



# WATER AUDIT CALIFORNIA

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March 17, 2025

To Napa County Planning Commissioners

Kara Brunzell (District 1),  
Walter Brooks (District 2)  
Heather Phillips (District 3)  
Pete Richmond (District 4)  
Megan Dameron (District 5)

Sent via email to: [meetingclerk@countyofnapa.org](mailto:meetingclerk@countyofnapa.org)

Greetings:

RE County of Napa Planning Commission March 19, 2025  
AGENDA 7A. GEORGE HENDRY / HENDRY WINERY / USE PERMIT  
MAJOR MODIFICATION APPLICATION #P15-00173-MOD

## **INTRODUCTION**

This application is about to reach a series of milestones that deserve public recognition. Performance of the mandatory duty to install a public water system at the Hendry Winery, the second oldest item pending on the Planning docket, is an interesting choice of a well-aged problem to initiate a new planning commission. In another context one could see it as a hazing ritual. Welcome aboard to all.

The planning number assigned reveals that this application is a decade old: #P15-00173-MOD. Further, "This application was processed under the County's (2018) Code Compliance Program ... to recognize and approve items that are out of compliance with permitted entitlements and for expansion beyond exiting entitlements." The deadline for applying for compliance was March 29, 2020, so we are mere days away from a five-year anniversary of the expiry of the program, but it lingers on.

“The purpose of this proceeding is to recognize and approve items that are out of compliance with permitter entitlements and for expansion beyond existing entitlements. Project components include an increase in the number of employees, daily visitation, marketing events, the addition of on-premises consumption of wine produced on-site, parking, and necessary infrastructure.” (Agenda description)

**On March 20, 2025, this project will reach its twenty-fourth year out of compliance with State drinking water laws. “Winery domestic water use associated with employees and visitors, represents the water use that is currently out of compliance and that would further increase with this project. (see Staff Report packet pdf page 18)**

Only days before this anniversary the applicant seeks to install a Transient Non-Community water system “to fully serve the winery and its accessory uses” to remedy a non-compliance that has existed since Bill Clinton was in the White House. Contemplate that for a moment. A reasonable estimate is that a quarter of a million visitors have been exposed to the applicant’s unregulated water system.

Use Permit 97506 indicated no visitors on the application, however it did indicate 4-6 people, once per week, related to the wine industry. Use Permit 99408-MOD added two annual events with up to 30 people. **This application, however, indicates 30 visitors on the busiest day.** As such, the water supply system must comply with the California Safe Drinking Water Act and Related Laws. This will require plan review and approval prior to issuance of building permits. **Prior to occupancy, the owner must apply for and obtain an annual operating permit for the water system from the Department of Environmental Management.**” (See Attachment C: Previous Conditions Permit #00343-MOD, Environmental Health Services Memorandum dated **March 26, 2001**)

The attachments to the staff’s response to Water Audit’s earlier comment (attached Ex. 1, Attachment N) mirror this situation. The hydrological analysis attached to the staff letter is dated October 18, 1939, nearly eighty years ago. (Page 298) The author, Dr. N.L Taliaferro, died in an automobile accident in 1961. The recipient of the letter, Dr. G.W. Hendry, an agronomy professor who was a colleague of Dr. Taliaferro at UC Davis, predeceased him with a heart attack in 1944. One well pump test was done in July 1940 by an individual lost to history. (Page 287) The alleged most recent well test, in 2000, does not disclose who performed work. (Page 296)

One could understand a desire to have this matter over and done with, but such impatience will have long-term implications. “Measure twice and cut once” a carpenter would say. What is done here today can either turn the corner to remediation or help ensure that Redwood Creek is turned into what a planner has previously referred to as an irrigation ditch.

### **THE WATER SYSTEM FEASIBILITY REPORT IS NECESSARY BUT IS OMITTED**

In earlier matters Water Audit has distinguished between “the process” and “the project.” At this juncture the process problems are such that proper project decisions cannot be made because of deficiencies in process that deprive the Planning Commission of the necessary information required to make a properly informed project decision. For example:

**“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.”  
(Emphasis added).

(see County Memorandum (2005, revised 2018) appended to the Water Audit December 17, 2024, Comment Letter (attached as Ex. 2), agenda packet pdf page 319:

**It is appropriate to state the obvious: every staff person speaking at a planning Commission hearing is on the payroll of the applicant. PBES staff have been encouraged to plaster over deficiencies by offering their own unsupported testimony without fear of contradiction by cross examination or consequences from the penalty of perjury. As a result of this process, decisions are routinely made on a false foundation. Examples will be given.**

## **A TIER 3 SURFACE WATER GROUNDWATER INTERFACE STUDY AND MITIGATION IS REQUIRED**

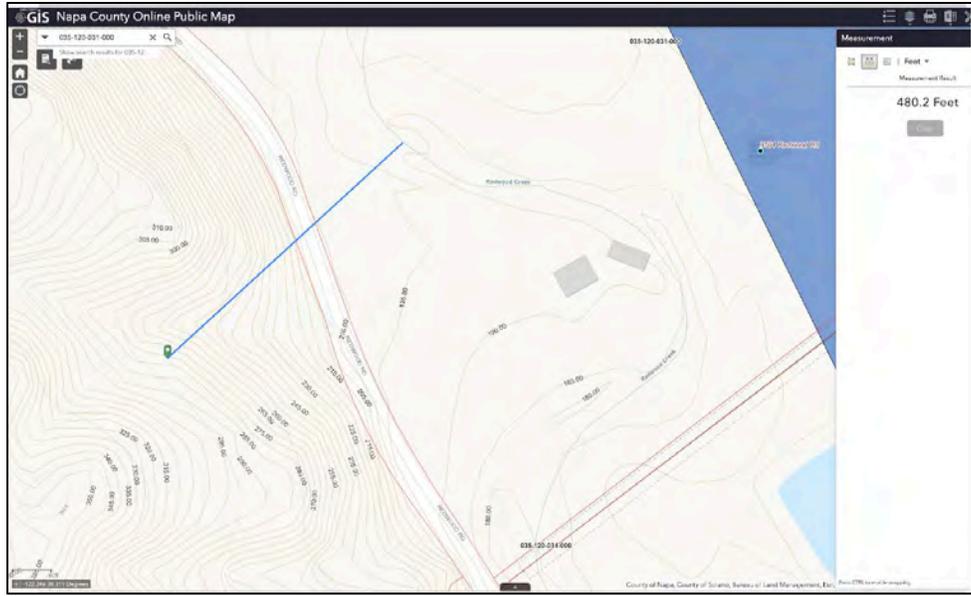
An increase of groundwater extraction over the last two decades so correlated to the degraded condition of Redwood Creek. An inspection of County records in 2021 showed that there were not less than 82 (eighty-two) wells reported to the Department of Water Rights within the 1,500 radius now presumed to be cause for a “Tier 3” inquiry into potential interference with a water course. The County Environmental Health Division did not require well construction permits until 1971, so the total is likely substantially greater. (Source see attached Ex. 1, Attachment N Packet PDF page 280)

Throughout the applicant’s and staff’s work there is repeated reference to a 500’ trigger distance of Tier 3, with the bare staff assertion statement that the provision does not apply.

The nearest County-designated significant stream to the proposed well is Redwood Creek, which is located to the northeast of the proposed well. At its nearest point, **Redwood Creek is approximately 505 feet from the proposed well and therefore the proposed well will not have any significant adverse effect on Redwood Creek. The proposed well passes the Tier 3 screening criteria.**

That assertion, standing alone without consideration of context, warrants serious contemplation of the apparent willingness of staff to walk any fine line to benefit applicants while ignoring potential injury to the environment. Recall that there is no well location that can be measured; the “proposed” well is yet to be drilled. Nevertheless, staff is willing to put its own reputation on the line that whenever the well is drilled and the pumps turned on, which given the project history is perhaps a decade or two from now, it will be **five feet outside the review parameters.**

The following graphic derived from the Napa County GIS shows the distance from well to creek as 480 feet.



Staff completely omits reference to the concurrent duty that the County has to the public trust doctrine, discussed at length in our earlier comment letter. Although founded in Roman law and imported into the colonies with the first doctrines of law, it was not recognized in Napa County until January 2024, when the County Counsel published a policy statement: *Application of Public Trust Doctrine to Projects Dependent on Groundwater* (“the PTD,” attached as Ex. 3)

The PTD established a second parallel requirement for review for groundwater extractions within 1,500 of a surface water flow. In addition to the conditions set forth in the WAA, it requires a new well, replacement well, and existing well less than 1500 feet to a Significant Stream to perform a Tier 3 Analysis.  
(see attached Ex. 4)

As staff acknowledges, “The nearest County-designated significant stream to the proposed well is Redwood Creek, which is located to the northeast of the proposed well. At its nearest point, **Redwood Creek is approximately 505 feet from the proposed well**” (Packet PDF page 155/156) Would a rational person bet their life on that proposition? We suspect not. The County has already determined that fish life is worth preserving, and it is dependent in part on the answer to this very question. The issue deserves more than a bought and paid opinion.

Adopted in response to the court's decision in *Environmental Law Foundation v. State Water Resources Control Board* (Cal. Ct. App. 2018) 26 Cal.App.5th 844, ("ELF") the PTD is clearly applicable to this project.

