



WATER AUDIT CALIFORNIA

A PUBLIC BENEFIT CORPORATION

952 SCHOOL STREET #316 NAPA CA 94559
VOICE: (707) 681-5111
EMAIL: GENERAL@WATERAUDITCA.ORG

December 17, 2024

County of Napa
Planning Commission

meetingclerk@countyofnapa.org

RE: General Comments

To the County of Napa Planning Commission:

Transmitted separately are comment letters for Bonny's Vineyard (Meyer's Family Winery) and George Hendry / Hendry Winery.

Neither of these Applications comply with County practices and policies.

The practice of inadequate and incomplete applications continues. The trustee agencies were given inadequate notice, and the applicant and County asserted trustee determinations beyond their jurisdiction. Had the trustee agencies been given proper notice, they may or may not have raised concerns. but it is not for the applicant or the County to circumvent or supplant the trustee agencies authority.

The individual project comment letters detail the numerous technical faults in the applications. Most, if not all, could be remedied by simply complying with established County practices. Not understanding why it is so difficult to put a USGS location map in as the Ordinance requires. The remainder could be addressed by reconciling internally inconsistent statements and providing missing data.

If the applications were complete and proper as ministerial duty requires, the Planning Commission could properly exercise its discretion on a sound foundation. Or alternatively, the deficiencies can be ignored, and the application approved for collegial reasons, leaving a legacy of future controversy.

Thank you for your service. All the best in the future.

Respectfully,

A handwritten signature in blue ink, appearing to be 'WM', with a horizontal line extending to the right.

William McKinnon
General Counsel
Water Audit California



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December 17, 2024

County of Napa
Planning Commission

meetingclerk@countyofnapa.org

RE: Hearing – December 18, 2024
Item 7A. GEORGE HENDRY / HENDRY WINERY / USE PERMIT MAJOR
MODIFICATION APPLICATION #P15-00173-MOD

Water Audit California ("Water Audit") is an advocate for the public trust.

Water Audit comments as follows:

RE: Existing conditions - Option 2

Revised Project Request - Reduce Unpermitted Existing Operations:

"Disposition - This option allows the Planning Commission the ability to reduce uses on the property by decreasing the winery's existing unpermitted operations that exceed the levels of their permitted entitlements. The reduction could include reduced visitation, marketing, employees, or number of parking spaces. This option would still require the upgrade to the septic system which is undersized for the approved entitlements."

RE: Expanded conditions - Option 6

Deny Applicant's Proposal

"Disposition - This option would deny applicant's proposal to expand winery operations and physical improvements beyond what was approved and necessary to remedy existing violations. This option would result in no expansion beyond approved or existing levels, as outlined in Options No. 1-3."

RE: Process

1. The Initial Study determined Trustee-Responsible Agencies were "None" required (Packet Attachment D. INITIAL STUDY/NEGATIVE DECLARATION page 91.)
2. The Trustee-Responsible Agency, CDFW, was not included in the CEQA Notice of Completion or Summary Form for Electronic Submittal. Accordingly, CDFW has not determined the Project expansion impact on trust resources. There is no CDFW Determination Letter submitted to SCH. The Notice of Intent omits Napa Register invoice and publication date. No document noticed or recognized CDFW as a Trustee Responsible Agency (see <https://ceqanet.opr.ca.gov/2024110936>).
3. The water supply for the vineyards claims to be from the existing well ("The vineyards are also irrigated with well water. There is no change to the vineyard irrigation" (Packet pdf page 108.)) Staff dismisses the discussion of the water source for the irrigation pond as "outside the scope of this use permit modification" (Packet pdf page 16.)
4. The Water Availability Analysis Narrative claims there is an existing well that feeds three tanks that provide the potable and fire protection water storage for the winery (Packet pdf page 155.) The existing well is not supported with a date, well permit number, or a Well Completion Report. There is no data to determine screening, seal, casing, gallons per minute, or depth of existing well. There is no evidence of an existing well on the County record or Department of Water. Resources. The Application does not clearly state which Vineyard Blocks receive well water.

Not in the Agenda Packet but found on the County Electronic Document Retrieval database is a 2017 Well Permit Application E17-00513 associated with the Winery Parcel. That permit is "on hold with Use Permit Planning-Winery." That proposed well is sited within the Redwood Creek setback, located in the Flood Zone, and within 1500 feet of Hazardous Material. It intends to be a 6 inch casing diameter, 3 inch Annular Seal, and Minimum Seal Depth 50 feet (see Water Audit - Hendry-Ex. 1). **Why is that permit not included in the packet for review?**

A community water system using only groundwater shall have a minimum of two approved sources before being granted an initial permit. The system shall be capable of meeting minimum daily demand with the highest-capacity source off-line. However, the Application makes no reference to two wells qualified to serve a public water system (see Health and Safety Code 116527 (c)(8).)

