UST's) at the retail fuel facilities set forth above, and as such, are strictly liable for civil penalties and injunctive relief for violation of any requirement set forth in Health and Safety Code Chapter 6.7 and of any regulation issued pursuant thereto, pursuant to Health and Safety Code sections 25299(a)(6) and (b)(4).

21. Defendants committed the following violations of Health and Safety Code Chapter 6.7, and its implementing regulations set forth in title 23 of the California Code of Regulations:

- a. Failure to install, maintain, operate, and calibrate all UST monitoring equipment such that the equipment was capable of detecting a release at the earliest possible opportunity as required by California Code of Regulations, title 23, sections 2630 and 2641.
- b. Failure to annually certify all monitoring equipment for operability, proper operating condition, and proper calibration and failure to submit a copy of a Monitoring System Certification Form within 30 days after completion of the test as required by California Code of Regulations, title 23, sections 2638(c) and 2638(d).

ATTACHMENT C

- c. Failure to operate and maintain primary containment equipment in a product-tight condition as required by Health and Safety Code sections 25290.1(c) and 25290.2 (c), and California Code of Regulations, title 23, sections 2631 and 2632.
- d. Failure to maintain leak detection equipment with audible and visual alarms as required by California Code of Regulations, title 23, sections 2632(c)(2)(B), 2634(d)(1)(a) and 2636(f)(1).
- e. Failure to maintain functioning line leak detectors monitoring pressurized piping with the capability of detecting a release of three (3) gallons per hour at ten (10) pounds per square inch and restrict or shut off the flow of product through the piping when a leak is detected as required by California Code of Regulations, title 23, section 2636(f)(2).
- f. Failure to ensure that boots in turbine sumps, transition sumps and piping sumps were properly placed so that piping drained to a monitored sump as required by California Code of Regulations, title 23, sections 2630(d) , 2636(c) and 2641(a).
- g. Failure to conduct initial and periodic Enhanced Leak Detection testing for UST systems located within one thousand (1,000) feet of a public drinking water well in violation of Health and Safety Code sections 25292.4 and 25292.5 and California Code of Regulations, title 23, sections 2640(e) and 2644.1.
- h. Failure to conduct secondary containment testing and to submit a secondary containment test report to the local agency as required by California Code of Regulations, title 23, section 2637.
- i. Failure to construct, operate, and maintain secondary containment such that it was product-tight as required by Health and Safety Code section 25290.1.

ATTACHMENT C

- j. Failure to install and maintain spill containers in good condition, product-tight, and with a minimum capacity of five (5) gallons as required by California Code of Regulations, title 23, sections 2635(b), 2637(b), 2637.1(a), 2637.1(c) and 2665.
- k. Failure to conduct spill container tightness testing upon completion of an installation and every twelve (12) months thereafter in violation of California Code of Regulations, title 23, section 2637.1.
- l. Failure to submit a copy of the spill container testing results to the relevant local agency within thirty (30) days of testing as required by California Code of Regulations, title 23, section 2637.1.
- m. Failure to timely inspect the UST overfill prevention equipment and to submit to the relevant local agency proof of inspection of the UST system overfill prevention equipment as required by California Code of Regulations, title 23, section 2637.2.
- n. Failure to assure that Designated UST Operator visual inspections were conducted every thirty (30) days and that such monthly inspections were recorded in an inspection report that was maintained on site in accordance with section 2715 as required by California Code of Regulations, title 23, section 2715 and 2716).
- o. Failure to have at least one (1) facility employee present during operating hours that has been trained in the proper operation and maintenance of the UST system by a Designated UST Operator in violation of California Code of Regulations, title 23, section 2715(c).
- p. Failure to maintain a list of employees trained by the Designated UST Operator as required by California Code of Regulations, title 23, section 2715(c)(3).
- q. Failure to maintain a permit for a UST as required by Health and Safety Code section sections 25284(a)(1) and 25299(a)(1) and (b)(1).

ATTACHMENT C

- r. Failure to submit to the local agency all information required as part of the application for permit to operate a UST permit as required by California Code of Regulations, title 23, section 2711, and Health and Safety Code sections 25284, 25286 and 25299(a).
- s. Retained individuals to perform work relating to a UST system when such individuals did not possess the proper qualifications to perform such work as required by California Code of Regulations, title 23, sections 2715 and 2637.
- t. Failure to submit a current UST Response Plan as required by and in violation of California Code of Regulations, title 23, sections 2712(i), 2632(d)(2), 2634(e), 2641(h).
- u. Failure to submit the "Designated Underground Storage Tank Operator Identification Form" within thirty (30) days of a change in Designated Operator in violation of California Code of Regulations, title 23, section 2715(a)(1)(B).
- v. Failure to retain and maintain records of UST monitoring, testing, repairs as required by California Code of Regulations, title 23, section 2712 and Health and Safety Code section 25293.
- w. Failure to maintain records of cathodic protection system testing conducted within six months of installation and at least every three (3) years thereafter in violation of California Code of Regulations, title 23, sections 2635 and 2712(b).
- x. Failure to submit to the local agency proof of compliance with state and federal financial responsibility requirements applicable to USTs containing petroleum in violation of Health and Safety Code section 25292.2(a) and 25299.31 and California Code of Regulations, title 23, section 2711(a)(11).
- y. Failure to submit to submit a complete and accurate plot plan as required by California Code of Regulations, title 23, sections 2632(d)(1)(c), 2641(h) and 2711(a)(8).

- 1 z. Failure to install, retrofit and maintain under dispenser secondary containment as
2 required by Health and Safety Code sections 25290.1(c), 25290.2(c), 25291(a)(2),
3 25192(b)(5)-(e)(1) and (2).
4
5 aa. Abandonment of the UST system and failure to properly close the UST system as
6 required by Health and Safety Code sections 25298, 25299 and California Code of
7 Regulations, title 23, sections 2670, and 2672.
8
9 bb. Failure to pay the annual UST program fee as required by Health and Safety Code
10 section 25287 (a) and (b).
11

12 **SECOND CAUSE OF ACTION**
13 **Violation of the Aboveground Storage of Petroleum Act**
(Health and Safety Code, Division 20, Chapter 6.67, Section 25270 *et seq.*)

14 22. The People reallege and incorporate by reference all paragraphs above.

15 23. At all times mentioned herein, Defendants were owners and/or operators of an
16 Aboveground Petroleum Storage Tank ("APST") facility as defined in Health and Safety Code
17 sections 25170.2(a) and 25170.2(n), located at 1785 South Main Street, Lakeport, California.
18 At all times relevant herein, the APST's at this facility had a storage capacity of more than
19 1,320 gallons.
20

21 24. Defendants committed the following violations in the course of their operation of
22 APST systems at their Lakeport facility:

23 a. Failure to prepare and submit a spill prevention control and countermeasure
24 plan (SPCC plan) as required by Health and Safety Code section 25270.4.5(a) and Section 112.1 of
25 Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.
26

27 b. Storage of oil in an aboveground storage tank when the tank materials,
28 conditions, and pressures were not compatible with the holding and storage of oil and were prohibited

1 for such use in violation of Title 40 of the Code of Federal Regulations section 112.8(c)(1) and Health
2 and Safety Code section 25270.4.5(a).

3 c. Failure to file a "tank facility statement" as required by Health and Safety Code
4 section 25270.6(a)(1).

5 d. Failure to pay to the relevant local agency permit fees as required by Health
6 and Safety Code section 25270.6(b).

8
9 **THIRD CAUSE OF ACTION**

10 **Intentional or Negligent Violations of the Hazardous Waste Control Law**
11 **(Health and Safety Code, Division 20, Chapter 6.5, section 25100 et seq.)**

12 25. The People reallege and incorporate by reference all paragraphs above.