Under public trust doctrine (the Doctrine), Napa County has an affirmative duty to take the public trust into account in the planning and allocation of trust resources, and to protect public trust uses whenever feasible. ... Although there is no single method to evaluate impacts to the Napa River, County's groundwater consultants, Luhdorff & Scalmanini Consulting Engineers (LSCE), have determined that complying with the Tier 3 analysis from the County's 2015 Water Availability Analysis Guidance Document (the 2015 WAA Guidance Document) satisfies its legal obligations. Therefore, PBES cannot find applications which use a project well within 1,500 feet of a Significant Stream complete unless accompanied by a Tier 3 analysis or an equivalent analysis (see options below).

...  
... Any project which is using groundwater from a well within 1,500 feet of a Significant Stream must complete a Tier 3 or an equivalent analysis regardless of whether more water is being withdrawn from the project well or if there is no net increase or a reduction in water extraction because the County's duties under the Doctrine are ongoing. An adequate Tier 3 or an equivalent analysis will allow County to discharge its duty and review a legally defensible project.

(see Ex. 3)

### **THERE IS SUBSTANTIAL EVIDENCE OF INJURY DUE TO GROUNDWATER EXTRACTION**

A compilation of historical records shows that the over-extraction of water has caused a complete ecological collapse of a former highly productive salmonid watercourse.

It is not necessary to speculate about the impact of this property on Redwood Creek flows. Pursuant to a State Water Resources Control Board License for the Diversion and Use of Water, the Applicant is entitled to directly withdraw 14 acre-feet per annum. (Appendix N, Page 289) SWRCB E-WRIMS reports that the maximum amount was withdrawn in the month of January 2024. (see [https://rms.waterboards.ca.gov/Print\\_LIC2022.aspx?FORM\\_ID=677855](https://rms.waterboards.ca.gov/Print_LIC2022.aspx?FORM_ID=677855)).

Applicant also pumps water from an existing well in a volume that has (illegally) supported their operations for decades and now seek to extract even more. They have no records of their years of extraction and now seek more.

In 2003, the Center for Ecosystem Management and Restoration (CEMAR) published the definitive work on the history of the Napa watercourses. (CEMAR Chapter IX – Napa) An excerpt of the fish history of Redwood Creek is attached. (attached Ex. 5)

The term "*O. mykiss*" refers to the scientific species name for rainbow trout and steelhead trout *Oncorhynchus mykiss*. In 1978, the estimated *O. mykiss* density in the main fork of Redwood Creek was 180 fish per 45 meters [~150 feet] of stream. The report concluded that Redwood Creek was "excellent" nursery and spawning habitat for rainbow trout.

In July and August 2001 two NGOs (Ecotrust and Friends of the Napa River) undertook a fish density survey of Redwood Creek, reporting density values between 1 and 3, with the high value "3" representing more than one fish per square meter [~10 square feet]. Of 21 identified reaches, eight had *O. mykiss* at density 1, five had density 2, and three had density level 3. Follow-up surveys in 2002 confirmed the results.

Now let us look at an image of Redwood Creek taken in 2021:

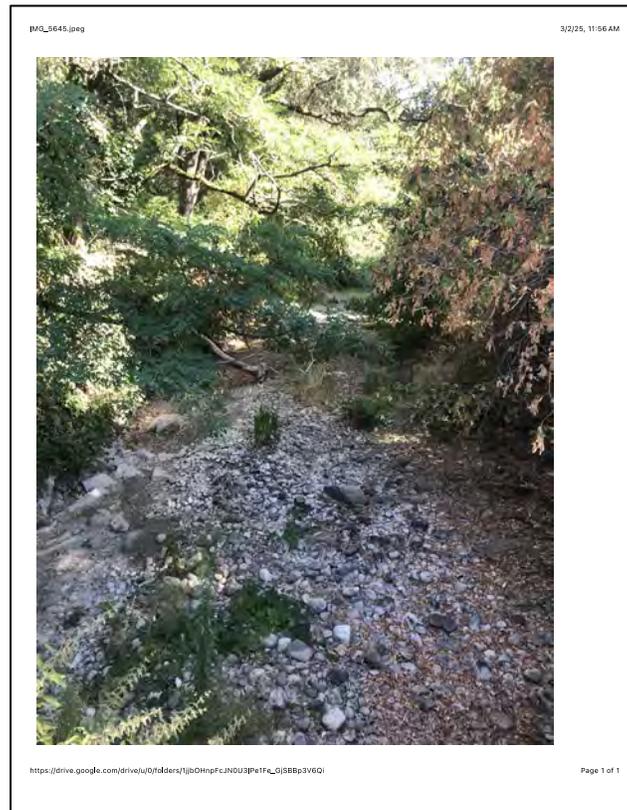


Photo Water Audit California, photographer's credit to Dr. Amber Manfree

Water Audit's earlier comment letter (attached Ex. 2) noted the requirement for a Tier 3 review due to its proximity to Redwood Creek. Staff responded:

Tier 1 - The report includes Tier 1 calculations for the approved, existing (out of compliance), and proposed water use. The winery is in compliance with their production allowance and are not requesting an increase, therefore there are no changes to the water usage associated with production activities. **Winery domestic water use associated with employees and visitors, represents the water use that is currently out of compliance and that would further increase with this project.** Staff Report packet pdf page 18

There are no known off-site wells located within 500 feet of the proposed well location and **there are no known springs located within 1,500 feet of the proposed well location.** As such, the project passes the Tier 2 criteria with no further analysis required. (Emphasis added)

Attachment F. Water Availability Analysis (revised six times most recently June 24, 2024) At Packet pdf page 155/6

Staff reports: **"The Public Works Department no longer reviews the project WAA,** so a Groundwater Memorandum is not provided to Staff. As noted above Condition of Approval No. 6.15.a has been updated to reflect the requirement for the existing well to meet applicable State standards. **Staff has reviewed and there are no issues with the statement in the memorandum from the Engineering Division."** (Emphasis added.) This is a shocking assertion, completely at odds with the public's understanding.

The Engineering Division has no disclosed responsibilities for WAA review:

The Engineering Division has the primary responsibility for the processing of a variety of ministerial and discretionary permits related to private land development proposals, ensuring compliance with grading and drainage standards, road and street standards and stormwater and floodplain management requirements. Division staff implement the National Pollution Discharge Elimination Systems (NPDES), National Flood Insurance Program (NFIP), and the Phase II (MS4) Program. The Engineering Division is also responsible for floodplain management resources, and infrastructure, and Napa County Roads and Streets Standards.

(see <https://www.countyofnapa.org/1895/Engineering-Division>)

Conversely, Public Works does appear to have the duty to review the WAA, although evidentially they did not do so in this instance. Not in the agenda packet, but

found on the County website link to Water Availability Analysis (WAA) Guidance Document Adopted May 12, 2015, at document page 6: (emphasis added):

PBES and **Public Works (PW) staff will review** the application for completeness and reasonableness, review **the County's groundwater data management system for additional information about the characteristics of the areas/basin and nearby wells, compare the analysis to the screening criteria, and determine if additional analysis is required...** Applications will be evaluated based on project information, to be provided by the applicant, and available geologic and hydrologic information, to be provided by County staff.

See also DPW's Mission and Vision statements, in part:

**The Department of Public Works is dedicated to** sustaining health, safety, quality of life and **protection of natural resources** by providing and maintaining public facilities and services in partnership with the community and other public agencies for current and future residents, workers, animals, and visitors of Napa County.

**Napa County Public Works Department will be known locally and beyond as trusted and excellent stewards of public and natural resources** and recognized for public projects and improvements that are the pride of the community.

(see <https://www.countyofnapa.org/1646/About-Us>)

In the absence of County review, staff is compelled to echo the Applicant's paid consultants. "Although the project does require a new water system, **staff has made the determination, based on the analysis provided in the applicant's Water System Feasibility Report and WAA**, that the system will not cause significant adverse effects on an affected groundwater basin." (attached Ex. 1, Attachment N, Packet PDF page 282) (emphasis added)

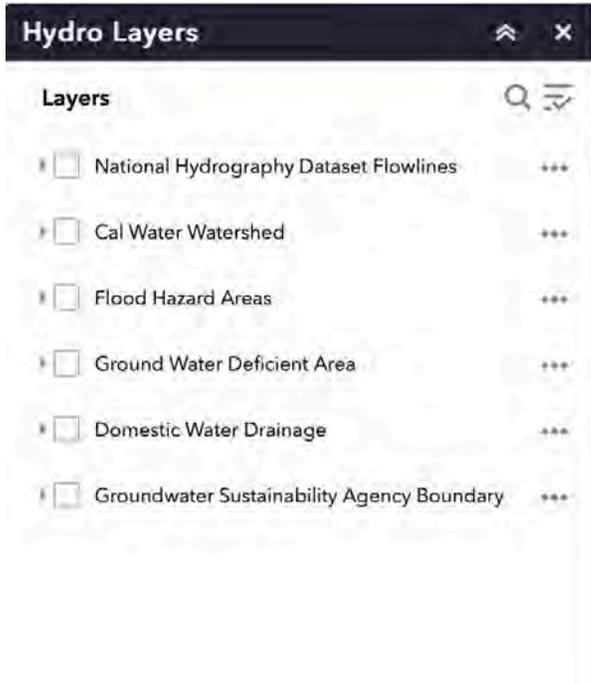
Water Audit disagrees with the staff response. Assessment of potential significant adverse effects on an affected groundwater basin cannot be based solely on an applicant's claims, and with the greatest respect, a planner does not have the appropriate skill sets for hydrological review. The process requires an applicant to perform a Tier 3 analysis, and PBES and Public Works are tasked with reviewing it and the Water Availability Analysis. This has not been done.