The packet provided a pumping capacity test from the year 2000, for the duration of one hour and forty-five minutes (Packet pdf page 221.) That pump test is inadequate for the County's Tier 2 Well interference Analysis. That pump test fails to meet the State requirements for a community water system (see above.) There is no metering record, or annual reporting data.

5. Not in the Agenda Packet but found on the State eWRIMS website are the documents permitting surface water diversion to storage.

Why were the surface water points of diversion omitted from review? eWRIMS document Registration H032546 was approved with conditions that were not considered in Staff 's review of the Hendry Use Permit modification and Code Enforcement violations (see Water Audit - Hendry-Ex. 2).
(see https://waterrightsmaps.waterboards.ca.gov/Viewer/index.html?viewer=eWRIMS.eWRIMS_gvh&xmlsrc=#).

At document page 4:

"6. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies."

At document page 5:

"16. The facilities for diversion under this right shall include satisfactory means of measuring and bypassing sufficient water to satisfy downstream prior rights and any requirements of the California Department of Fish and Wildlife."

6. There are 12 Vineyard Blocks on the Winery parcel. Not discussed in the Agenda Packet but found on the County GIS ECP Layer, there is not a ECP record anywhere on the Hendry Winery parcel for the vineyard blocks (see Water Audit - Hendry-Ex. 3.)

7. Not in the Agenda Packet but found online on CEQA State Clearing House are three documents: Notice of Intent, Notice of Completion & Environmental Document Transmittal, Summary Form for Electronic Submittal.

8. Not discussed in the Agenda Packet and according to a County January 5, 2005 Revised December 6, 2018 Division of Environmental Health Memorandum Re: Use Permits and Regulated Water Systems:

"There is a possibility that existing wells may not meet the construction requirements for a regulated water system." The Memorandum appends a Worksheet that requires the project wells to be screened with a 50-foot seal with a 3-inch annular space and supporting well log. There must also be a supply of

"minimum three gallons per minute for at least 24 hours for each service connection served" (see <https://www.countyofnapa.org/DocumentCenter/View/10959/Water-System-Information-for-Use-Permit-Submittal-?bidId=>) (see Water Audit - Hendry-Ex. 4).)

9. Not discussed in the Agenda packet are two documents filed on the Current Project website, the "Notice of Intent" and an email "Subject: County of Napa - State Agency Courtesy Notice -Negative Declaration SCH#2024110936." The County Current Projects website Map identifies the Winery Parcel APN 035-120-031 only, the Well Parcel is not identified. However, the Application identified both the Winery Parcel and the Well Parcel.

Re: Review of Agenda Packet Documents

STAFF REPORT

Packet Attachment A. FINDINGS

1. The Review period was reduced by Staff to 20 days, with no explanation for the shortened time (Packet pdf page 12.)
2. Water Audit disagrees with Environmental Finding 4. "There is no substantial evidence in the record as a whole, that the proposed project will have a significant effect on the environment when made subject to compliance with standard conditions of development approval." CDFW determination not included in packet.
3. Water Audit submits that there is insufficient evidence to support Environmental Finding 6. "There is no evidence, in considering the record as a whole, that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends." in part for the following reason, CDFW determination not included in packet.
4. Water Audit disagrees with Use Permit Finding 9. "The procedural requirements for a Use Permit Major Modification set forth in Chapter 18.124 of the Napa County Code (zoning regulations) have been met...the existing well will be abandoned." in part because a CDFW determination not included in packet, and the Applicant is not claiming to "abandon" the existing well.
5. Water Audit disagrees with Use Permit Finding 12. "The proposed Use Permit Major Modification would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on an affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Sections 13.15.070 or 13.15.080 of the County Code." in part

because the UP-Mod will require a new water system, and a CDFW determination not included in packet.

Packet Attachment B. CONDITIONS OF APPROVAL

1. The Conditions of Approval has no Responsible Agency Review Letters from Caltrans, Department of Forestry, CDFW, or Regional Water Quality. The COA has no County Public Works Groundwater Memorandum. Water Audit disagrees with COA Memorandum from Engineering dated December 4, 2024 Operational Characteristics 4."...the existing project well (which will become an emergency back up well)" (Packet pdf page 50.) The "emergency" well can not meet State requirements for a community water system (see above).

2. The COA has conflicting language changing the Previous Conditions (detailed in the following section) from then "The water source (well) shall be maintained on the same parcel as the winery" to now "Water use allowed to be extracted from the well, for use in association with the winery use permit" on a separate parcel. When did this determination change and why?

At packet pdf page 44: "6.15e. Within 90 days of approval of this Major Modification a water allocation agreement, on a form approved by the County, must be recorded between the owners of the Well Parcel (APN 035-120-030) and Winery Parcel (APN 035- 120-031). Water use allowed to be extracted from the well, for use in association with the winery use permit..."