13 26. Defendants, as owners and operators of the facilities described below, committed the
14 following violations of the above-referenced Hazardous Waste Control Act statutes and
15 regulations:

16 a. Failure to send hazardous waste offsite for treatment, storage, or disposal within one
17 hundred and eighty (180) days after collection of such hazardous waste had been
18 initially placed in a container in violation of California Code of Regulations, title 22,
19 section 66262.34 and Health and Safety Code section 25189.

20 b. Storage of hazardous waste without affixing and clearly marking labels thereon with
21 the words "Hazardous Waste" and writing on the label in a clearly legible manner the
22 name and address of the generator, physical and chemical characteristics of the
23 Hazardous Waste, and the accumulation start date as required by and in violation of
24 California Code of Regulations, title 22, section 66262.34(f).

25 c. Failure to obtain an EPA Identification Number prior to treating, storing, disposing of,
26 transporting, or offering for transportation a hazardous waste in violation of California
27 Code of Regulations title 22, section 66262.12.
28

- 1 d. Failure to provide employees with hazardous waste training within the first six (6)
2 months after the date of their employment in violation of California Code of
3 Regulations, title 22, sections 66262.34(a)(4) and 66265.16.
4
5 e. Failure to keep and maintain training records for current and former personnel at the
6 facility for at least three (3) years from the date such employees last worked at the
7 facility as required by California Code of Regulations, title 22 sections 66262.34(a)(4)
8 and 66265.16.
9
10 f. Illegal disposal of hazardous waste in violation of Health and Safety Code section
11 25189 and 25189.2.
12
13 g. Failure to inspect hazardous waste storage areas at least weekly to look for leaking and
14 deteriorating containers and failure to maintain a copy of an inspection log
15 demonstrating that the hazardous waste storage area is inspected weekly as required
16 by California Code of Regulations, title 22, section 66262.34(d)(2).
17
18 h. Failure to maintain and operate a facility to minimize the possibility of a fire, explosion
19 or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste
20 constituents to air, soil or surface water in violation of California Code of Regulations,
21 title 22, section 66264.31.
22
23 i. Failure to keep a copy of each hazardous waste manifest for at least three (3) years
24 from the date the waste was accepted by the initial transporter as required by California
25 Code of Regulations, title 22, section 66262.40(a).
26
27 j. Failure to properly handle and store hazardous waste in violation of California Code
28 of Regulations, title 22, sections 66262.34(d)(2), 40 CFR 1 262.34(d)(2), and 265.173.

FOURTH CAUSE OF ACTION

**Violation of the Hazardous Materials Release Response Plan and Inventory Law
(Health and Safety Code, Division 20, Chapter 6.95, section 25500 *et seq.*)**

27. The People reallege and incorporate by reference all paragraphs above.

ATTACHMENT C

28. Defendants, the owners and/or operators of the facilities described below, knowingly and after reasonable notice committed the following violations of Health and Safety Code, Chapter 6.95 and the regulations issued pursuant thereto:

- a. Failure to establish, submit to the local agency, and implement a business plan while storing a hazardous material as required by Health and Safety Code section 25505; HSC 6.95 25508(a)(1), 25508(d).
- b. Failure to submit a hazardous material inventory for all reportable hazardous materials on site at or above reportable quantities in violation of Health and Safety Code sections 25505(a)(1), 25506, 25508(a)(1).
- c. Failure to annually review and certify that the information in the business plan for the facility was complete, accurate, and up to date as required Health and Safety Code section 25508.2.
- d. Failure to have a business plan readily available to personnel of the business or the local agency as required by Health and Safety Code section 25505(c).
- e. Failure to provide initial and annual training to all employees in safety procedures in the event of a release or threatened release of hazardous materials and failure to document and maintain training records for a minimum of three (3) years as required by Health and Safety Code Section 25505(a)(4).

FIFTH CAUSE OF ACTION

Violation of the Unfair Competition Law (Business and Professions Code section 17200 et. seq.)

29. The People reallege and incorporate the above paragraphs.

30. Defendants engaged in unlawful acts, omissions, and practices that constitute unfair competition and unlawful business practices within the meaning of Business and Professions Code sections 17200 et seq, to wit, all violations of law alleged in the First through Fourth Causes of Action above, and the following additional violations of law:

ATTACHMENT C

1 a. Failure to label motor vehicle fuel dispensers with the octane rating of the
2 products dispensed in violation of Business and Professions Code section 13480(a).

3 b. Failure to label all dispensers with the name of the station in violation of
4 Business and Professions Code section 13480(a).

5 c. Failure to label all dispensers with the grade of the fuel product being sold in
6 violation of Business and Professions Code section 13480(a).

7 d. Failure to label the premium fill pipe with the grade of motor vehicle fuel in
8 violation of Business and Professions Code section 13480(a).

9 e. Failure to label all dispensers with brand labels in violation of Business and
10 Professions Code section 13480(a).

11 f. Failure to properly label the diesel grade in violation of Business and
12 Professions Code section 13480(a).

13 g. Failure to label dispensers with the type of product dispensed, to wit: gasoline
14 or Diesel, in violation of Business and Professions Code section 13480(a).

15 h. Failure to label the underground storage tanks as required in violation of
16 Business and Professions Code section 13480(a).

17 i. Installation of vehicle fuel dispensers without notice to the county sealer in
18 violation of Business and professions Code section 1215(a).

19 j. False promotion and advertisement of the sale of diesel fuel when the
20 corporation was not selling diesel fuel in violation of Business and Professions Code section 17500
21 *et seq.*

22 k. Failure to exhibit a tax chart on site listing taxes per gallon of motor vehicle
23 fuel in violation of Business and Professions Code section 13361.

24 l. Removal of official Yolo County Department of Weights and Measures seals
25 from gasoline dispensers installed at the Dunnigan location and, after replacing the gasoline
26 dispensers at the Dunnigan facility, placement of the Department of Weights and Measures seals on
27
28

1 the newly installed gasoline dispensers without notifying the Department in violation of Business
2 and Professions Code section 13413.

3 m. Sale of 89 Octane motor vehicle fuel while falsely representing that the
4 gasoline was 91 Octane, in violation of Business and Professions Code section 13486(a).

5 n. False advertisement of 89.8 octane gasoline as 91 octane gasoline in violation
6 of Business and Professions Code section 17500.

7
8 o. Failure to post the price clearly and legibly per gallon of motor vehicle fuel on
9 the fuel dispenser in violation of Business and Professions Code section 13474.

10 p. Failure to post the price clearly and legibly per gallon of motor vehicle fuel on
11 the fuel dispenser in violation of Business and Professions Code section 13474.

12 q. Failure to properly label the premium fuel fill pipe as required by and in
13 violation of Business and Professions Code section 13483.

14
15 **WHEREFORE, PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:**

16 1. Injunctive relief, including but not limited to, a permanent injunction requiring
17 Defendants, and each of them, to comply with the requirements of California Health and Safety Code,
18 Division 20, Chapter 6.7 and all implementing regulations;

19
20 2. Injunctive relief, including but not limited to, a permanent injunction requiring
21 Defendants, and each of them to comply with the requirements of California Health and Safety Code,
22 Division 20, Chapter 6.67 and all implementing regulations;

23 3. Injunctive relief, including but not limited to, a permanent injunction requiring
24 Defendants, and each of them, to comply with the requirements of California Health and Safety Code,
25 Division 20, Chapter 6.5 and all implementing regulations;
26
27
28

ATTACHMENT C

1 4. Injunctive relief, including but not limited to, a permanent injunction requiring
2 Defendants, and each of them, to comply with the requirements of California Health and Safety Code,
3 Division 20, Chapter 6.95 and all implementing regulations;

4 5. Injunctive relief, including but not limited to, a permanent injunction requiring
5 Defendants, and each of them, to comply with the requirements of California Business and
6 Professions Code Division 5, Chapter 14;

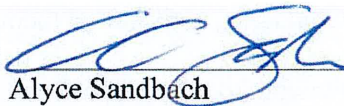
7 6. For civil penalties, according to proof;

8 7. For costs to Plaintiff of investigation and enforcement herein; and

9 8. That Plaintiff be given such other and further relief as the nature of this case may
10 require and this Court deems equitable, just, and proper.
11
12
13

14
15 Dated: Nov. 7, 2022

NANCY E. O'MALLEY
District Attorney, Alameda County

16
17
18 By: 

Alyce Sandbach
Deputy District Attorney
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28

APPENDIX

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(See Appendix hereto for full list of Plaintiff's counsel)

Attorneys for The People of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

FAIZAN CORPORATION, a California
Corporation, and MAHMOOD ALAM, an
individual,

Defendants.