Respectfully, the Planning Commission should task staff and Applicant with doing their respective jobs fully before hearing so that the Planning Commission may make well-informed and thoughtful decisions.

To reiterate, Water Audit asserts that pursuant to the 2024 Water Availability Analysis a Tier 3 a review is mandatory for two reasons. First, in the absence of empirical evidence it is pure speculation what the distance is between the proposed point of extraction and Redwood Creek. Second, evidence in now in the record that the well parcel has numerous springs, providing a second independent reason for a Tier 3 review. "The springs [I] visited on your ranch and the immediately adjacent properties all appear to come out of sandstones interfaced with the dense shale." (attached Ex. 1, Attachment N, Page 295)

As previously stated, the applicant provides no empirical evidence of prior consumption, although obliged to do so. "It does not appear that the previous monitoring reports were received." (Ex. 1, Attachment N. Staff Response at packet pdf page 283) One of the oldest laws in California is the maxim of equity stating "that which does not appear to exist is to be regarded as if it did not exist" codified as California Civil Code, section 3530. Respectfully, the problem is not that the records were not received; the problem is that, although required, the records don't appear to exist. It is open to the Applicant to show otherwise.

Contrary to recent representations, the County does not have a GIS layer that clearly indicates "significant watercourses." CDFW has such information, but the County has not sought to consult or import this data. See the County GIS menus below:

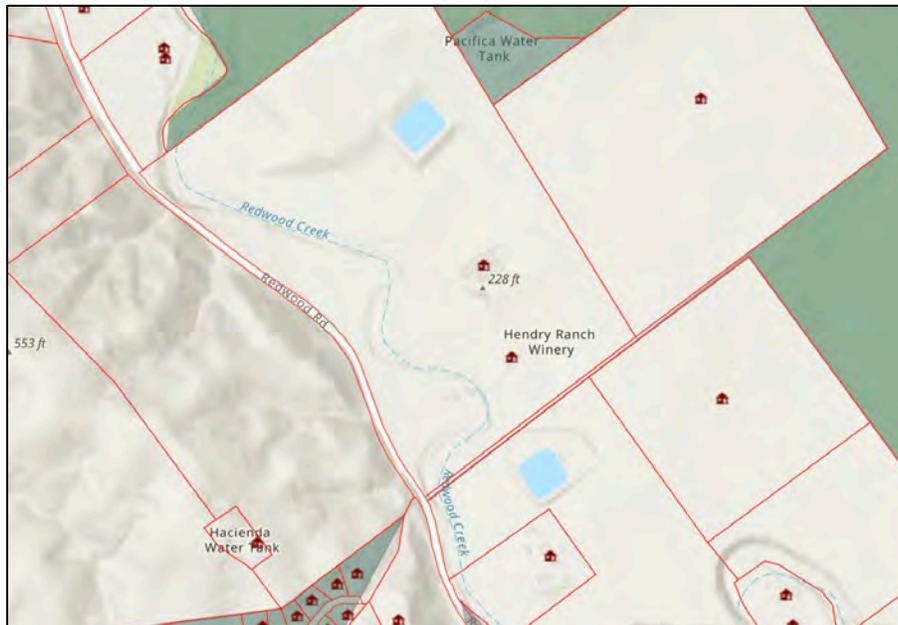


USGS GIS data has been derided by staff in Napa proceedings as being archaic, (e.g. Director Bordona’s testimony at the recent Hillwalker appeal) but elsewhere in the nation it remains the gold standard reference for geophysical GIS. (Note the two references to USGS in the Napa GIS Environmental/Topo in the Napa GIS graphic above). Below is the standard USCG legend for symbols use on their mapping. Others typically follow this convention.

<b>RIVERS, LAKES, AND CANALS</b>	
Perennial stream	
Perennial river	
Intermittent stream	
Intermittent river	
Disappearing stream	

It is common knowledge to Napa residents that Redwood Creek historically was perennial. Consider then the representation of Redwood Creek on the County GIS by a

series of long blue dashes, which as one can see above represent nothing aquatic in conventional USGS cartography. The source or meaning of the representation is not publicly stated. Staff suggests that as the lines are blue, it is common sense to infer that they represent water. A contrary position was recently argued in Hillwalker by different planning staff who avowed that a broken blue line did not constitute a significant stream, providing the very definition of unequal application of the law. Fundamentally, this is the problem of Napa planning processes. They are inconsistent in process, vary from project to project, and rely far too much on the unsworn and unchallenged testimony of staff paid to get the project approved.



### **THE APPLICATION DOCUMENTATION IS INCOMPLETE**

Systemically the Planning Commission has accepted incomplete or inaccurate work, with the obvious result that questionable decisions are made. For example, the Staff Report agenda packet states at page 13: “Setbacks: The Winery development exceeds all applicable minimum setbacks,” (however see the County website Sample-Site-Plan-Revised 2024-

<http://www.countyofnapa.org/DocumentCenter/View/20486/Sample-Site-Plan->

County guidelines provide that site plans must:

- Label existing and proposed structures and uses
- Show Setbacks
- Identify Natural Features such as creeks as there are creek setbacks that must be maintained to protect the natural feature from damage and prevent possible flood issues. Identify required creek setback distance pursuant to County Code 18.108.025.
- Existing and proposed water, wastewater, and stormwater treatment systems must be shown and include:
  - Wells on the property
  - Wells within 100 feet of the project property
  - Septic system tanks and sewer line location
  - Leach fields (existing and proposed)
  - 100% reserve area (existing and proposed). This is the area that will be used in the event of a septic system failure.
  - Storage tanks (Water, grey-water, waste storage)
  - Label distances between well(s), septic tank, leach field, and creek, streams, rivers or lakes, if applicable
- Utilities
- Easements

(see attached Ex. 6)

Attachment B. Conditions of Approval 4.9 GROUND WATER MANAGEMENT-WELLS at packet pdf page 37 & 38 omits parcel acre-feet limitation on groundwater and omits the Groundwater Demand Management Program.

Attachment L. GRAPHICS "UP1-SITE PLAN" at Packet PDF page 274 omits all distance measurements. There is no City of Napa Hacienda Water Tank sited, No City of Napa APNs, No Utility Lines, No Winery square footage, No Well Deed number, No Easement numbers, No springs, no Blueline stream symbol. Tangentially, Water Audit cannot locate the building permit for the existing 23,000 square foot barn.

There is no cumulative water sourcing and consumption. The County 2015 WAA Guidance document requires "projected water use for all land uses current and proposed on the parcel."

Tabulation of existing water use compared to projected water use for all land uses current and proposed on the parcel. Should the water use extend to other parcels, the should be included in the analysis (see Appendix E for additional information on determining water use screening criteria when multiple parcels are involved). **These estimates should reflect the specific requirements of the applicant's operations.** Guidelines attached in **Appendix B** are an example of

one way to calculate projected water demand. The applicant shall use these, other publicly available guidelines, other guidelines that may be provided by the Department of Planning, Building, and Environmental Services (PBES), or project specific estimates, whichever best approximate the proposed water use for the specific project and account for all other existing water uses at the subject parcel(s).

(emphasis in original)

(see at document page 5

<https://www.countyofnapa.org/DocumentCenter/View/1056/Water-Availability-Analysis-Adopted-Policy-May-12-2015-PDF>)

After the continued December 2024 hearing of this application, the original State Clearinghouse number was withdrawn, a new number issued, and staff filed a second CEQA Notice of Completion. The previous NOC and current NOC did not include the interested party, and adjoining parcel owner, City of Napa.

(see <https://ceqanet.opr.ca.gov/2024110936>)

The County does not allow for public review of notices given to adjacent property owners, again resulting in a “faith based” system. The Planning Commission is respectfully requested to confirm with staff that notice was given of this application to the persons indicated in the sphere of influence indicated in the graphic below. Particular attention should be given to confirm that notice was given to the City of Napa, as often planning staff fails to notify adjacent cities and other agencies and subdivisions of the state.

The notice of this hearing, dated February 13, 2024, did not include a State Clearing House number and omits Napa Register invoice and publication date. There is no publication affidavit and no Invoice number.