Packet Attachment C. PREVIOUS CONDITIONS OF APPROVAL

1. The Previous COA for the 1998 UP 97506 limited the Project well water supply to remain on the same parcel as the Winery Parcel APN 035-120-031. At Packet pdf page 78 (emphasis added):

"12. The well shall be metered and readings shall be taken and reported annually by the end of January of each year. The water source (well) shall be maintained on the same parcel as the winery. Any parcel reconfiguration shall observe this requirement whether it is a lot line adjustment, parcel map or other means such as a certificate of compliance."

Packet Attachment E. APPLICATION:

The Application has no staff signature or date received stamp, no fees paid, no Adjoining Property Owner List, no copy of latest equalized assessment roll used to compile the property owners' list. The Application dates are not within the same time-frame (For example "Certification & Indemnification" dated 11/15/17, but "Hourly Fee Agreement" date paid

11/18/24 with the signature date 11-25-24, one day before the documents were submitted to the State Clearing House (Packet pdf page 129/30).)

Packet Attachment F. WATER AVAILABILITY ANALYSIS

The existing well has no permit number, no DWR number, no Well Completion Report. The Narrative claims there is a well that feeds three tanks that provides the potable and fire protection water storage for the winery, and the water supply for vineyards is also from the existing well. The WAA does not discuss the water supply source to the Winery Parcel Pond/Reservoir. There are no annual reading reports for the metered well on the separate Well Parcel APN 035-120-030 per the Previous Conditions (see above.) The proposed well production is based on assumptions.

At packet pdf page 155:

To limit the radius of potential interaction and to preclude any significant adverse effects on surface waters, the County Well Permit Standards require a Tier 3 analysis for proposed wells located within 1,500 feet of a County-designated significant stream inside the Napa River Watershed. The Water Availability Analysis Guidance Document provides distance standards that are expected to preclude any significant adverse effects on surface waters based on well pumping rates, aquifer hydraulic conductivity, and well construction characteristics.

Packet Attachment I. WATER SYSTEM FEASIBILITY REPORT:

The "Existing and Historical Well Logs" are not included in the Water System Feasibility Report. The pump test on the existing well is from the year 2000. It only pumped for one hour and forty-five-minutes (Packet pdf page 221.) The existing well has not been pump tested for a public water supply. Consultant claims, "The code states that a water system must be able to provide the PHD (peak hourly demand) for four consecutive hours..." (Packet pdf page 207.) What is the citation number for the code that is referenced? Consultant also claims, "The emergency backup water source for this project is the existing 17.9 gallon per minute well. This emergency well will only be used if absolutely required and approved by the pertinent permitting agencies." (Packet pdf page 208.) **Where is the data to support "17.9" gpm? Where is the data to support the emergency well is screened to required depth? Where is the data to support the emergency well can pass the pumping test in compliance with the County and State required standards for a community water system?**

Packet Attachment L. GRAPHICS

There is no blueline symbol on creek or legend. No USGS Topo 7.5 Quad. No Proposed Conditions map. No Assessor Parcel Page. The site plans omit distances between Redwood Creek and the buildings, septic field, septic tanks, and eWRIMS point of diversion. The Graphic UP-1 Site Plan sites a 14 acre-feet pond/reservoir, but omits the water source and permit number allowing the impoundment of water (Packet pdf page 274.)

The Public Trust

The public trust fulfills the basic elements of a trust: intent, purpose, and subject matter. (Estate of Gaines (1940) 15 Cal.2d 255, 266.) It has beneficiaries, the people of the state, and trustees, the agencies of the state entrusted with public trust duties. Fish and wildlife form a critical part of the res of the public trust. In the limited circumstances of the alienation of components of the public trust into private hands, the private party becomes bound with trustee duties pursuant to Public Resources Code § 6009.1.

The essential idea of the public trust doctrine is that the government holds and protects certain natural resources in trust for the public benefit. (See *Illinois Central Railroad v. Illinois* (1892) 146 U.S. 387, 452, 456; *National Audubon Society v. Superior Court (Audubon)* (1983) 33 Cal.3d 419, 441; *Berkeley v. Superior Court* (1980) 26 Cal.3d 515, 521.)

Public trust theory has its roots in the Roman and common law (*United States v. 11.037 Acres of Land* (N.D. Cal. 1988) 685 F. Supp. 214, 215) and its principles underlie the entirety of the State of California. Upon its admission to the United States in 1850, California received the title to its tidelands, submerged lands, and lands underlying inland navigable waters as trustee for the benefit of the public. (*People v. California Fish Co. (California Fish)* (1913) 166 Cal. 576, 584; *Carstens v. California Coastal Com.* (1986) 182 Cal.App.3d 277, 288.) The People of California did not surrender their public trust rights; the state holds land in its sovereign capacity in trust for public purposes. (*California Fish, Ibid.*)

The courts have ruled that the public trust doctrine requires the state to administer, as a trustee, all public trust resources for current and future generations, specifically including the public trust in surface waters and the life that inhabits our watercourses. These trust duties preclude the state from alienating those resources into private ownership.