Case No. 22CV023017

FINAL JUDGMENT AND PERMANENT
INJUNCTION ~~Proposed~~

The PEOPLE OF THE STATE OF CALIFORNIA, appearing through its attorneys:
Nancy E. O'Malley, District Attorney of Alameda County; Diana Becton, District Attorney of
Contra Costa County; Susan J. Krones, District Attorney of Lake County; Lori E. Frugoli, District
Attorney of Marin County; C. David Eyster, District Attorney of Mendocino County; Jill R.
Ravitch, District Attorney of Sonoma County; and Jeff W. Reisig, District Attorney of Yolo
County, (collectively referred to herein as Plaintiff or "the People"); and Defendants FAIZAN
CORPORATION and MAHMOOD ALAM ("Defendants"), appearing through their attorneys
William D. Wick of Wactor & Wick LLP, have entered into a Stipulation for this Final Judgment

FILED
Superior Court of California
County of Alameda
01/05/2023
Clad Flake, Executive Officer/Clerk of the Court
By:  Deputy
S. Albert

1 and Permanent Injunction (“Stipulation”) and have thereby agreed to entry of this Final Judgment
2 and Permanent Injunction (“Final Judgment”) without the taking of proof and without the
3 Stipulated Final Judgment constituting evidence of an admission by any party regarding any issue
4 of fact or law alleged in the Complaint, and Defendants having waived the right to appeal, and
5 good cause appearing,

6
7 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

8 **JURISDICTION AND VENUE**

9 1. The Superior Court of California, County of Alameda, has subject matter
10 jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties to this
11 Final Judgment, and the Superior Court for the County of Alameda is the proper venue for this
12 action.

13 **SETTLEMENT OF DISPUTED CLAIMS**

14 2. This Final Judgment is not an admission or denial by Defendants regarding any
15 issues of law or fact in this case or any violation of law. The Parties enter into this Final Judgment
16 pursuant to a compromise and settlement of disputed claims, as set forth in the Complaint in this
17 case, for the purpose of furthering the public interest. The People believe that the resolution
18 embodied in this Final Judgment is fair and reasonable and fulfills the People’s enforcement
19 objectives. Defendants agree that this is a fair and reasonable resolution of the matters alleged in
20 the Complaint.

21
22 **DEFINITIONS**

23 3. Except where otherwise expressly defined in this Final Judgment, the definitions
24 set forth in the following statutory schemes and all regulations issued pursuant thereto shall apply
25 to the technical terms used herein: (a) the Underground Storage of Hazardous Substances Law
26 (California Health and Safety Code, Division 20, Chapters 6.7); (b) the Hazardous Waste Control
27
28

1 Law (California Health and Safety Code, Division 20, Chapters 6.5); (c) the Hazardous Materials
2 Release Response Law (California Health and Safety Code, Division 20, Chapters 6.95); and
3 (d) the Weights and Measures Law, Division 5 of the Business and Professions Code.

4
5 **INJUNCTION**

6 *Applicability*

7 4. The provisions of this injunction are applicable to Defendants, their successors and
8 assigns, their agents, representatives, officers, directors, managers, subsidiaries, and to all persons,
9 employees, and corporations and other entities acting under, by, through or on behalf of, or in
10 concert with either Defendant with actual or constructive knowledge of this Final Judgment.

11
12 *Compliance with Applicable Statutes, Regulations, and Permits*

13 5. Pursuant to the provisions of Health and Safety Code sections 25299.01, 25299.04,
14 25181, 25184, 25515.6, 25515.8, and Business and Professions Code Section 17203, Defendants
15 are permanently enjoined and restrained from violating Chapters 6.7, 6.5 and 6.95 of Division 20
16 of the Health and Safety Code and the regulations promulgated under these chapters and Division
17 5 of the Business and Professions Code.

18 *Specific Injunctive Provisions*

19 6. Pursuant to the provisions of Health and Safety Code sections 25299.01, 25299.04,
20 25181, 25184, 25515.6, 25515.8, and Business and Professions Code Section 17203, Defendants
21 are enjoined and restrained from failing to comply with any of the following legal requirements at
22 any facility it owns and/or operates:

23 a. Defendants shall at all times equip all secondary containment, including
24 under-dispenser containment, and under-dispenser spill control or containment systems, with a
25 continuous monitoring system that either activates an audible and visual alarm or stops the flow of
26 the hazardous substance at the dispenser when it detects a leak, as required by California Code of
27 Regulations, title 23, section 2636(f)(1).
28

1 b. Defendants shall install, place and maintain all leak-detecting equipment, so
2 that the equipment, including leak-detecting sensors, is capable of detecting a leak at the earliest
3 possible opportunity as required by California Code of Regulations, title 23, sections 2630(d) and
4 2641(a).

5 c. Defendants shall immediately replace or repair any leak-detecting
6 equipment, including but not limited to leak-detecting sensors, that for any reason become
7 incapable of detecting an unauthorized release from any portion of the underground storage tank
8 system at the earliest possible opportunity as required by California Code of Regulations, title 23,
9 sections 2630(d) and 2641(a).

10 d. Defendants shall not remove, reposition, adjust, replace or otherwise touch
11 or tamper with any leak-detecting equipment, including but not limited to a leak-detection sensor
12 that is part of an UST system, such that the leak-detection equipment is not capable of detecting a
13 leak or release at the earliest possible opportunity, in violation of California Code of Regulations,
14 title 23, sections 2630(d) and 2641(a) unless by and through the lawful actions of a Service
15 Technician meeting the requirements of California Code of Regulations title 23, section 2715(i).

16 e. Defendants shall ensure that all monitoring and leak-detecting equipment
17 including, but not limited to, leak-detecting sensors, is installed, calibrated, operated and
18 maintained in accordance with the manufacturer's instructions as required by California Code
19 Regulations, title 23, Section 2638(a).

20 f. Defendants shall develop, maintain, and enforce a preventive maintenance
21 schedule for all monitoring equipment in accordance with the manufacturer's instructions as
22 required by California Code of Regulations, title 23, Sections 2632(d)(1)(F) and 2634(d)(2)(F).

23 g. Defendants shall monitor the UST system at any facility/facilities that either
24 Defendant owns, operates, manages or controls using the method specified in the permit as required
25 by Health and Safety Code section 25293 and California Code of Regulations, title 23, sections
26 2632(b) and 2641(g).

27 h. Defendants shall conduct all upgrades and repairs to any UST system
28

1 including repair and/or replacement of underground storage tanks, piping, or other UST
2 components including leak-detection and monitoring equipment in accordance with California
3 Code of Regulations, title 23, Division 3, Chapter 16, Article 6 and any additional manufacturer's
4 specifications as required by California Code of Regulations, title 23, section 2660.

5 i. Defendants shall comply with all requirements of applicable UST permits,
6 as required by California Health and Safety Code section 25299 and California Code of
7 Regulations, title 23, section 2712.

8 j. Defendants shall document every monitoring system alarm in a written log
9 or report if required by an UST permit, including if required, the nature of the alarm, alarm
10 condition, a description of the action taken in response to the alarm(s) including the name, address
11 and license number of any service technician that may have responded to the alarm.