## **WASTEWATER**

Not in agenda packet or discussed in the application but found on County GIS, HENDRY APN 035-120-031 sited its wastewater field 70 feet from Redwood Creek. The light blue layer represents a flood hazard area, scaled at 70 feet from the flood plain line. State regulations 2007 CA Plumbing Code Part 5, Title 24 Private Sewage Disposal System TABLE K-1 Location of Sewage Disposal System provides that disposal fields must be located 100 feet from stream and other bodies of water. (see [https://www.waterboards.ca.gov/water\\_issues/programs/owts/docs/appdxk\\_ch7ta1401](https://www.waterboards.ca.gov/water_issues/programs/owts/docs/appdxk_ch7ta1401))



## INTO THE PENALTY BOX

Further evidencing the inconsistency of the Napa Planning process, not in this hearing packet, but found in the concurrently calendared Agenda Item 8C. (see attached Ex. 7, Use Permit Processing Presentation, see Attachment A. Use Permits Modifications FAQ dated March 6, 2025, at pdf page 8/9):

Except for substantially conforming applications received by the Planning Building and Environmental Services (PBES) Department prior to the deadline (March 29, 2019), all properties that have new or continued health and safety or significant pre-existing violations to come into immediate compliance with legal entitlements and all applicable County Code requirements. Owners of properties with health and safety or significant violations shall be required to operate within their existing legal entitlements for one year from the date of the initial Notice of Violation, absent extraordinary circumstances, before a use permit or modification application to remedy the violation(s) may be submitted to PBES. O may also be subject to fines or penalties for past and ongoing violations. This provision is intended to and shall require that the environmental impacts of discretionary permit applications shall be assessed against a “baseline” of operations that are within existing legal entitlements, rather than in violation of them. Owners may submit a Use Permit or Modification application to remedy violation(s) during the one-year period while they operate within their legal entitlements, but only if they agree in writing that their legal entitlements or their existing legal operations, whichever is lower, shall be used as the environmental baseline for all CEQA analysis related to the application. **Public hearings for such Use Permit or Modification applications shall not be scheduled until the owner has operated within legal entitlements for one year from the date of the Initial Notice of Violation, absent extraordinary circumstance.”** *Board of*

*Supervisor Resolution No. 2018-164 - County Code Compliance Program dated December 4, 2018. Section 1(a)(v)*

This poses a clear alternative for the Planning Commission. Impose the law equally on this applicant as was done with the concurrently calendared applicant, or find that this is an “extraordinary circumstance.” Or, of course, one may elect another more universal response.



## **CONCLUSIONS**

Over the decades it is likely that far worse projects have been approved in Napa, but that is not a standard to aspire to maintain. There is a venerable expression “a new broom sweeps clean.” In this comment letter, Water Audit has identified numerous errors and omissions that should not be swept under the carpet.

Redwood Creek is a tragedy, in large part because it was abandoned by its Trustee to the unrelenting pressures of commerce. Anthem Winery, an adjacent property arguably as injurious as this project, was approved with a Tier 1 review notwithstanding three wells within 500 feet of Redwood Creek. Small wonder Redwood Creek looks as it does.

Every journey starts with a single step, and reconciliation of the Napa watercourses with the demands of industry can start here. There is no need to reject the project outright, but equally no reason to approve it without full and complete information following a probationary period of compliance with existing entitlements.

That is what Napa law requires, what others have been compelled to do, and what you should insist upon here.

Water Audit understands the desire to have good relationships with staff. Rejection of sub-standard work is never pleasant and seldom well received. Enriching an applicant with an approval is inevitably better received than telling them to comply with the law. However, it is submitted that the relationship between the applicants, Planning Commission and staff must be, like all good relationships, based upon mutual respect. One does not turn in sub-standard work to an entity that one respects. Permitting incomplete or inadequate work is the beginning of the long slide to mediocrity and worse. In this instance, the public's interests rely upon your independent integrity. (see Ex. 8, Napa County USE PERMIT/MAJOR MODIFICATION APPLICATION WINERY USES for example of the proper process and application content required by Napa County)

It is possible, following probation and monitoring, that a complete submission, including a Tier 3 review, will show that this application can be approved in compliance with all County standards without unacceptable injury to the environment. Perhaps the Applicant can meet that burden, or perhaps not. That is not the issue to be decided at this juncture.

The only question today is whether that determination can be made on the information before you. It is respectfully submitted that a final decision cannot be made at this juncture because the information is presented is inadequate.

Respectfully,



William McKinnon  
General Counsel  
Water Audit California

**“N”**

## **Staff Response to Public Comment**

Hendry Winery Use Permit Major Modification Application No. P15-00173  
Planning Commission Hearing, March 19, 2025



A Tradition of Stewardship  
A Commitment to Service

**Planning, Building & Environmental Services**

1195 Third Street, Suite 210  
Napa, CA 94559  
[www.countyofnapa.org](http://www.countyofnapa.org)  
Main: (707) 253-4417

**Brian D. Bordona**  
Director

**MEMORANDUM**

To: Planning Commission	From: Emily Hedge, Planner III
Date: February 6, 2025	Re: Response to Public Comments

Staff prepared the following response to comments received from Water Audit California (WAC), in their letter dated December 17, 2024. See letter for comments. Staff responses are organized to follow the formatting and numbering contained in the letter.

**Re: Process**

**Comments 1 and 2** - The Initial Study has been updated to include the California Department of Fish and Wildlife (CDFW) as a Trustee Agency. This has been updated in all applicable project documentation, including the State Clearing House (SCH) submittal forms: Notice of Completion & Environmental Document Transmittal and the Summary Form for Electronic Document Submittal.

The updated Notice of Intent for the March 19, 2025, hearing includes the updated public review period which runs from February 13, 2025, to March 18, 2025. Staff does not include the Napa Valley Register invoice and publication date with the staff report.

**Comments 3 and 5** – On November 30, 2016, the State Water Resources Control Board, Division of Water Rights issued a “Right to Divert and Use Water” - Registration H032546/Certificate H012, included as Exhibit 2 in the WAC comment letter. The State authorization details the diversion and use of water from a point on Redwood Creek, for storage in an offstream pit reservoir on the property, with the purpose of use for irrigation and fire protection. The water right was issued by the State and the associated conditions of approval are monitored by the State.

Vineyard irrigation is a separate water use from the winery operations, and the State permit does not allow the diverted water to be used for the winery. The proposed use permit modification does not include a request that would physically modify the pond or operationally change the existing use. Therefore, the pond as an existing source of water for irrigation was noted as being outside the scope of this use permit modification and information was not included in the project analysis.

To determine if there is sufficient groundwater for irrigation, should the owner cease use of the State right, the Water Availability Analysis prepared by CMP Civil Engineering & Land Surveying, dated June 24, 2024 (WAA) estimated water use associated with the entire vineyard (26.26 acres) for potential groundwater use. Proposed groundwater use, including vineyard irrigation, was less than the estimated recharge potential.

**Comment 4** – The existing well was drilled in 1940, as detailed in the 1998 Phase 1 Water Study prepared for the winery (included at the end of this Memorandum). Well construction information and a pumping test are included in the document, which is available through the County’s online Public Records search. The County Environmental Health Division did not require well construction permits until 1971, which is why the well does not have a County-issued permit number. The well was permitted for use with the winery as a part of Use Permit 97506-UP. Because the project proposes a new well to serve the winery, further analysis of the existing well was not required under this modification, and the historic well information was not discussed in the staff report.

The State Water Resources Control Board permits multiple types of public water systems, and regulations vary depending on the type of water system. Classification is based on the total number of users, frequency of users, and type of individuals utilizing the water system. California Health and Safety Code §116275 provides information on public water systems. The following definitions have been listed for reference:

California Health and Safety Code §116275

- (h) “Public Water System” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.
- (i) “Community water system” means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.
- (o) “Transient noncommunity water system” means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.

Based on the proposed numbers of winery employees and guests, the winery will be required to install a “Transient noncommunity water system”. This is described in the Preliminary Water System Technical Report, prepared by CMP Civil Engineering & Land Surveying, dated Rev.1: 10/30/2024. Discussion of the proposed water system is included in the Initial Study and staff report.

The WAC letter references the requirements of a “Community Water System”. Per California Code of Regulations (CCR) Title 22 §64554(c) “Community water systems using only groundwater shall have a minimum of two approved sources before being granted an initial permit”. As noted above, the winery water system will not be a “community water system”, therefore the referenced requirement for two (2) wells is inaccurate. The code section referenced in the letter does not relate to this topic.

Per CCR Title 22 §64554(a), at all times, a public water system's water source(s) shall have the capacity to meet the system's maximum day demand (MDD). The proposed new well will be the primary source of water for the winery. In order for a well to be permitted to serve a public water system, the source must comply with the provisions of CCR, Title 22, Chapter 16, Article 3, §64560 ‘New Well Siting, Construction and Permit Application’. The well will be drilled and constructed to meet State requirements. If the existing well remains as a standby source for the water system, it will also need to meet applicable State construction and operational standards. The well shall be operated as a standby source as defined in

CCR, Title 22, Chapter 15, Article 1, §64401.6 ‘Standby Source’ and pursuant to CCR, Title 22, Chapter 15, Article 2, §64414 ‘Standby Sources’.

The necessary information on the existing well will be provided during the water system permitting process to demonstrate that it currently meets standards or that improvements will be completed to comply with regulations. Condition of Approval No. #6.15.a has been updated to reflect this information.

The project WAA states that there are no wells within 500 feet of the proposed well. Therefore, per the County WAA Guidelines, a Tier 2 is not required to be prepared, and the referenced pump test parameters are not applicable. As noted above, the existing well will be required to meet State standards if it is to be used as a standby source, including the performance of applicable pump tests.

The WAA includes an estimate for water use for the entire 26.26 acres of vineyards. The analysis is not required to specify which vineyard blocks are irrigated.

Well permit application E17-00513 was submitted in 2017 when the Use Permit modification application included drilling a new well on the Winery Parcel. Although the proposed location was revised under the Use Permit application, the well permit application remained open with the Winery Parcel information. Staff included comments related to the proposed well on the Well Parcel under this permit application. For clarity, permit E17-00513 will be closed, and, if the new well location is approved as part of this Use Permit Modification, a new permit will be opened.