The beneficiaries of the public trust are the people of California, and it is to them that the trustee owes fiduciary duties. As Napa County is a legal subdivision of the state, it must deal with the trust property for the beneficiary's benefit. No trustee can properly act for only some of the beneficiaries – the trustee must represent them all, taking into account any

differing interests of the beneficiaries, or the trustee cannot properly represent any of them. (*Bowles v. Superior Court* (1955) 44 C2d 574.) This principle is in accord with the equal protection provisions of the Fourteenth Amendment to the US Constitution.

An agency of the State "may not approve of destructive activities without giving due regard to the preservation of those [public trust] resources." (*Center for Biological Diversity, Inc. v. FPL Group, Inc. (Bio Diversity)* (2008) 166 Cal.App.4th 1349, 1370, fn. 19, 83 Cal.Rptr.3d 588.)

Agencies of the state must not engage in unlawful conduct. "It is a fundamental principle of our constitutional scheme that government, like the individual, is bound by the law." (*Alderman v. United States* (1968) 394 U.S. 165, 202.) When lawless conduct occurs, the Government may not profit from its fruits. (*Weeks v. United States*, (1914) 232 U.S. 383.) The County's duty is to obey the law, which among other things requires that it not harm public trust resources by its decisions and requires the state to use its best efforts for the long-term preservation of public trust resources for the public benefit. (Audubon, supra, 33 Cal.3d 419, 440-441; *Surfrider Foundation v. Martins Beach 1, LLC* (2017) 14 Cal.App.5th 238, 249-251; Public Resources Code, § 6009.1.)

Common law imposes public trust considerations upon the County's decisions and actions pertaining to trust assets. (*Bio Diversity*, supra, 166 Cal.App.4th 1349; *Environmental Law Foundation v. State Water Resources Control Board* (ELF) (Cal. Ct. App. 2018) 26 Cal.App.5th 844.) The courts have recognized the State's responsibility to protect public trust uses whenever feasible. (See, e.g., *Audubon*, supra. 33 Cal.3d 419, 435; *California Trout, Inc. v. State Water Resources Control Bd.* (Cal. Trout I) (1989) 207 Cal.App.3d 585, 631; *California Trout, Inc. v. Superior Court* (Cal. Trout II) (1990) 218 Cal.App.3d 187, 289.) Napa County has an affirmative duty to administer the natural resources held by public trust solely in the interest of the people of California.

Napa County must manage its public trust resources so as to derive the maximum benefit for its citizenry. Article X of the California Constitution and the public trust doctrine hold that no water rights in California are truly "vested" in the traditional sense of property rights.

Regardless of the nature of the water right in question, no water user in the State "owns" any water. The owner of "legal title" to all water is the State in its capacity as a trustee for the benefit of the public. There can be no vested rights in water use that harm the public trust. A "water right" grants the holder only the right to use water, an "usufructuary right." All water rights are usufructuary only and confer no right of private ownership in the water or the watercourse, which belongs to the State. (*People v. Shirokow* (1980) 26 Cal.3d 301 at 307.)

Fish & Game Code, section 1600 provides:

The Legislature finds and declares that the protection and conservation of the fish and wildlife resources of this state are of utmost public interest. Fish and wildlife are the property of the people and provide a major contribution to the economy of the state, as well as providing a significant part of the people's food supply; therefore their conservation is a proper responsibility of the state.

The California Department of Fish & Wildlife (CDFW):

... is California's Trustee Agency for the State's fish, wildlife, and plant resources. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitats necessary for biologically sustainable populations of those species. For the purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. ([https://wildlife.ca.gov/Conservation/Environmental-Review/CEQA.](https://wildlife.ca.gov/Conservation/Environmental-Review/CEQA))

Respectfully,



William McKinnon
General Counsel
Water Audit California

Attachments - Exs. 1-4 attached

on hold w/ use per E:17-00513 ASM



DATE: 9/5/17
Planning, Building & Environmental Services
1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

WELL CONSTRUCTION APPLICATION

A Tradition of Stewardship
A Commitment to Service

David Morrison
Director
WELL PERMIT #: E17-00513

PROPERTY OWNER INFORMATION:

Name: George Hendry

Mailing Address: 3104 Redwood Road

Napa, CA 94558

Site Address: 1104 Redwood Road

Napa, CA 94558

APN: 035-120-031

Phone #: 707-226-1675

WELL DRILLER INFORMATION:

Company Name: Huckfeldt Well Drilling

Well Driller's License Number: 439-746

Contact Person: Don Huckfeldt

Address: 2110 Penny Lane

Napa, CA 94559

E-Mail: don@huckfeldtwelldrilling.com

Phone #: 707-255-7923

TYPE OF PERMIT (circle one): Class IA Class IB Class II Deepening
Reconstruction Other:

Applying for Electrical, Mechanical & Plumbing with this permit? Yes No (Circle One)
If yes, Building Permit Number:

PROPOSED USE (circle one): Private Public

To Serve This Parcel Only: Yes No If no, list other APN(s):

Describe access to the proposed well site good OK JK

Located in MST: Yes No Located in Flood Zone: Yes No HazMat within 1500 feet: Yes No
If in Flood Zone, Flood Plain Permit Number: Flood Plain or Flood Way (Circle One)
If the parcel is in a Flood Zone, but the well location is not, please check here:

SETBACKS TO WELL:

Sewer Line: feet Septic Tank: 1280 feet Disposal Field: feet

WELL SPECIFICATIONS:

Casing Diameter: 6 inches Boring Diameter: 12 inches Annular Seal: 3 inches

Minimum Seal Depth: 50 feet Sealing Material: concrete Sealing Method: pump

A SCALED MAP OF THE WELL LOCATION SHALL BE ATTACHED TO THIS APPLICATION. THE MAP SHALL INCLUDE THE DISTANCE FROM THE WELL TO PROPERTY LINES, SEWAGE DISPOSAL SYSTEMS, STRUCTURES, ETC. AND SHALL INCLUDE ALL OTHER PERTINENT INFORMATION SPECIFIC TO THIS WELL.

Planning Division (707) 253-4417 Building Division (707) 253-4417 Engineering & Conservation (707) 253-4417 Environmental Health (707) 253-4471 Parks & Open Space (707) 259-5933

*Planning-Winery.

NOT City of Napa. Per Eng

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

ORDER RENEWING REGISTRATIONS

WHEREAS:

1. The registrants listed in the attachment to this Order have met the requirements for renewal of their registration certificates. (Wat. Code, § 1228.5, subd. (d).)
2. Pursuant to Resolution No. 2012-0029, the State Water Resources Control Board (State Water Board) has delegated the authority to administer the State Water Board's water rights program. By memorandum dated October 19, 2017, the Deputy Director for Water Rights has redelegated the authority.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The registration certificates listed in the attachment to this Order are hereby renewed for the next incremental five-year period. Registration certificates are subject to revocation for failure to renew the registration prior to the expiration date in substantial compliance with the reporting and fee payment requirements prescribed by the State Water Board.
2. The registration certificates listed in the attachment to this Order are subject to the following:
 - a. Details regarding the point of diversion, rate of diversion, amount of diversion, season of diversion, purpose of use, place of use, and any reservoir capacity limits as described in the original certificate and any amendments approved by the State Water Board.
 - b. The general conditions established by the State Water Board that are in effect as of the date of this Order supersede any general conditions previously applied to this registration certificate.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
PHILIP DUTTON, FOR

Erik Ekdahl, Deputy Director
Division of Water Rights

Dated: MAY 12 2022

Attachment: List of Registrations Subject to Order Renewing Registrations

Registration Number	Certificate Number	Registration Primary Owner	Expiration Date
D029650	D70	Chester Bowles, Jr	January 31, 2025
D029683	D44	Janie Rommel-Eichorn	March 8, 2025
D029880	D86	Elsie W Robbins	December 17, 2025
D029884	D88	Hum in Peace LLC	December 20, 2025
D030423	D268	Delmar Friedrichsen	January 5, 2025
D030433	D278	Melissa Schwartz	March 8, 2025
D030442C	D612	Peter Ruiz	May 5, 2025
D031007	D527	Daniel DeGeorge	January 21, 2025
D031008	D528	Daniel DeGeorge	January 21, 2025
D031102	D552	Teri A Wise	September 6, 2025
D031109	D553	Howard Siu	September 6, 2025
D032373	D1019	Cassidy Rogers	March 30, 2025
D032407	D949	Katherine Wolman	May 1, 2025
D032428	D972	Nocona Mendes	May 22, 2025
D032431	D964	Wendy Fetzer	May 26, 2025
D032516	D978	Stephanie Buckley	September 17, 2025
D032521	D1006	Paul D Harper	September 28, 2025
H032331	H5	John Hall Thomas	July 15, 2025
H032522	H11	Newton Vineyard LLC	September 28, 2025
H032546	H12	Hendry Ranch	December 11, 2025
L031867	L124	James Yost	December 2, 2025
L031869	L125	Richard Scharon	December 10, 2025
L032466	L328	Claudia McKnight Trust	June 26, 2025
L032527	L264	Tuledad Grazing Association	October 16, 2025



**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

RIGHT TO DIVERT AND USE WATER

REGISTRATION H032546

CERTIFICATE H012

Right Holder: Hendry Ranch
 3104 Redwood Road
 Napa, CA 95448

The State Water Resources Control Board (State Water Board) authorizes the diversion and use of water by the right holder in accordance with the limitations and conditions herein SUBJECT TO PRIOR RIGHTS. The priority of this right dates from **December 11, 2015**. This right is issued in accordance with the State Water Board delegation of authority to the Deputy Director for Water Rights (Resolution 2012-0029) and the Deputy Director for Water Rights redelegation of authority dated July 6, 2012. The Deputy Director for Water Rights finds that this registration meets the requirements for registration of small irrigation use appropriation. (Wat. Code, § 1228 et seq.)