12 k. Defendants shall ensure that all underground piping with secondary
13 containment is equipped with a continuous monitoring system that either activates an audible or
14 visual alarm or stops the flow of the hazardous substance at the dispenser when it detects a leak, as
15 required by the California Code of Regulations, title 23, section 2636(f)(1).

16 l. Defendants shall notify the local agency at least forty-eight (48) hours prior
17 to conducting secondary containment testing, spill containment testing, overfill prevention
18 equipment inspections, or the installation, repair, replacement, calibration or certification of
19 monitoring equipment as required respectively by California Code of Regulations, title 23, sections
20 2637(f), 2637.1, 2637.2, and 2638. Defendants shall also provide any notice to the local agency
21 required by an UST permit.

22 m. Defendants shall conduct the following testing: spill containment structure
23 testing as required by Health and Safety Code section 25284.2; line tightness testing as required
24 by California Code of Regulations, title 23, section 2636(f)(3); the secondary containment testing
25 required by California Code of Regulations, title 23, section 2637; all testing required for annual
26 certification of UST monitoring equipment as required by California Code of Regulations, title 23,
27 section 2638; and any monitoring or testing as required California Code of Regulations, title 23,
28

1 section 2643

2 n. Defendants shall submit a completed “Monitoring System Certification
3 Form” within thirty (30) days of any annual monitoring certification as required by California Code
4 of Regulations, title 23, section 2638(d), and Defendants shall submit a complete copy of the
5 “Secondary Containment Testing Report Form” within thirty (30) days of the completion of the
6 secondary containment system test to the local agency as required by California Code of
7 Regulations, title 23, section 2637(f).

8 o. Defendants shall at all times employ a qualified “designated UST operator”
9 for each UST location owned and/or operated by Defendants as required by California Code of
10 Regulations, title 23, section 2715, and shall identify the designated UST operator to the local
11 agency as required by California Code of Regulations, title 23, section 2715(a).

12 p. Defendants shall ensure that a qualified designated UST operator performs
13 a monthly visual inspection of every UST system as required by California Code of Regulations,
14 title 23, section 2716 and conducts the training required by California Code of Regulations, title
15 23, section 2715(c).

16 q. Within seventy-two (72) hours of being provided a signed copy of the
17 “Designated Underground Storage Tank Operator Visual Inspection Report,” Defendants shall: (1)
18 Provide a description of each corrective action taken or to be taken for any compliance issues
19 discovered during the inspection on the copy of the “Designated Underground Storage Tank
20 Operator Visual Inspection Report” signed by the designated UST operator; and (2) Sign and date
21 the report, acknowledging the results of the inspection as required by California Code of
22 Regulations, title 23 section 2716(e). Defendants shall obtain, keep current and retain at their
23 facilities, a permit to operate each UST as required by California Code of Regulations, title 23,
24 section 2712(i) and Health and Safety Code section 25284.

25 r. Defendants shall maintain on-site at their facilities, or off-site at a readily
26 available location approved by the local agency, monitoring, maintenance and other records and
27 shall make the records available upon the request of the local agency and/or State Water Board
28

1 within 36 hours, as required by California Code of Regulations, title 23, section 2712(b).

2 s. Defendants shall not operate an UST system without having in place a
3 monitoring and response plan approved by the local agency (UPA) and specified in the relevant
4 UST operating permit as required by California Code of Regulations, title 23, sections 2632(b) and
5 2641(g).

6 t. Defendants shall ensure that all UST systems meet the applicable
7 operational requirements set forth in Health and Safety Code sections 25290.1, 25290.2, 25291,
8 25292.1 and 25292 to the extent they apply to Defendants' UST systems.

9 u. For any unauthorized release, as defined in Health and Safety Code section
10 25295.5, Defendants shall record the unauthorized release, timely notify the local agency of the
11 unauthorized release and timely provide to the local agency a full written report of the unauthorized
12 release as required by Health and Safety Code sections 25294 and 25295(a)(1) and California Code
13 of Regulations, title 23, sections 2650 through 2652. Defendants shall comply with all additional
14 laws and regulations requiring notifications upon the release of any hazardous material.

15 v. Defendants shall equip all USTs with a spill container that collects any
16 hazardous substances spilled during product delivery operations and overfill prevention system as
17 required by California Code of Regulations, title 23, sections 2635(b) and (c).

18 w. Defendants shall install all underground piping that is in contact with
19 hazardous substances under normal operating conditions within a secondary containment system
20 as required by California Code of Regulations, title 23, section 2636(c)(1).

21 x. Defendant shall at all times (other than when the secondary containment is
22 being tested) ensure that test boots are properly placed to allow the associated UST component to
23 be monitored as required by California Code of Regulations, title 23, section 2636(f).

24 y. Defendants shall maintain evidence of financial responsibility for taking
25 corrective action and for compensating third parties as required by Health and Safety Code section
26 25292.2.

27 z. Defendants shall install and maintain automatic line leak detectors on all
28

1 underground pressurized piping as required by California Code of Regulations, title 23, section
2 2636(f)(2).

3 aa. In any permit application submitted pursuant to California Code of
4 Regulations, title 23, section 2711(a), Defendants shall provide complete and accurate information.
5 Defendants shall submit any changes to the local agency through the California Environmental
6 Reporting System (CERS) within 30 days as required by California Code of Regulations, title 23,
7 section 2711(b).

8 bb. Defendants shall have a means for monitoring water intrusion by
9 precipitation or infiltration into the secondary containment as required by California Health and
10 Safety Code section 25291(e).

11 cc. Defendants shall ensure that each container, receptacle, pump, dispenser
12 and inlet end of the fill pipe of each underground storage tank is properly labeled with the name of
13 the product, the brand, the trademark, the trade name, and the grade and brand name at any location
14 where Defendant sells fuel, pursuant to the requirements of Business and Professions Code 13480.

15 dd. Defendants shall, after installation of any measuring instrument, notify the
16 sealer of the relevant county of such installation pursuant to the requirements of Business and
17 Professions Code section 12515.

18 ee. Defendants shall not make any deceptive, false, or misleading statements
19 by any means regarding the quality, quantity, performance, price, discount or savings as it relates
20 to any commodity sold at any Facility, as prohibited by Business and Professions Code section
21 13413.

22 ff. Defendants shall not misrepresent the grade of a motor vehicle fuel in
23 violation of Business and Professions Code section 13413(b).

24 gg. Defendants shall not move or alter the seal affixed to any measuring
25 equipment by any County Sealer.

26 hh. Defendants shall ensure that all letters, numbers, or figures that relate to the
27 price of fuel or sign are plainly visible as required by Business and Professions Code section 13474.
28

1 ii. Defendants shall insure that all labels where each underground storage tank
2 is filled are plainly visible, as required by Business and Professions Code section 13483.
3

4 ***Environmental Management Program***

5 7. Pursuant to the provisions of Health and Safety Code sections 25181, 25184,
6 25299.01, 25299.04, 25270.12, 25515.6, 25515.8, and Business and Professions Code Section
7 17203, Defendants shall, in addition to any other requirement under the law, comply with the
8 additional requirements set forth below.
9

10 ***Environmental Compliance Manager and Written Compliance Plan***

11 8. Defendants shall retain an independent contractor who shall be referred to herein as
12 Defendants' Environmental Compliance Management Consultant (or "Consultant"). The
13 Consultant shall have knowledge, training and experience relating to the requirements of the
14 following statutory schemes and all regulations issued pursuant thereto: (a) the Underground
15 Storage of Hazardous Substances Law (California Health and Safety Code, Division 20, Chapters
16 6.7); (b) the Hazardous Waste Control Law (California Health and Safety Code, Division 20,
17 Chapters 6.5); and (c) the Hazardous Materials Release Response Law (California Health and
18 Safety Code, Division 20, Chapters 6.95). The Consultant shall possess and maintain a valid
19 California UST Inspector Certificate issued by the International Code Council (ICC) as provided
20 by California Code of Regulations, title 23 section 2715(j) and have no less than five (5) years'
21 experience as a Unified Program Agency (UPA) inspector.