**Comment 6** – Based on review of historic aerials, the vineyards appear to have been planted prior to 1991 when the County began requiring an Erosion Control Plan (ECP) for planting vineyards. Additionally, much of the land on the property has a slope of less than 5 percent, and an ECP would not be required in these areas. Future vineyard replanting may require an ECP and future planting on slopes greater than 5% would require an ECP. An application for an ECP is separate from the Use Permit process.

**Comments 7 and 9** – In order to submit an environmental document to the State Clearinghouse (SCH) - CEQA Submit website, the following submittal forms must be included: Notice of Completion & Environmental Document Transmittal and the Summary Form for Electronic Document Submittal. These documents are specific to the State’s submittal process and are not related to staff’s analysis of the project. They are therefore not included in the staff report.

Submittal to the SCH also requires a copy of the Notice of Intent to adopt the CEQA document. For this project, the Notice of Intent is incorporated in the Public Notice published and circulated for both the Planning Commission hearing and CEQA document. The Public Notice ran in the Napa Valley Register (NVR) on November 26, 2024, and was mailed to neighbors within 1,000 feet of the property and emailed to the County’s “Interested Parties” email list. The Public Notice is not included in the Staff Report, but a copy was made available on the Current Project Website. The document is still available on the website in the folder “Napa County Planning Commission – December 18, 2024”.

The email “Subject: County of Napa – State Agency Courtesy Notice – Negative Declaration SCH# 2024110936” was provided as a courtesy to State agencies notifying them of the availability of the

Negative Declaration. The additional noticing did not affect the analysis of the project and therefore was not discussed in or included as an attachment to the staff report. A copy was made available on the Current Project Website. The document is still available on the website in the folder “Napa County Planning Commission – December 18, 2024”.

**Comment 8** – The referenced memorandum is a general informational memorandum prepared by the Environmental Health Division and is not specific to this project.

### **Agenda Packet Documents**

#### **Staff Report - Findings**

**Comment 1** – The Initial Study has been updated to include California Department of Fish and Wildlife (CDFW) as a Trustee Agency. The Initial Study Negative Declaration was resubmitted to the SCH with a 30-day review period. SCH# 2025020413.

**Comment 2, 3, and 5** – Staff’s determinations in the Findings are based on the information in the record, including the proposed site plan (Plan sheet UP-2), the project narrative provided with the application, and supporting reports prepared by professionals in their respective fields. The record describes the existing site conditions and analyzes the proposed work. Overall ground disturbance is very limited, with proposed physical improvements located in areas that have already been disturbed, including the existing well and the existing leachlines. No proposed work is occurring in areas that are previously undisturbed. Staff’s analysis of the project and resulting determination of the Initial Study was that the proposed project could not have a significant effect on the environment and a Negative Declaration was prepared. If the Negative Declaration is reviewed and agencies have comments regarding potential environmental effects, staff will review and revise the Recommended Findings as necessary. Staff believes the Recommended Findings are valid as prepared.

Finding No. 12 in its entirety states: “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”. Although the project does require a new water system, staff has made the determination, based on the analysis provided in the applicant’s Water System Feasibility Report and WAA, that the system will not cause significant adverse effects on an affected groundwater basin. See Staff Report Attachment A. Recommended Findings for staff’s response to Finding No. 12.

**Comment 4** – The wording of Recommended Finding No. 9 has been revised to remove reference to the abandonment of the existing well.

#### **Staff Report - Conditions of Approval and Previous Conditions of Approval**

**Comment 1** – Staff includes all letters and memorandum received from reviewing divisions and agencies. For this project, no documents were received from the agencies referenced (Caltrans, Department of Forestry, CDFW, or Regional Water Quality) or other State or local agencies. The Public Works Department no longer reviews the project WAA, so a Groundwater Memorandum is not provided to staff. As noted above Condition of Approval No. 6.15.a has been updated to reflect the

requirement for the existing well to meet applicable State standards. Staff has reviewed and there are no issues with the statement in the memorandum from the Engineering Division.

**Comment 2** – Recommended COA 6.15.e. will supersede previous Use Permit No. 97506-UP COA No. 12. This is consistent with Condition of Approval 4.21 Previous Conditions, Exhibit A, which notes that, with the exception of one prior condition from the Public Works Department, each of the previous conditions of Use Permit No. 97506-UP, as modified by Use Permit Major Modifications Nos. 99408-MOD and 00343-MOD, has either been completed by the permittee, as in the case of construction of the on-site winery building and access road, or it has been superseded by the scope of the current use permit and the updated standardized language in the above conditions of approval.

#### **Staff Report - Packet Attachment E. Application**

The application was originally submitted in 2015 and was revised multiple times, specifically in 2019 when it was added to the Winery Compliance Program. Because various application forms had been used, staff combined the application information into the current application packet. This resulted in some application pages being signed recently, including the fee agreement which notes the recent payment date. The staff report includes the date that the application was submitted. The adjoining property owner list is not included in the application packet attached to the staff report.

#### **Staff Report - Packet Attachment F. Water Availability Analysis**

Comments regarding well data and the water rights to the pond have been addressed in prior responses.

It does not appear that the previous monitoring reports were received. There have been no reported issues with water usage on the property. Proposed COA No. 4.9 will supersede the previous condition regarding reporting. The COA requires the permittee to record well monitoring data (specifically, static water level no less than quarterly, and the volume of water no less than monthly). Such data will be provided to the County at the request of the PBES Director.

The proposed well production is based on assumptions because the well has not been drilled. This is standard practice for the analysis of a proposed well. Per CCR requirements the well for the public water system's water source(s) shall have the capacity to meet the system's maximum day demand (MDD). See response to Comment No. 4 for specific code references. This shall be demonstrated during the processing of the water system permit.

#### **Staff Report - Packet Attachment I. Water System Feasibility Report**

The report notes that the water source for the water system will be the new proposed well, therefore existing and historical well logs for the proposed well are not available. The report does include that information for the existing well. The 2000 pump test for the well includes the pumping rate of 17.9 gallons per minute (gpm). Information on the existing well was used, in part, for estimating the operational capacity of the new well.

Comments regarding the adequacy of the existing well for use as a standby source have been addressed in prior responses.

### **Staff Report - Packet Attachment L. Graphics**

The graphics packet is prepared to provide information on the location of the property, existing and proposed development, and County land use designations. An aerial photograph is often utilized to more clearly depict a site, as opposed to an Assessor Parcel Map. The Use Permit Major Modification application (Attachment E) does not include the requirement for submittal of a USGS topo quad map.

A blue line creek symbol was not used on the Existing Conditions graphic, however staff believes it can easily be inferred that the blue colored line running through the property and adjacent properties is Redwood Creek, as discussed throughout the staff report and the Initial Study Negative Declaration.

Plan Sheet UP-2 "Site Plan", although not labeled Proposed Conditions, shows the proposed work of the expanded leachlines and new well. The items are indicated with a (P). Sheet UP-1 includes a list of abbreviations used throughout the plans. Abbreviation (P) is the designation for proposed work.

Distances between the creek and existing development was not included as there is no change to those structures. Supporting documents note that the proposed physical improvements of the project are located more than 100 feet from the creek, at the closest.

Comments regarding the water rights to the pond have been addressed in prior responses.

### **The Public Trust**

On January 10, 2024, Napa County released the Interim Napa County Well Permit Standards and WAA Requirements - January 2024, providing guidance to complying with the Public Trust. A Tier 3 review is the County's adopted method for complying with its duties under the Doctrine. As discussed in the Initial Study Negative Declaration the new well will comply with Table 3 of the WAA Guidance document. County has satisfied its duty to consider impacts to trust resources and no further analysis is required.

The following information is included in the Initial Study Negative Declaration. 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. These distance standards are presented in Tables 3, 4 & 5 within the Water Availability Analysis Guidance Document. In order to limit the radius of potential interaction and to preclude any significant adverse effects on surface waters, the proposed well will be constructed with a minimum 50 foot deep annular seal, well perforations will begin at a depth greater than 100 feet, and the well will be equipped with a Clack Corporation FLO-ET 9 GPM V7A106D (or equivalent) flow control device, which will limit the flow rate of the well to 9 gallons per minute. As proposed, the new well will meet the criteria of Table 3 of the Water Availability Analysis Guidance Document, and the acceptable distance from surface water is 500 feet. As noted above, at its nearest point, Redwood Creek is approximately 505 feet from the proposed well and therefore the proposed well will not have any significant adverse effect on Redwood Creek. The proposed well passes the Tier 3 screening criteria. Staff is recommending COA No. 6.15.a. which will require the installation of the specific equipment per the parameters noted above. CDFW has the opportunity to review and provide comments on the analysis and conclusions of Initial Study Negative Declaration (SCH# 2025020413).

Hendry Ranch Winery  
APN 035-120-031  
2/24/98

Phase 1 Water Study  
Water Study

GENERAL AND SITE MAP

This project is to establish a winery on APN 035-120-031. This parcel is owned by George Hendry and is used for the production of grapes and for George Hendry's personal residence. The location of the project relative to property boundaries, existing agricultural developments, adjoining neighbors, and existing and adjoining water systems is shown on the Plot Plan A for this project which is included for reference.

PROJECT DESCRIPTION

The proposed winery will be used almost exclusively to process estate wines grown by George Hendry. The vineyards are on the same parcel as the proposed winery, and on contiguous adjoining parcels owned or leased by George Hendry. These parcels constitute an aggregate of 115 vine acres or 157.99 total acres. It is anticipated that the production capacity of the winery will be limited by the vineyard to 59,000 wine gallons annually.