Right holder is hereby granted a right to divert and use water as follows:

1. Source of water: **Redwood Creek**

tributary to: **Napa Creek thence the Napa River thence San Pablo Bay**

within the County of **Napa**

2. Location of point of diversion

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Pump</u> North 1,879,117 feet and East 6,462,537 feet	NE ¼ of SW ¼	31*	6N	4W	MD

Location of place of storage

By California Coordinate System of 1983 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<u>Offstream Pit Reservoir</u> North 1,879,639 feet and East 6,462,804 feet	SW ¼ of SE ¼	31*	6N	4W	MD

3. Purpose of use	4. Place of use					
	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation and Fire Protection	SE ¼ of NW ¼	31*	6N	4W	MD	7
	SW ¼ of NE ¼	31*	6N	4W	MD	15
	SE ¼ of NE ¼	31*	6N	4W	MD	16
	NE ¼ of SW ¼	31*	6N	4W	MD	6
	NW ¼ of SE ¼	31*	6N	4W	MD	27
	NE ¼ of SE ¼	31*	6N	4W	MD	20
	SW ¼ of SE ¼	31*	6N	4W	MD	14
	SE ¼ of SE ¼	31*	6N	4W	MD	19
	SW ¼ of SW ¼	32*	6N	4W	MD	2
					Total	126

The place of use is shown on map, dated January 2013, on file with the State Water Board.

5. Quantity and Season: The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **20 acre-feet per year** to be collected from November 1 of each year to June 1 of the succeeding year. The capacity of the reservoir shall not exceed 20 acre-feet. The rate of diversion to storage shall not exceed **1.00 cubic foot per second**.
6. No water shall be diverted or used under this right, and no construction related to such diversion shall commence, unless right holder has obtained and is in compliance with all necessary permits or other approvals required by other agencies.
7. Diversion works shall be constructed and water applied to beneficial use with due diligence.
8. No water shall be diverted under this right unless right holder complies with all lawful conditions required by the California Department of Fish and Wildlife. (Wat. Code, § 1228.6, subd. (a)(2).)
9. No water shall be diverted under this right unless it is diverted in accordance with the information set forth in the completed registration form as to source, location of point of diversion, purpose of use, place of use, and quantity and season of diversion. This information is reproduced as conditions 1 through 5 of this certificate.
10. Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this right, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
11. Right holder shall grant, or secure authorization through right holder's right of access to property owned by another party, the staff of the State Water Board, and any other authorized representatives of the State Water Board the following:
 - a. Entry upon property where water is being diverted, stored or used under a right issued by the State

Water Board or where monitoring, samples and/or records must be collected under the conditions of this right;

- b. Access to copy any records at reasonable times that are kept under the terms and conditions of a right or other order issued by State Water Board;
 - c. Access to inspect at reasonable times any project covered by a right issued by the State Water Board, equipment (including monitoring and control equipment), practices, or operations regulated by or required under this right; and,
 - d. Access to photograph, sample, measure, and monitor at reasonable times for the purpose of ensuring compliance with a right or other order issued by State Water Board, or as otherwise authorized by the Water Code.
12. Diversion of water under this right is subject to prior rights. Right holder may be required to curtail diversion or release water stored during the most recent collection season should diversion under this right result in injury to holders of legal downstream senior rights. If a reservoir is involved, right holder may be required to bypass or release water through, over, or around the dam. If release of stored water would not effectively satisfy downstream prior storage rights, right holder may be required to otherwise compensate the holders of such rights for injury caused.
 13. This right shall not be construed as conferring right of access to any lands or facilities not owned by right holder.
 14. All rights are issued subject to available flows. Inasmuch as the source contains treated wastewater, imported water from another stream system, or return flow from other projects, there is no guarantee that such supply will continue.
 15. If storage or diversion of water under this right is by means of a dam, right holder shall allow sufficient water at all times to pass through a fishway or, in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that, during a period of low flow in the stream, upon approval of the California Department of Fish and Wildlife, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir. (Fish & G. Code, § 5937.)
 16. The facilities for diversion under this right shall include satisfactory means of measuring and bypassing sufficient water to satisfy downstream prior rights and any requirements of the California Department of Fish and Wildlife.
 17. This right does not authorize any act which results in the taking of a threatened, endangered or candidate species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code section 2050 et seq.) or the federal Endangered Species Act (16 U.S.C.A. section 1531 et seq.). If a "take" will result from any act authorized under this water right, the right holder shall obtain authorization for an incidental take prior to construction or operation of the project. Right holder shall be responsible for meeting all requirements of the state and Federal Endangered Species Acts for the project authorized under this right.
 18. This right is subject to the submittal of a report of water use and satisfactory renewal, on forms to be furnished by the State Water Board, including payment of the then-current renewal fees prior to the expiration of each five-year period following the priority date of this right. (Wat. Code, § 1228.5.)