22 a. The Consultant shall assist Defendants in the development, modification,
23 and implementation of a written compliance plan that shall include policies and procedures to
24 ensure compliance with the laws and regulations set forth in Paragraph 5 and all additional
25 requirements set forth herein at each facility owned and/or operated and/or developed by one or
26 both Defendants. The compliance plan shall include policies and procedures to facilitate the
27 timeliness of all required inspections and other requirements including: monthly DO inspections
28

1 and alarm logs; equipment maintenance and repair; satisfaction of all document maintenance
2 requirements; fulfillment of all facility employee training requirements; and the timely
3 demonstration of Defendants' return to compliance to regulatory agencies after any finding of non-
4 compliance. Defendants shall provide a copy of the compliance plan to Plaintiff within ninety (90)
5 calendar days after entry of this Final Judgment.

6 b. Defendants shall forward all inspection reports (by both regulatory agencies
7 and by private contractors) relating to all facilities it owns or operates and all monthly reports
8 authored by each of its Designated Operators to its Consultant for review immediately upon receipt.
9 Defendants shall timely and diligently obtain all inspection reports from its private contractors
10 (which includes all Designated Operators); Defendants shall timely pay contractors in order to
11 prevent any delay in delivery of inspection reports. Defendants shall take immediate action to
12 address any violation, failure of equipment, or concerns raised in any inspection report or monthly
13 DO report.

14 ***Bi-annual Environmental Audit and Status Report***

15 c. Beginning ninety (90) calendar days after entry of this Final Judgment, and
16 every six (6) months thereafter for five (5) years, Defendants' Consultant shall conduct an audit
17 assessing the effectiveness of Defendants' compliance with the terms of this Final Judgment and
18 shall author and submit to Plaintiff a written report ("Status Report") that summarizes the findings
19 of the audit and sets forth any measures taken and/or planned by Defendants in relation to
20 compliance with this Final Judgment. The audit and Status Report shall include a review of
21 inspection reports by any regulatory agency and private contractor (including by any designated
22 operator) related to any facility owned and/or operated by either Defendant and review of all
23 documents relating to compliance, including but not limited to UST alarm logs, records
24 documenting that all personnel requiring training have in fact been trained, forms documenting
25 inspection of hazardous waste storage areas, and interviews with station employees regarding their
26 understanding of their roles regarding compliance required by this Final Judgment. The Status
27 Report shall disclose any notice of violation that either Defendant has received pertaining to the
28

1 matters covered in this Final Judgment, whether received verbally, in written form in conjunction
2 with a regulatory inspection, in any formal Notice of Violation, or in any other form. The Status
3 Report shall document the cause of the violation, all actions taken by Defendants in response to
4 such violation, and any compliance failures of which Defendants are aware.

5 d. Each Status Report shall include the following as attachments: an updated
6 version of the written compliance plan; all annual monitoring system certifications; secondary
7 containment testing reports; tank linking inspection reports; monthly Designated Operator (“DO”)
8 inspection reports; and enhanced leak detection reports. Each Status Report shall be signed by the
9 Consultant. The certification shall read, “Based on the combination of my personal knowledge
10 and belief formed in reliance on information provided to me and after conducting reasonable
11 inquiry, I declare under penalty of perjury that the information contained in and accompanying this
12 submission is true, accurate, and complete.” Each Status Report shall be completed and submitted
13 to Plaintiff within thirty (30) days following the above-described six (6)-month period.

14 ***Delivery of Documents to Plaintiff***

15 e. All Status Reports and other documents required to be provided to Plaintiff
16 shall be mailed to the following address:

17
18 Office of the District Attorney of Alameda County
19 Attention: DDA Alyce Sandbach
20 7677 Oakport Street, Suite 650
Oakland, CA 94621

21 **CIVIL PENALTIES AND COSTS**

22 9. Defendants shall jointly and severally pay a total settlement amount of FIVE
23 HUNDRED THOUSAND (\$500,000.00) dollars, in addition to any sums for late payment, as set
24 forth below. All payments made pursuant to this Final Judgment shall be made by check made
25 payable to the “Alameda County District Attorney’s Office” and delivered to the Alameda County
26 District Attorney’s Office, 7677 Oakport Street, Suite 650, Oakland California 94621, to the
27 attention of DDA Alyce Sandbach, for distribution pursuant to the terms of this Final Judgement.
28

a. Civil Penalties

Before the filing of this Stipulation, Defendants shall jointly and severally pay THREE HUNDRED AND TWENTY-SEVEN DOLLARS (\$327,000.00) as civil penalties, which shall be distributed by the Alameda County District Attorney's Office to the entities identified in, and in accordance with, the amounts specified in Exhibit A which is attached hereto and made a part of this Final Judgment by this reference.

b. Reimbursement of Costs of Investigation and Enforcement

Before the filing of this Stipulation, Defendants shall jointly and severally pay ONE HUNDRED AND TWENTY-THREE THOUSAND DOLLARS (\$123,000.00) for costs of investigation, attorney's fees, and other costs of enforcement, which shall be distributed by the Alameda County District Attorney's Office to the Local Agencies identified in Exhibit B, which is attached hereto and made a part of this Final Judgment by this reference, in the amounts set forth therein and which shall be distributed to the District Attorney's Offices identified in Exhibit B in the amounts set forth in the column indicated for payments to be distributed upon Defendants' first payment.

Defendants shall thereafter jointly and severally pay an additional FIFTY THOUSAND DOLLARS (\$50,000.00) in installments for the remainder of the above-described costs, which shall be distributed by the Alameda County District Attorney's Office to those District Attorney's Offices identified in Exhibit B in the amounts set forth as payments to be distributed from Defendants' installment payments. Defendants shall jointly and severally make each of the installment payments indicated below by the deadlines set forth and in the amounts and to the specific payees indicated:

- a. On or before February 1, 2023, Defendants shall pay the sum of \$4,000 to the "Yolo County District Attorney's Office."
- b. On or before March 1, 2023, Defendants shall pay the sum of \$4,000 to the "Sonoma County District Attorney's Office."
- c. On or before April 1, 2023, Defendants shall pay the sum of \$4,000 to the "Mendocino County District Attorney's Office."

ATTACHMENT C

- d. On or before May 1, 2023, Defendants shall pay the sum of \$4,000 to the “Marin County District Attorney’s Office.”
- e. On or before June 1, 2023, Defendants shall pay the sum of \$4,000 to the “Lake County District Attorney’s Office.”
- f. On or before July 1, 2023, Defendants shall pay the sum of \$4,000 to the “Contra Costa County District Attorney’s Office.”
- g. On or before August 1, 2023, Defendants shall pay the sum of \$4,000 to the “Alameda County District Attorney’s Office.”
- h. On or before September 1, 2023, Defendants shall pay the sum of \$4,000 to the “Yolo County District Attorney’s Office.”
- i. On or before October 1, 2023, Defendants shall pay the sum of \$4,000 to the “Sonoma County District Attorney’s Office.”
- j. On or before November 1, 2023, Defendants shall pay the sum of \$4,000 to the “Alameda County District Attorney’s Office.”
- k. On or before December 1, 2023, Defendants shall pay the sum of \$4,000 to the “Yolo County District Attorney’s Office.”
- l. On or before January 1, 2024, Defendants shall pay the sum of \$4,000 to the “Alameda County District Attorney’s Office.”
- m. On or before February 1, 2024, Defendants shall pay the following sums to the payees indicated:
 - i. \$500.06 to the “Yolo County District Attorney’s Office;”
 - ii. \$333.32 to the “Sonoma County District Attorney’s Office;”
 - iii. \$166.66 to the “Mendocino County District Attorney’s Office;”
 - iv. \$166.66 to the “Marin County District Attorney’s Office;”
 - v. \$166.66 to the “Lake County District Attorney’s Office;”
 - vi. \$166.66 to the “Contra Costa District Attorney’s Office;” and
 - vii. \$499.98 to the “Alameda County District Attorney’s Office.”