WATER CONSUMPTION

Peak water consumption and discharge is estimated using the "Napa County Formula".

$$\begin{aligned} \text{Peak Consumption} &= \text{Peak Discharge} = 1.5 \times \text{annual wine gallons} / 60 \\ &= 1.5 \times 59,000 / 60 \\ &= 1475 \text{ gallons / day} \end{aligned}$$

Peak consumption is expected to occur in August, September, and October due to crush activities.

Annual water consumption is estimated with the aid of Storm's "Winery Utilities, Chapman and Hall, 1997". Table 6.7 on page 141 of this publication estimates that Table wineries producing less than 50,000 cases use 18 to 25 gallons of water annually for each case of 750 ml bottles. The proposed winery has a capacity of 25,000 cases of 750 ml bottles. (59,500 wine gallons) The annual water usage is estimated accordingly as:

$$\begin{aligned} \text{Annual Water Consumption} &= 25 \text{ gallons/case} \times 25,000 \text{ cases} = 625,000 \text{ gallons} \\ &= 625,000 \text{ gallons} / 325,851 \text{ gallons/AFT} = 1.92 \text{ AFT} \end{aligned}$$

It is planned to meet this requirement from a well located about 360 feet west of Redwood Road on parcel APN 035-120-030, owned by Andrew Hendry. (See Plot Plan A) APN 035-120-031, owned by George Hendry, has a deeded right to this water. (Appendix A) The well was dug and cased to a depth of 196.5 feet. (Appendix B) A pumping test, conducted by the Berglund Tractor and Equipment Company, indicated a flow into the well of 60 gpm at a water depth of 71 feet. (Appendix C) Since it was dug in 1940 it has been used for domestic service, yard and garden watering, and stock watering. At no time has it gone dry. In July of 1990 the well was pumped for 7 days continuously to assess it's potential. At the beginning of the test, 33 gallons per minute were measured at a water depth of 65 feet. (33 gpm was about the capacity of the pump.) At the end of 12 days, production had stabilized at 12 gallons per minute at a water depth of 150 feet. 12 Gallons per minute is equivalent to 17,280 gallons per day.

THE WELL WAS TESTED ON 5/24/00 IT STABILIZED AT 21.5 GPM AFTER 1 1/2 HOURS OF PUMPING

*[Handwritten signature]*  
10/18/00

George Hendry's personal residence is also served by the well proposed to serve this project. It is estimated that peak domestic and yard maintenance requirements are 1500 gallons per day. This combined with the 1475 gallon per day peak requirement of the winery is 2,975 gallons per day. Since the 17,280 gallon per day capacity of the well substantially exceeds the combined requirements of residence and winery, no conflict is foreseen.

The pump discharges into a closed, 15,000 gallon reservoir located approximately 100 feet above the proposed winery and removed from it by about 1200 feet. An existing 2.5 inch schedule 40 PVC pipe brings this water to George Hendry's residence. The proposed winery is adjacent to this residence. Static delivery pressure will be 43 psi. A pressure booster pump will be installed if required.

Parcel 120-120-031 has 30.42 vine acres of vineyard. Depending on the year some late season drip irrigation is used. Water for this purpose is supplied from a 14 acre foot irrigation pond. (see Plot Plan A) Water for this pond is diverted from Redwood creek under Division of Water Rights Application 24076, Permit 17107, License 13221. (Appendix D) Use of this water is limited to "frost protection" and "irrigation".

#### GROUND WATER INFORMATION

A report written by Professor N.L. Taliaferro details the general geologic conditions in the vicinity of Hendry Ranch. (Appendix E) The region east of Redwood Road, in which this project is located, is underlain by dense blue shale covered by 5 to 30 feet of Boomer series and Pleasanton Loam soils and light gravels. Due to the blue shale base, no reliable all year wells exist on parcel APN 035-120-031, APN 035-101-001, APN 035-101-002, APN 035-120-033, APN 035-101-003, and APN 035-101-008. Except for an abandoned irrigation well on parcel 035-101-001, there are no wells on these properties. The region west of Redwood road, in the vicinity of this project, rises steeply. It is underlain by inclined sandstone layers separated by gravel aquifers. (Appendix E) It is in this region, on parcel APN 035-120-030, that the well proposed to serve this project is located.

#### NEIGHBORS WELLS

In general parcels south and east of the parcels enumerated above are in the City of Napa and are connected to Napa City Water. Parcels north and west of these parcels are in the county and are not served by Napa City Water. Parcel APN 035-101-001, owned by Adele Dimick, is served by Napa City Water. On parcel 035-090--012, approximately 1,800 feet north of the well proposed to serve this project, are three wells, owned by G. Thomas and Susan J. Ridley. (Plot Plan A) According to G. Thomas (Tom) Ridley, two of these wells are marginal, the third, closest to Redwood Road, is used for domestic water and landscape maintenance. The water from the Ridley well contains carbonates while the water from the well proposed to serve this project is high in calcium and Iron. Therefore it's water is believed to derive from a different source.

P. O. BOX 24  
STATE LICENSED

N. F.  
**KEYT**

PHONE PET. 49F3

**MACHINE WELL DRILLER**  
COTATI, CALIFORNIA

G. W. Hendry, 1104 Redwood Road, Napa, California.

105 ft. deep      Log of Well.

July 23rd., 1940

Yellow Sand Stone	to	13 ft.
Blue Sand Stone	to	125 ft.
(Blue Hard) Sand Stone	to	155 ft.
Soft Sand Stone	to	165 ft.
(Hard Sand) Stone	to	185 ft.
Limestone	to	196 ft.

Cased with 10" O.D. P.E. Casing, 30.51 lbs. per ft.  
8 Joints Perforation on bottom, 4 rows around, cut  
14" apart.

First Water    39 ft.

Second Water   65 ft.

Water Level 14 ft. - Draw down 53 ft. at 2400  
gallons per hour.

LOG of PUMPING TEST

Start Pumping 3:20 P.M.  
 Pumping 60 G.P.M. Throughout Test  
 Water Level 12' 8"

Depth of Water from Top in Feet	Duration of Test in Minutes	Water Level at end of Test
12' 8"	20 Min.	50'
50'	35 "	65'
65'	25 "	71'
71'	5 "	71'

At 5:45 P.M. Pump rod broke. Apparently had arrived at point of flow into well 60 G.P.M. at 71 feet. Mr. Hendry was satisfied with the test and decided not to pump any longer.

BERGLUND TRACTOR & EQUIPMENT CO

BY: J. M. Swearingen

apa, California, July 29, 1940

THIS IS YOUR COPY OF THE LICENSE.  
A COPY IS BEING RECORDED WITH THE COUNTY RECORDER.



STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

**License for Diversion and Use of Water**

Page 1 of 4  
APPLICATION 24076

PERMIT 17107

LICENSE **13221**

**THIS IS TO CERTIFY, That**

George Orr Hendry  
3104 Redwood Road  
Napa, CA 94558

has made proof as of October 11, 1994 (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the waters of Redwood Creek in Napa County

tributary to Napa Creek thence Napa River

for the purpose of Irrigation and Frost Protection uses

under Permit 17107 of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from May 24, 1972 and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed fourteen (14) acre-feet per annum to be collected from January 1 to April 15 of each year. The maximum withdrawal in any one year shall not exceed 14 acre-feet.

The maximum rate of diversion to offstream storage shall not exceed 1 cubic foot per second.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(000051)

THE POINT OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:

North 2,300 feet and East 2,200 feet from SW corner of projected Section 31, T6N, R4W, MDB&M, being within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section 31.

THE PLACE OF STORAGE OF SUCH WATER IS LOCATED:

At offstream reservoir within SW $\frac{1}{4}$  of NE $\frac{1}{4}$ , NW $\frac{1}{4}$  of SE $\frac{1}{4}$ , NE $\frac{1}{4}$  of SW $\frac{1}{4}$ , and SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 31, T6N, R4W, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

15 acres within SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 31, T6N, R4W, MDB&M

6 acres within SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of projected Section 31, T6N, R4W, MDB&M

3 acres within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of projected Section 31, T6N, R4W, MDB&M

12 acres within NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of projected Section 31, T6N, R4W, MDB&M

2 acres within SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 31, T6N, R4W, MDB&M

37 acres within NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 31, T6N, R4W, MDB&M

10 acres within NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of projected Section 31, T6N, R4W, MDB&M

85 acres total, as shown on map on file with State Water Resources Control Board.

For the protection of fish and wildlife, licensee shall during the period: (a) from January 1 through February 29 bypass a minimum of 7 cubic feet per second and (b) from March 1 through April 15 bypass a minimum of 5 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount.

(0140060)

No water shall be diverted under this license unless licensee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the flows required by the conditions of this license. Said measuring device shall be properly maintained.

(0060062)

This license is conditioned upon full compliance with Sections 1601, 1603, and/or Section 6100 of the Fish and Game Code.

(0000063)

*Licensee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.*

*The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the 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.*

*This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

*Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.*

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: APRIL 22 1996

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED  
BY DAVID R. BERINGER

 Chief, Division of Water Rights

UNIVERSITY OF CALIFORNIA

DEPARTMENT OF GEOLOGICAL SCIENCES  
BERKELEY, CALIFORNIA

October 18, 1939

Professor George W Hendry  
University Farm  
Davis, California

Dear George:

This letter is simply a brief statement of the general geologic conditions in the vicinity of your ranch in Napa County, especially with regard to the possibility of developing an adequate supply of water.