19. This right shall be totally or partially forfeited for nonuse if the diversion is abandoned or if all or any part of the diversion is not beneficially used for a continuous period of five years.
20. This right is subject to enforcement, including but not limited to revocation, by the State Water Board if 1) the State Water Board finds that the right holder knowingly made any false statement, or knowingly concealed any material fact, in the right; 2) the right is not renewed as required by the conditions of this certificate; or 3) the State Water Board finds that the right holder is in violation of the conditions of this right. (Wat. Code, § 1228.4 et seq.)
21. The State Water Board intends to develop and implement a basin-wide program for real-time electronic monitoring and reporting of diversions, withdrawals, releases and streamflow in a standardized format if and when resources become available. Such real-time reporting will be required upon a showing by the State Water Board that the program and the infrastructure are in place to accept real-time electronic reports. Implementation of the reporting requirements shall not necessitate amendment to this right
22. No water shall be diverted under this right unless the flow at the point of diversion in Redwood Creek is at or above 11.9 cubic feet per second.
23. No water shall be diverted under this right unless right holder is operating in accordance with a mitigation plan satisfactory to the California Department of Fish and Wildlife that addresses management of invasive species.
24. No water shall be diverted to offstream storage under this right unless right holder is monitoring and reporting said diversion of water. This monitoring shall be conducted using devices and methods satisfactory to the Deputy Director for Water Rights. The devices shall be capable of continuous monitoring of the rate and quantity of water diverted and shall be properly maintained.

Right holder shall provide the Division of Water Rights with evidence that the devices have been installed with the first annual report submitted after device installation. Right holder shall provide the Division of Water Rights with evidence that substantiates that the devices are functioning properly as an enclosure to the renewal report or whenever requested by the Division of Water Rights.

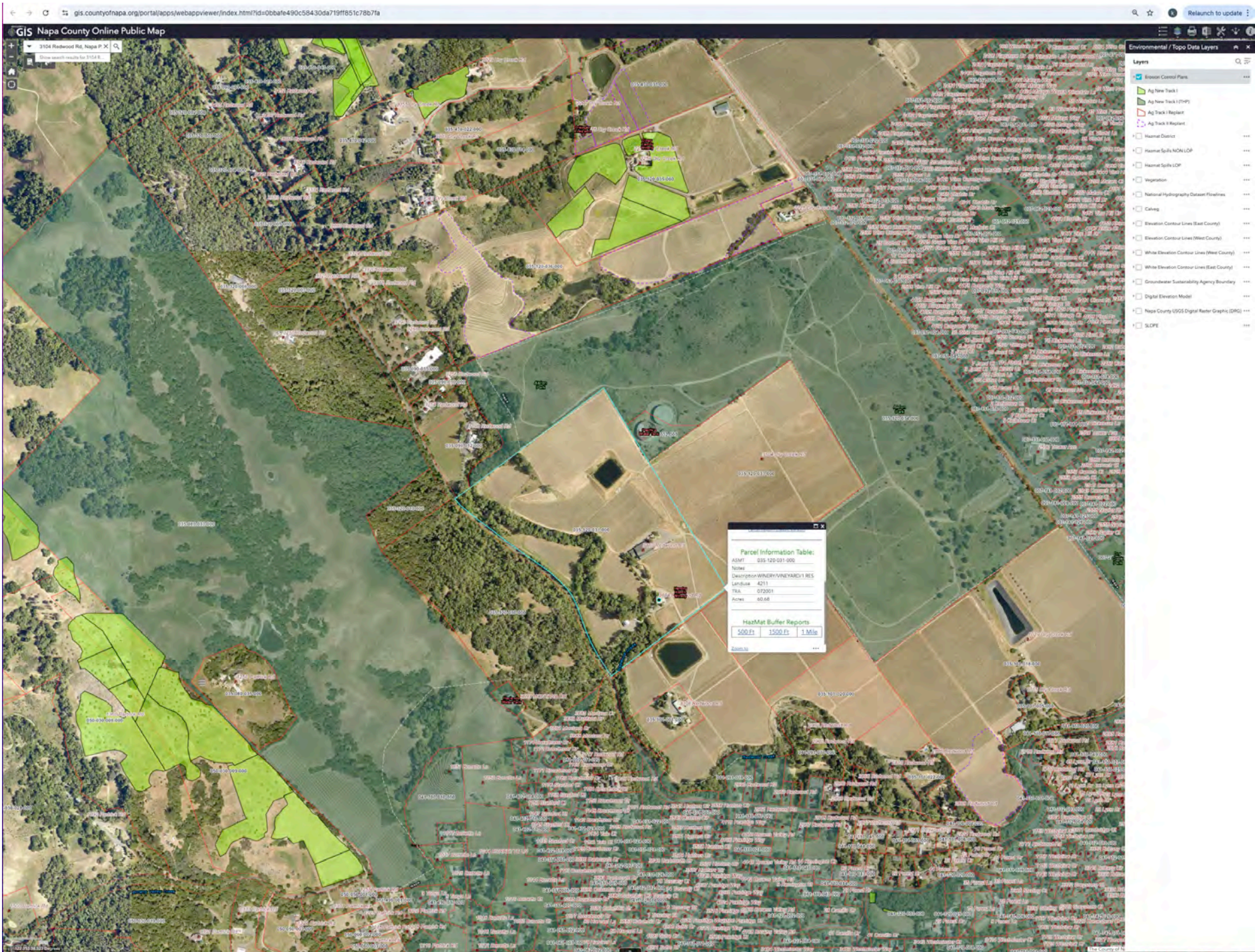
Right holder shall maintain a record of all diversions under this right that includes the date, time, rate of diversion at time intervals of one hour or less, and the amount of water diverted. The records shall be submitted with the renewal report or whenever requested by the Division of Water Rights.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
C. SCOTT FRAZIER, FOR