1 **c. Late Payments**

2 If Defendants fail to timely make any installment payment as required above in full,
3 Defendants shall pay forthwith an additional ONE THOUSAND DOLLARS (\$1,000.00) for each
4 day the installment payment is late, not to exceed a total of FIFTY THOUSAND DOLLARS
5 (\$50,000.00), which shall be delivered and made payable to the Alameda County District
6 Attorney's Office and which shall thereafter be distributed evenly among the District Attorney's
7 Offices who represent Plaintiff herein. Defendants shall have the right to prepay a portion or the
8 entire obligation at any time without penalty.

9 **d. Filing Fees**

10 Defendants will also provide the People with a check made payable to the "Alameda
11 County Superior Court" in the amount of EIGHT HUNDRED AND SEVENTY
12 DOLLARS (\$870.00), which will be deposited with the Clerk of the Court as Defendants' first
13 appearance fees.

14 **ENFORCEMENT OF FINAL JUDGMENT**

15
16 10. The People may move this Court for additional relief for violation of any provision
17 of this Final Judgment, including but not limited to, contempt, additional injunctive remedies, or
18 additional penalties. Nothing in this Final Judgment shall limit any rights of the People to seek
19 any other relief or remedies provided by law. Nothing in this Final Judgment shall limit the rights
20 of Defendants to defend against any request of the People for relief or remedies, including, but not
21 limited to, contempt, additional injunctive provisions, or additional penalties for violation of this
22 Final Judgment.

23 11. The Court shall retain continuing jurisdiction to enforce the injunctive terms of this
24 Final Judgment and to address any other matters arising out of or relating to the injunctive
25 provisions this Final Judgment.

26 **MATTERS RESOLVED BY THIS FINAL JUDGMENT**

27 12. This Final Judgment is a final and binding resolution and settlement of all claims,
28 violations and causes of action expressly alleged by the People in the Complaint, including any

1 violations that were known to the People and could have been asserted against Defendants in the
2 Complaint under California Health & Safety Code, Division 20, Chapters 6.5, 6.7, or 6.95, at the
3 time of the filing of the Complaint. These claims, violations, and causes of actions shall be known
4 as "Covered Matters," unless exempted below. Any claim, violation, or cause of action that is not
5 a Covered Matter is a "Reserved Claim."

6 13. Reserved Claims include, without limitation, any violation that occurs after the
7 filing of this Final Judgment and any claim, violation, or cause of action against independent
8 contractors or subcontractors retained to do work for either Defendant.

9 14. This Judgment does not include claims or causes of action against Defendants for
10 performance of cleanup, corrective action, or response action for any past or future releases, spills,
11 or disposals of hazardous waste and/or substances for which either Defendant is a responsible party
12 or otherwise liable.

13 15. Nothing in this Final Judgment is intended nor shall it be construed to preclude the
14 People, or any state, county, city, or local agency, department, board or entity, or any local agency
15 from exercising its authority under any law, statute or regulation. Furthermore, nothing in this
16 Final Judgment shall be construed to excuse either Defendant from compliance with any applicable
17 statutes, regulations, local ordinances or permitting requirements or any other law or applicable
18 requirement.

19 **INTEGRATION**

20 16. The failure of the People to enforce any provision of this Final Judgment shall
21 neither be deemed a waiver of such provision nor in any way affect the validity of this Final
22 Judgment. The failure of the People to enforce any such provision shall not preclude it from later
23 enforcing the same or any other provision of this Final Judgment. No oral advice, guidance,
24 suggestion or comment by employees or officials of any Party regarding matters covered in this
25 Final Judgment shall be construed to relieve any Party of its obligations under this Final
26 Judgment.

ABILITY TO INSPECT AND COPY RECORDS AND DOCUMENTS

17. Upon five (5) days' notice, Defendants shall permit any duly authorized representative of the People to inspect and copy records and documents relevant to determine compliance with the terms of this Final Judgment. Nothing in this paragraph is intended to require access to or production of any documents that are protected from production or disclosure by the attorney-client privilege, attorney work product doctrine, any other applicable privilege, defense, exemption, or immunity afforded to Defendants under applicable law, nor does it waive any of the objections or defenses to which Defendants would be entitled in responding to requests for documents made by subpoena or other formal legal process or discovery. This paragraph shall not limit the People's authority, nor the authority of any other government agency, to access or obtain information, records or documents pursuant to any other statute or regulation.

PAYMENT OF LITIGATION EXPENSES AND FEES

18. Defendants shall make no request of the People to pay its attorney fees, expert witness fees and costs, or any other costs of litigation or investigation incurred to date.

INTERPRETATION

19. This Final Judgment was drafted by both Parties. The Parties agree that the rule of construction holding that ambiguity is construed against the drafting party shall not apply to the interpretation of this Final Judgment.

EFFECTIVE DATE OF FINAL JUDGMENT

20. This Final Judgment shall become effective upon entry and Notice of Entry of Judgment is waived.

Dated: 0.4.1/ 12, 2022


JUDGE OF THE SUPERIOR COURT

Charles Smiley / Judge

ATTACHMENT C

EXHIBIT A TO FINAL JUDGMENT

Civil penalties

Payment to	Employer ID (FEIN)	Amount
District Attorney's Offices		
Alameda County District Attorney's Office	94-6000501	\$70,000.00
Contra Costa County District Attorney's Office	94-6000509	\$24,500.00
Lake County District Attorney's Office	94-6000825	\$24,500.00
Marin County District Attorney's Office	94-6000519	\$24,500.00
Mendocino County District Attorney's Office	94-6000520	\$24,500.00
Sonoma County District Attorney's Office	94-6000539	\$49,000.00
Yolo County District Attorney's Office	94-6000548	\$70,000.00
<i>Subtotal for penalties to District Attorney's Offices</i>		<i>\$287,000.00</i>
Contra Costa County Health Services Hazardous Materials Program	94-6000509	\$5,000.00
Lake County Division of Environmental Health	94-6000825	\$5,000.00
Marin County CUPA	94-6000519	\$5,000.00
Mendocino County Environmental Health Division	94-6000520	\$5,000.00
San Leandro Environmental Services	94-6000421	\$10,000.00
Santa Rosa Fire Department	94-6000539	\$5,000.00
Yolo County Department of Environmental Health	94-6000548	\$5,000.00
<i>Subtotal for penalties to Local Agencies</i> <i>\$40,000.00</i>		
Total Civil Penalties		\$327,000.00

ATTACHMENT C

EXHIBIT B TO FINAL JUDGMENT

Partial reimbursement of Plaintiff's attorney's fees, investigation, and other costs of enforcement