For the purpose of discussion your ranch may be divided into two parts, namely the 60 acres lying west and southwest of the road and Redwood Creek and the 80 acres lying to the east of Redwood Creek. The entire ranch is underlain by shales and sandstones of Cretaceous age in part covered by a thin veneer of late stream gravels to the east of Redwood Creek. The Cretaceous beds have a northwesterly strike and dip toward the northeast, usually at rather high angles. There are very few sandstones interbedded with the dense dark blue-gray shales to the east of the road and Redwood Creek and I feel sure that it would be very inadvisable to drill a well for water in this part of your property because of the general lack of sandstones sufficiently porous to carry any appreciable quantity of water. The terrace gravels are too thin to yield any water.

The westerly 60 acres lies along the east front of a ridge which rises rather abruptly above Redwood Creek. This part of the property is underlain by Cretaceous shales with rather fre-

3. Professor George W Hendry

a great deal of runoff and because the sandstones are, in general, rather tight. However I believe that a supply of water, adequate for your present needs, could be obtained.

If there is anything in this letter which is not clear please let me know.

With best regards to you and your family, I am

Sincerely yours

*N. L. Taliaferro*

## 2. Professor George W Hendry

quent interbeds of sandstone which dip northeast at 40 to 60 degrees, probably averaging between 45 and 50 degrees. Some of these sandstones are rather dense and well cemented, even at the surface, and probably would not carry any considerable quantity of water. Others, however, seem to be rather porous, at least at the surface, and should act as water bearers. This is the only part of the ranch on which an adequate supply of water could be obtained.

The springs visited on your ranch and the immediately adjacent properties all appear to come out of sandstones interbedded with the dense shales. The water comes out at the surface because both downward and upward movement, other than in the sandstones, is stopped by the impervious shales with which the sandstones are interbedded.

I believe that some water could be obtained almost anywhere along the lower part of this ridge. I believe that the most likely, and certainly the most accessible places, would be a short distance up the small canyon immediately west of your present well or near the southwest corner of your property, somewhere east of the outcrop of the glauconitic sandstone.

I believe that an adequate supply of water could be obtained by a well 300 to 400 feet deep which would penetrate several sandstones. A careful log should be kept and the casing perforated opposite each sandstone encountered. I do not believe that a large amount of water could be obtained because the ridge near the western line of your property is low and does not afford

Test of Hendry Ranch Well

Date 5/24/00

Pump Grainger 4P865

Pump Inlet 182'

Horse Power 1.5

Capacity 27gpm @ 105' lift  
20gpm @ 160' lift

Reservoir 272" x 152"  
rectangular tank  
(179 gal/in)

Operator Mike Hendry

Time	water height (in reservoir) (inches)	gallons	galons increase	gpm	depth to water (in well) (feet)
2:15					
2:45	8.25	1477			105
3:00	10.38	1857	380	25.4	128
3:15	12.50	2238	380	25.4	149
3:30	14.38	2573	336	22.4	154
3:45	16.38	2931	358	23.9	161
4:00	17.88	3200	269	17.9	161

depth to water stabalized so test was stopped

ENDORSED

PETTIT & MARTIN  
STEVEN G. MARGOLIN  
101 California Street, 35th Floor  
San Francisco, California 94111  
Telephone: (415) 434-4

FILED MAR 27 1992

Attorneys for Petitioner  
George Orr Hendry

THIS is a true copy of the record. If it bears the seal, imprinted in purple ink, the date of issuance and an original signature.

Dated 3-27-92

Janice F. Norton, Court Executive  
Office Napa County, California



JANICE F. NORTON  
COURT EXECUTIVE OFFICER  
J. MILES

*[Signature]*  
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF NAPA

In the matter of the  
ESTATE OF  
MARGARET MUNN HENDRY,  
Deceased.

No. 23785

ORDER AUTHORIZING PAYMENT  
OF STATUTORY ATTORNEYS'  
FEES AND FOR FINAL  
DISTRIBUTION ON WAIVER  
OF ACCOUNT

HEARING DATE:  
MARCH 20, 1992

Petitioner, George Orr Hendry, Executor of the Will of  
Margaret Munn Hendry, deceased, having filed his PETITION FOR  
PAYMENT OF STATUTORY ATTORNEYS' FEES AND FOR FINAL DISTRIBUTION  
ON WAIVER OF ACCOUNT, and the same coming on regularly to be  
heard this day,

THE COURT FINDS:

1. Notice of Hearing

Notice of hearing has been given as required  
by law.

2. Date of Death.

Decedent died testate on April 8, 1991, a

1 HENDRY, of record in book 218 of Official Records,  
2 Page 464, Napa County Records: running thence along  
3 the southwestern line of said 140.54 acre tract 2,038  
4 feet, more or less, to the most western corner of said  
5 140.54 acre tract; thence along the northwestern line  
6 of said 140.54 acre tract 848 feet more or less to the  
7 centerline of Redwood Road; thence southeasterly along  
8 the centerline of Redwood Road as it exists on  
9 August 1, 1972, 2,025 feet more or less, to the  
10 southeastern line of said 140.54 acre tract; thence  
11 southwesterly along said southeastern line of the  
12 140.54 acre tract 839 feet more or less to the point  
13 of commencement.

8 Excepting therefrom the .73 acre parcel of land  
9 described in the deed to the City of Napa of record in  
10 Book 626 of Official Records, Page 688, Napa County  
11 Records.

10 Containing 39.78 acres of land, more or less.

11 APN 035-120-030

12  In further compliance with Article Fourth,  
13 paragraph A, to George Orr Hendry the right to use any and all  
14 water on the real property given to Andrew Munn Hendry, together  
15 with any and all water improvements that George Orr Hendry may  
16 construct on said property, for any use which George Orr Hendry  
17 may in his absolute discretion determine, and the complete right  
18 of entry to said property appropriate for the enjoyment of said  
19 use.

20 In compliance with Article Fifth of decedent's  
21 Will, the residue of decedent's estate, after payment of any  
22 expenses or costs of administration, including but not limited  
23 to the assets set forth below, to Andrew Munn Hendry:

24 Balance, if any, in C/A #00316-02155  
25 Bank of America  
26 Napa, California  
27 (Current balance is approximately \$30,000, most  
28 of which will be expended in payment of  
attorneys' fees, accountants' fees and closing  
costs of administration);

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1,350 shares Value Line Income Fund;  
877 shares Putnam Investors Fund;  
2,312 shares Affiliated Fund;  
400 shares Portland General Electric;  
50 shares Bank of America;

Any additional dividend, shares or interest accrued since the date of death; and

Any other assets, whether now known or to be discovered.

Dated: 3/20/92

W. SCOTT SNOWDEN  
Judge of the Superior Court

6834v



# 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: 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."

**EXHIBIT 2**

## **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=#](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... E17-00513 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

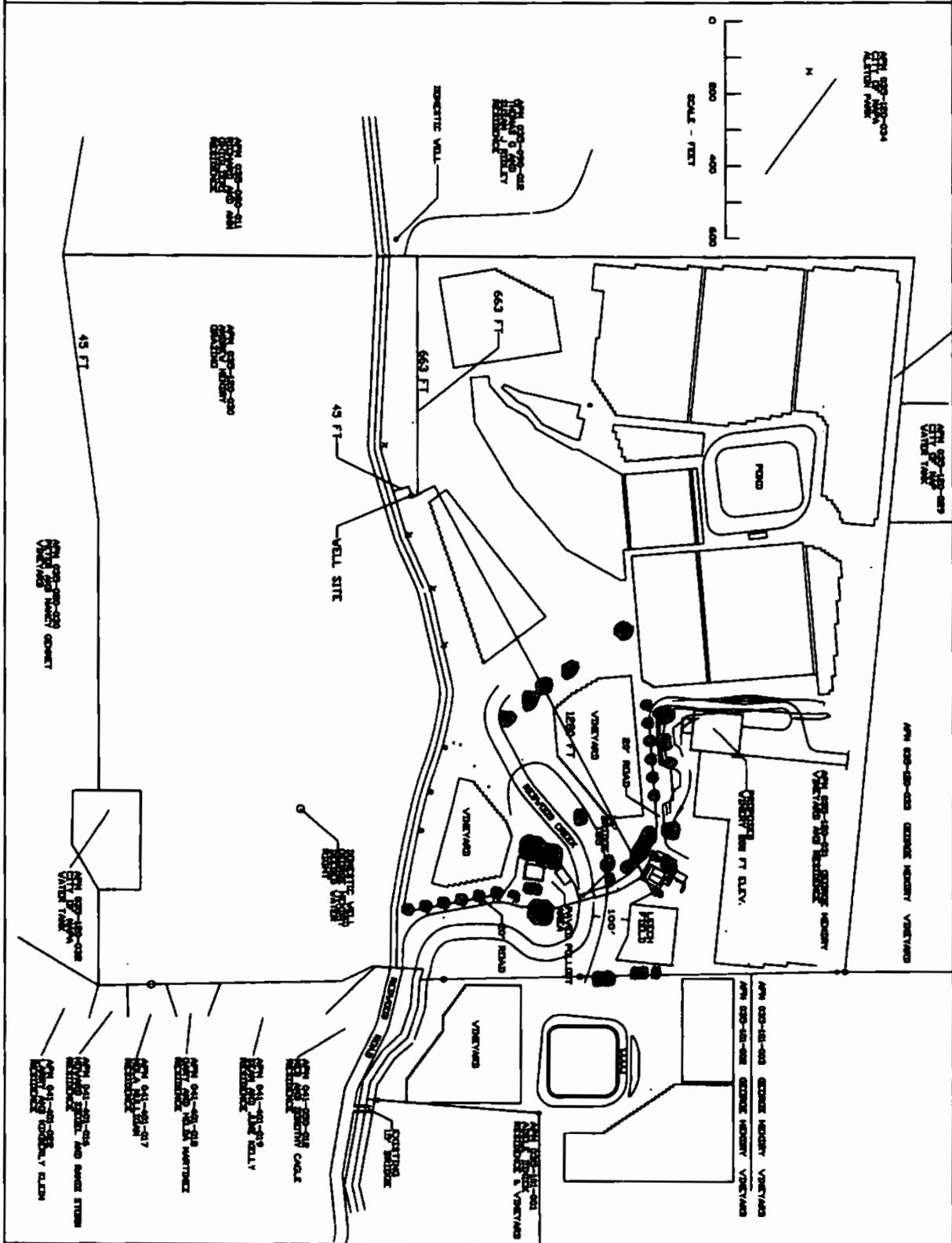
A SCALED MAP OF THE WELL LOCATION SHALL BE ATTACHED TO THIS APPLICATION. THE MAP SHALL INCLUDE THE DISTANCE FROM THE WELL TO PROPERTY LINES, SEWAGE DISPOSAL SYSTEMS, STRUCTURES, ETC. AND SHALL INCLUDE ALL OTHER PERTINENT INFORMATION SPECIFIC TO THIS WELL.