Leslie F. Grober, Deputy Director
Division of Water Rights

Dated: NOV 30 2016



Water Audit - Hendry-Ex. 3



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David Morrison
Director

MEMORANDUM

To:	All interested parties	From:	Division of Environmental Health
Date:	January 5, 2005 Revised December 6, 2018	Re:	Use Permits and Regulated Water Systems

The purpose of this memo is to provide information regarding requirements for regulated water system permitting. The Division of Environmental Health has a contract with the California State Water Resources Control Board (Water Board) to administer the small water system program. Public water systems are required to be permitted by Water Board or the local delegated agency.

In Napa County, the most commonly proposed small public water systems serve wineries. During the use permit process, the division reviews the number of anticipated visitors, employees and onsite residents and makes a determination if the proposed facility is required to be served by a regulated water system. A public water system is required if the project includes either (1) a combined number of users (visitors, employees, residents) greater than 24 daily for at least 60 days of the year, or (2) the total number of employees and residents is greater than 24 daily for 6 months or more of the year. If either threshold is met, the water system will be regulated. If you have questions on whether the proposed project will be regulated as a public water system, contact this division to discuss with the district inspector. If the project does not meet these thresholds but will have a regulated kitchen used for food service for food and wine pairings or marketing events, a different type of regulated water system is required.

If your project will be regulated as a small public water system, a water system feasibility report will be required as a completeness item at the time a Use Permit application is submitted. This report ensures that the proposed project can satisfy the technical, managerial and financial requirements set forth by the Water Board and must include the information listed on the attached worksheet. There is a possibility that existing wells may not meet the construction requirements for a regulated water system. If the source does not meet the requirements, a new water supply will have to be developed, which must be reflected in the feasibility report. Prior to issuance of a building permit, the new water supply must be developed and full plans for the water system must be submitted and approved by this division. In addition to the local requirements, the Water Board requires a water system to also submit a preliminary technical report demonstrating the water system is viable and ensuring the water system has evaluated whether consolidating with another water system is possible. The County must receive concurrence from the Water Board before any related building permits can be issued. Additional information regarding the preliminary technical report required by the Water Board can be found at:

https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Permits.html

New Community and Non-Community Water Systems Technical, Managerial and Financial Capacity Worksheet

(Use Permit Applications and Water System Feasibility Reports)

1. **Water system name**
2. **Name of person who prepared the report**
3. **Technical Capacity:**
 - ↑ System description-from source to point of use-what is expected (including treatment, etc).
 - ↑ One year projection for water demand and an analysis of the water system to meet the projected demand (project expansion and improvements for a ten year period).
 - ↑ Source adequacy:
 - Groundwater: Does the well have a 50-foot seal with a 3-inch annular space? Is a well log available?
 - Surface water treatment: Can the water system comply with the Surface Water Treatment Rule?
 - ↑ Water supply capacity. Can the water system (including all sources and storage facilities) supply a minimum of three gallons per minute for at least 24 hours for each service connection served?
 - ↑ Provide a characterization of the water quality (or expected water quality if a new source is required), including a comparison with established or proposed drinking water standards and the feasibility of meeting these standards.
 - ↑ An evaluation of the feasibility of consolidation with other (existing) water systems.
4. **Managerial:**
 - ↑ Description of the organization's ability to manage a water system (personnel to be hired and/or job descriptions for water system maintenance responsibilities). For systems that use land that is not owned by the water system, the terms for a long-term agreement for use of the land/facilities must be disclosed.
 - ↑ Document the system's water rights.
5. **Financial:**
 - ↑ Budget projection and description of system's financial capacity (your ability to financially support the operation of a water system).

Questions on this worksheet or the information required should be addressed to the water specialist in the Division of Environmental Health.