Payment to	Employer ID (EIN)	To be distributed upon Defendants first payment	To be distributed from Defendants' installment payments
District Attorney's Offices Partial Costs			
Alameda County District Attorney's Office	94-6000501	\$17,500.02	\$12,499.98
Contra Costa County District Attorney's Office	94-6000509	\$6,333.34	\$4,166.66
Lake County District Attorney's Office	94-6000825	\$6,333.34	\$4,166.66
Marin County District Attorney's Office	94-6000519	\$6,333.34	\$4,166.66
Mendocino County District Attorney's Office	94-6000520	\$6,333.34	\$4,166.66
Sonoma County District Attorney's Office	94-6000539	\$12,666.68	\$8,333.32
Yolo County District Attorney's Office	94-6000548	\$17,499.94	\$12,500.06
<i>Payment/Installment Subtotals</i>		\$73,000.00	\$50,000.00
<i>District Attorney's Offices' Costs</i>		<i>Subtotal</i>	<i>\$123,000.00</i>
Local Agencies' Partial Costs			
Contra Costa County Health Services Hazardous Materials Program	94-6000509	\$5,000.00	
Lake County Division of Environmental Health	94-6000825	\$5,000.00	
Marin County CUPA	94-6000519	\$5,000.00	
Mendocino County Environmental Health Division	94-6000520	\$5,000.00	
San Leandro Environmental Services	94-6000421	\$10,000.00	
Santa Rosa Fire Department	94-6000539	\$5,000.00	
Yolo County Department of Environmental Health	94-6000548	\$5,000.00	
Yolo County Weights and Measures	94-6000548	\$10,000.00	
<i>Local Agencies' Costs</i>	<i>Subtotal</i>	<i>\$50,000.00</i>	
Total Costs		\$173,000.00	

ATTACHMENT C

APPENDIX

NANCY E. O'MALLEY District Attorney, County of Alameda Alyce Sandbach, SBN 141894 Deputy District Attorney 7677 Oakport Street, Suite 650 Oakland, CA 94621 (510) 383-8600	DIANA BECTON District Attorney, County of Contra Costa Stacey Grassini, SBN 154937 Senior Deputy District Attorney 900 Ward Street Martinez, CA 94553 (925) 957-2200
SUSAN J. KRONES District Attorney, Lake County 255 North Forbes Street Lakeport CA 95453 (707) 263-2251	LORI FRUGOLI District Attorney, County of Marin Andres H. Perez, SBN 186219 Deputy District Attorney 3501 Civic Center Dr., Rm. 145 San Rafael, CA 94903 (415) 4736450
C. DAVID EYSTER District Attorney, County of Mendocino 100 N State St, Room G-10 Ukiah, CA 95482 (951) 955-5400	JILL R. RAVITCH District Attorney, County of Sonoma Caroline Fowler, SBN 110313 Deputy District Attorney 2300 County Center Dr., Ste. B170 Santa Rosa, CA 95403 (707) 565-3161
JEFF W. REISIG District Attorney, County of Yolo David J. Irey, SBN 142864 Assistant Chief Deputy District Attorney 301 Second Street Woodland, CA 95695 (916) 666-8180	

ATTACHMENT C

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 01/13/2023 Chad Finke, Executive Officer / Clerk of the Court
PLAINTIFF/PETITIONER: The People of the State of California	By:  Deputy
DEFENDANT/RESPONDENT: FAIZAN CORPORATION, a California corporation et al	S. Albert
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: 22CV023017

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order FINAL JUDGMENT AND PERMANENT INJUNCTION entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Alyce Sandbach
Alameda County District Attorney's Office
alyce.sandbach@acgov.org

Chad Finke, Executive Officer / Clerk of the Court

Dated: 01/13/2023

By:



S. Albert, Deputy Clerk

ATTACHMENT C

James Feenan

Mendocino County

From: Sheilah Rogers <sheilahrogers@pacific.net>
Sent: Tuesday, December 5, 2023 2:53 PM
To: pbscommissions
Subject: proposed gas station in Redwood Valley

DEC 05 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

December 5, 2023

Please reject the proposal to site a gas station on Highway 101 at the south end of the Willits grade. This is NOT a logical way to address the real challenges of climate change and the release of carbon emissions. We can and must do better than this.

Respectfully,

Sheilah Rogers
Redwood Valley resident

Sheilah M. Rogers
sheilahrogers@pacific.net

ATTACHMENT C

James Feenan

From: Jessica Taaning <inlandranch@gmail.com>
Sent: Wednesday, December 6, 2023 8:17 PM
To: pbscommissions
Subject: Fwd: Proposed gas station In Redwood Valley.

Mendocino County

DEC 07 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

----- Forwarded message -----

From: Jessica Taaning <inlandranch@gmail.com>
Date: Wed, Dec 6, 2023, 8:06 PM
Subject: Proposed gas station In Redwood Valley.
To: <pbscommissions@mendocinoco.org>

Hi my name is Jessica Taaning-Sanchez. I own and operate inland Ranch Organics on Laughlin Way in Redwood Valley. My property is within a quarter mile of the proposed gas station. I have been certified organic since 1991. Increased traffic is increased pollution. I am raising food for people. I do not need anymore pollution blowing this direction. There will also be noise pollution, as it is I can hear the highway traffic, I can only imagine hearing jake brakes regularly through the night when I want to leave my window open in the summer. Is this business going to be allowed to sell Whippet Canisters? How about some Crave and Elvis Bobbleheads? What about the ridiculous traffic issue at the West Road exit and N state street.

That's a big issue right there that needs to be addressed. How about merging more traffic north on an up hill climb when leaving the gas station. I make that merge regularly going north for farmers markets. It is skechy at best. That corner right there has taken a lot of lives in the past. There's a lot to be considered not to mention this companys track record.

Sincerely,

Jessica Taaning-Sanchez

ATTACHMENT C

James Feenan

Mendocino County

From: Bill Taylor <edibleland@earthlink.net>
Sent: Thursday, December 7, 2023 8:18 AM
To: pbscommissions
Cc: Eileen
Subject: Do not allow a new gas station

DEC 07 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mendocino County Planning Commission:

As a former resident and owner of property on Laughlin Range/peak I enjoyed the dark night skies. Our clear creeks (Upper Bakers Creek) ran into Forsythe Creek and on to the Russian River. The thought of more bright lights and the likelihood of leaking gas tanks underground into that watershed sickens me. It is time to gear down on fossil fueling of cars. The risk of having to deal with the particular operator of the gas station is added reason to deny its request. As a member of our town's Planning Board (Sandisfield, MA) I am aware of limits to our power, but I implore you to find any way you can to prevent this gas station from happening.

Sincerely,

William R Taylor, formerly of 12400 Bakers Creek Road, Redwood Valley

Now at 7 New Hartford Rd., Sandisfield, MA 01255

707-272-1688

ATTACHMENT C

James Feenan

Mendocino County

From: Jeff Taylor <jt@pacific.net>
Sent: Monday, December 4, 2023 5:08 PM
To: pbscommissions
Subject: Proposed Gas Station in RV

DEC 06 2023

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please do not allow another gas station to be built in our valley. It is not necessary and this company has bad track record when it comes to being a responsible neighbor. Doing something for convenience, or even worse a money grab, rarely results in a net gain for the majority.

I'm a 23 year Redwood Valley resident and I am asking you to not approve this project.

Thank you,

Jeff Taylor

James Feenan

DEC 07 2023

From: Marvin Trotter <Marvin.Trotter@rvihc.com>
Sent: Thursday, December 7, 2023 8:49 AM
To: pbscommissions
Subject: Redwood Valley GAS station N State st

Planning & Building Services

Caution: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Commission ,

I oppose the planned GAS station in Redwood Valley.

For 3 reasons..... traffic accidents , drugs , and pollution.

- A. I was the ER physician 20 years ago when TWO teenager girls were killed attempting to cross HWY 101 , north of the West road exit. Many more accidents will occur with a new gas station.
- B. Whippets..... the owner sells Whippets at his other stations. For his profit , young adults will have strokes and some die
trying to get high for a few moments. The City of Ukiah has banned their sale for health reasons.....Money first !!! ??
- C. The owner has multiple complaints about having environmental infractions , at his other stations.....why give him another
avenue to pollute.??

The people of Redwood Valley spoke against a Dollar General store quite clearly..... ask them , we don't want a big GAS station
on the highway.

The gas station in the center of town always has an open spot. Don't close them down and leave an ugly hole next to Vic's.

Thanks for your time, Sincerely, Marvin Trotter M.D.

NOV 27 2023

James Feenan

Planning & Building Services

From: Annemarie <aweibel@mcn.org>
Sent: Monday, November 27, 2023 1:43 PM
To: pbscommissions
Cc: Julia Acker; James Feenan
Subject: Faizan Corporation minor use permit U_2021-0016 & Variance V_2021-0005

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Commissioners & staff,

I support the comments by Dolly Riley and Alex de Grassi from the Redwood Valley Municipal Advisory Council (RV MAC), as well as the comments by Peter McNamee of the Mendocino Grassroots Institute (GRI) of Mendocino County. Please deny this minor use permit U-2021-0016 & Variance V-2021-0005. The RV MAC voted on 11-8-23 to support the denial of this project and asked again why no EV charging stations were considered. Why do we not prepare for a time (2045) when 100% of the energy needs to be Clean Energy (SB 100)?

GRI launched a campaign to prohibit the construction of new fossil fuel stations in Mendocino County. Sonoma County successfully lobbied for the enactment of a prohibition. Prohibiting the construction of new gas stations requires simple changes to a jurisdiction's zoning regulations. Benefits of enacting such a prohibition include the avoidance of new, potentially toxic hazardous waste sites, and a renewed focus on alternative transportation options that avoid the use of fossil fuels. Considering the increasingly worrisome climate situation worldwide and the sordid role of fossil fuel corporations we need to rethink the way we do business in our County. GRI has also been in touch with our Supervisors Gjerde and Haschak who created a subcommittee to look into this. Mendocino County also adopted on June 27, 2006 a Precautionary Principle Policy. The Initial Study is not addressing these issues addressed in this Policy. Neither is it addressing what the Department of Planning and Building Services (PBS) has posted on their web page under Mission Statement: Be problem solvers seeking solutions to issues within the framework of the regulations and provide precise, up-to-date and innovative advice and technical expertise. Nor is it addressing the County's Climate Crisis Policy. We know that by 2035 California will ban the sale and registration of new internal combustion engine autos & light truck vehicles. Mendocino County already has 2 times the amount of gas stations per county resident than Sonoma and Humboldt have. We do not need any additional gas stations!

The public comment by Dolly Riley (3) includes the law suit that was filed in December of 2022 against this corporation by the following counties: Alameda, Lake, Contra Costa, Marin, Sonoma, Yolo, and Mendocino. In Mendocino County 4 gas stations in Ukiah and 1 in Fort Bragg were found to show serious violations. Some gas stations were even charged with fraudulently selling 89 octane gas and labeling it 91 octane gas. The Faizan Corporation agreed to pay a \$500,00 fine. Would the money from this gas station leave our County, or our Country? Will they also sell diesel? Will it become an overnight truck parking/truck stop facility?

Why would we trust a Corporation doing business in these counties after we are aware of their serious violations?

Fort Bragg was smart not to allow Auto Zone to set foot after they were accused in 2019 for Hazardous Waste violations in 45 California counties at California Stores and needed to pay \$11M.

This gas station would comprise 10 gas pumps (originally 6), as well as 2 separate illuminated canopies within the required twenty (20) foot front yard setback, a freestanding fuel price pole sign, twenty-eight (28) new parking spaces,

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landscaping, and conversion of part of an existing structure to a convenience store; and also a Variance (V_2021-0005) to allow construction of a sixty-five (65) foot tall freestanding sign where a maximum of twenty-five (25) feet is required. The proposed signs would exceed the maximum sign area allowable per Mendocino County Code Chapter 20.184. The Resolution lists that the Coyote Valley Casino gas station already exceeds County requirements for sign area, but also that it does not exceed the 25 ft. height limit and has 6 fuel pumps. Redwood Valley already has a gas station with 2 fuel pumps. Why is another gas station planned at this location? Would the convenience store also sell liquor? This would affect the area very much.

Granting of the Variance would allow the fueling stations and canopy to be positioned within 2 feet of the property boundary in an area where 20 ft. is required. The Resolution under Denial of Sign Variance Finding lists that the Variance must be denied and then allows the 2 feet property boundary, and a maximum 512 sq. ft. where 128 sq. ft. is required. How would the property boundary be with 6 gas pumps? This "signage should enhance the visual appearance of developments", but it does not.

The resolution states that "pursuant to MCC Section 20.196.020(C), such use will not, under the circumstances of this particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county. The project is not expected to result in a nuisance or otherwise be detrimental within the meaning of this finding. The proposed commercial activities would occur within an existing commercial area. Compliance with recommended conditions of approval and applicable regulatory standards would ensure that potential detriments have been avoided or reduced". I disagree.

Seeing what the Faizan corporation was accused of does not make me feel confident that this project will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of the proposed use.

This at-grade intersection is located at the base of the Ridgewood Grade and near the end of the Ukiah freeway section, in a section of expressway with a posted speed of 65 MPH. The intersection currently has a collision rate below the statewide average for similar intersections. However, a significant increase in traffic at this intersection will likely result in a significant increase in traffic collisions. The intersection of US Route 101 project and North State Street was designed to provide access primarily to the local community, with some allowance for neighborhood commercial uses. It was not designed to handle large volumes of vehicle movements that a pass-by-trip-oriented highway service commercial use would attract. The additional noise from trucks using their jake breaks has not been looked at in the Initial Study.

Chapter 504.2 of the Highway Design Manual (HDM) on Interchange Design Standards for Freeway Entrances and Exits. Figure 504.2B illustrates the standard "Provide a safe and reliable transportation network that serves all people and respects the environment." My question is if a safety-based evaluation called the Intersection Safety Operational Analysis Process or ISOAP is currently in final form and would have to be taken into consideration?

This project does not appear to conform with the C-1 Limited Commercial District zoning, as defined by the Mendocino County Code, Chapter 20.088. The intent section says: "This district is intended to create and enhance areas where public facilities and services are available. It is also intended to facilitate a balance between jobs and housing, provide for the possibility of live/work spaces, and provide additional opportunities for affordable housing. A limited number of retail commercial goods and services are desired primarily to meet day to day needs of local residents and to facilitate livable/walkable communities and live/work opportunities. Typically, this district would be applied in conjunction with residential uses and would permit only those uses which do not significantly increase traffic, noise or other impacts." Why is this allowed when it clearly is not the intent of the Mendocino County Code, Chapter 20.088? There might be overnight parking/truck stop facilities, and sale of diesel fuel attracting trucks to stop for overnight parking.

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The signs, the illuminated huge canopies, and the convenience store are a visual blight as they would block views or otherwise disrupt views of the surrounding hills and other natural features. The Initial Study did not really address this issue sufficiently. Neither was the new source of substantial light or glare addressed sufficiently which would adversely affect day or nighttime views in the area.

The Initial Study did not really address the Energy issue. Constructing this 10 gas pump station would result in a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources, during project construction and/or operation. To at least place charging stations for electric vehicles would help counteract the wasteful, inefficient, or unnecessary consumption of energy, or wasteful use of energy resources.

Why are there no requirements to have a Native American monitor the excavation knowing that this site is a known depository of Native American relics?

The Initial Study did not address runoff finding their way into nearby Forsythe Creek and polluting it.

Please deny this minor use permit U-2021-0016 & Variance V-2021-0005.

Sincerely, Annemarie Weibel

ATTACHMENT C

James Feenan

Mendocino County

From: cafeina@pacific.net
Sent: Friday, December 1, 2023 6:06 PM
To: pbscommissions
Subject: NO to Faizan Corporation gas station

DEC 04 2023

Planning & Building Services

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NO to Faizan Corporation proposed gas station at the bottom of 101 grade between Willits and Redwood Valley.

With electric cars coming into our lives quickly, this proposal is laughable.

NO to this gas station.

Louise Yale
Redwood Valley property owner and resident since 1973