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

HENDRY RANCH WINERY - GEORGE O. HENDRY  
PLOT PLAN A  
APN 035-120-031 DATE OF DRAWING 8/29/17



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**

<b>Registration Number</b>	<b>Certificate Number</b>	<b>Registration Primary Owner</b>	<b>Expiration Date</b>
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
<b><u>Pump</u></b> North 1,879,117 feet and East 6,462,537 feet	<b>NE ¼ of SW ¼</b>	<b>31*</b>	<b>6N</b>	<b>4W</b>	<b>MD</b>

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
<b><u>Offstream Pit Reservoir</u></b> North 1,879,639 feet and East 6,462,804 feet	<b>SW ¼ of SE ¼</b>	<b>31*</b>	<b>6N</b>	<b>4W</b>	<b>MD</b>

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 <sup>1</sup> / <sub>4</sub> of NW <sup>1</sup> / <sub>4</sub>	31*	6N	4W	MD	7
	SW <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	31*	6N	4W	MD	15
	SE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	31*	6N	4W	MD	16
	NE <sup>1</sup> / <sub>4</sub> of SW <sup>1</sup> / <sub>4</sub>	31*	6N	4W	MD	6
	NW <sup>1</sup> / <sub>4</sub> of SE <sup>1</sup> / <sub>4</sub>	31*	6N	4W	MD	27
	NE <sup>1</sup> / <sub>4</sub> of SE <sup>1</sup> / <sub>4</sub>	31*	6N	4W	MD	20
	SW <sup>1</sup> / <sub>4</sub> of SE <sup>1</sup> / <sub>4</sub>	31*	6N	4W	MD	14
	SE <sup>1</sup> / <sub>4</sub> of SE <sup>1</sup> / <sub>4</sub>	31*	6N	4W	MD	19
	SW <sup>1</sup> / <sub>4</sub> of SW <sup>1</sup> / <sub>4</sub>	32*	6N	4W	MD	2
					<b>Total</b>	<b>126</b>

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.

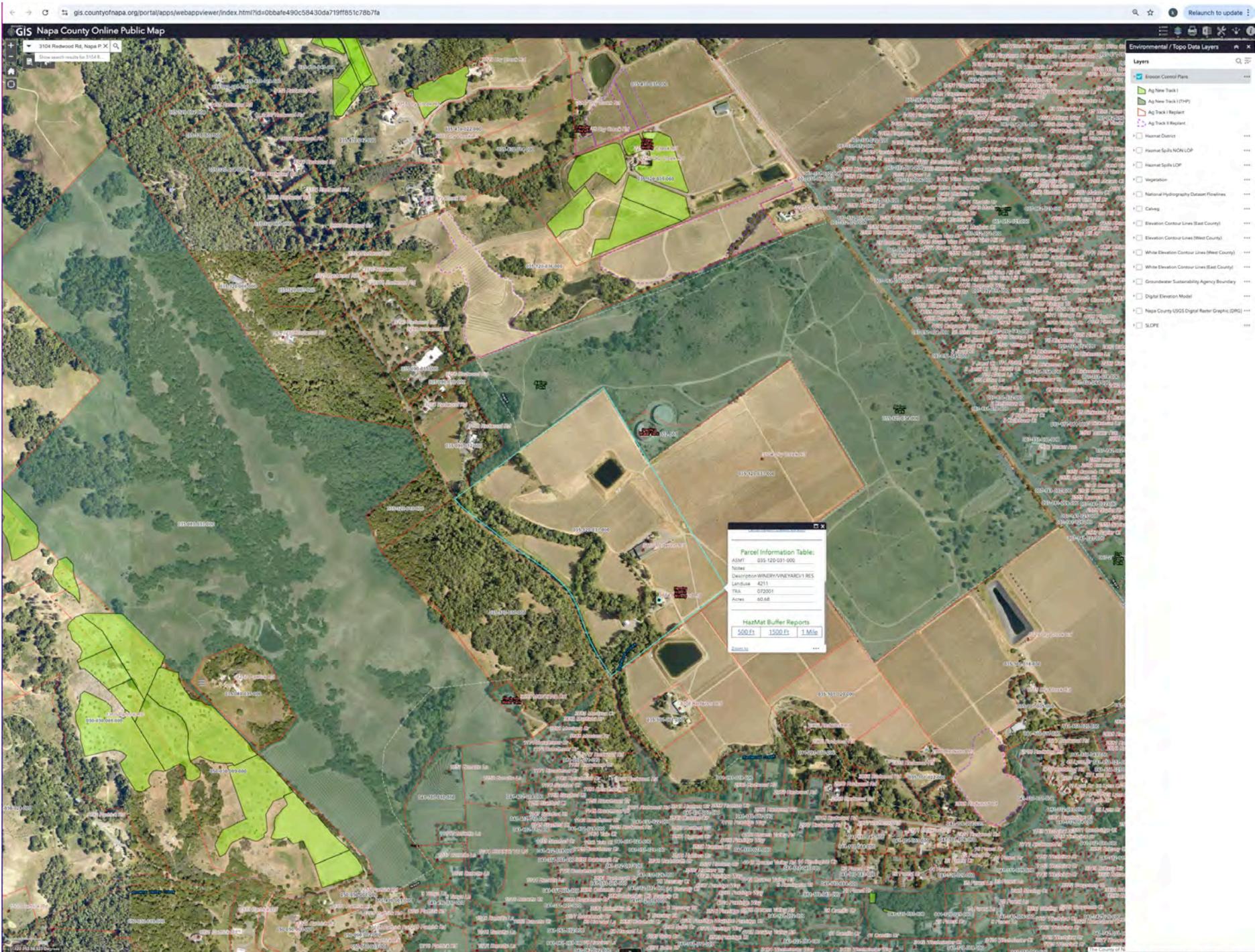
Right holder shall maintain a record of all diversions under this right that includes the date, time, rate of diversion at time intervals of one hour or less, and the amount of water diverted. The records shall be submitted with the renewal report or whenever requested by the Division of Water Rights.

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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A Commitment to Service

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1195 Third Street, Suite 210  
Napa, CA 94559  
www.countyofnapa.org

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](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.**

1195 Third Street, Suite 301  
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Wendy M. Dau  
Ryan K. FitzGerald  
McKayla McMahon

**NAPA COUNTY  
OFFICE OF COUNTY COUNSEL**

**Application of Public Trust Doctrine to Projects Dependent on Groundwater**

To:	Brian D. Bordona, Director PBES	From:	Laura J. Anderson, Deputy County Counsel Chris R. Y. Apallas, Deputy County Counsel
Date:	January 10, 2024	Re:	Public Trust Doctrine and Water Availability Analysis Reviews

**I. Summary.**

Under public trust doctrine (the Doctrine), Napa County has an affirmative duty to take the public trust into account in the planning and allocation of trust resources, and to protect public trust uses whenever feasible. The Doctrine applies if extraction of groundwater adversely impacts a navigable waterway to which the public trust doctrine applies. In Napa County, the Napa River is the navigable waterway protected by the public trust doctrine. An analysis of impacts to trust resources is triggered by whether the groundwater extraction (whether new or the continued extraction or a reduction over existing extraction levels) is hydrologically connected to a navigable waterway or non-navigable tributaries of those waters. The analysis begins and ends with whether the proposed project harms a navigable waterway and thereby violates the public trust.

To comply with longstanding California Supreme Court and Court of Appeal holdings, Napa County has determined that projects extracting water from wells within 1,500 feet of defined Significant Streams must submit a Tier 3 or equivalent analysis for the County to discharge its legal duties under public trust doctrine, whether the proposed project is proposing to extract more or less groundwater or remain at status quo (e.g., no net increase). Although there is no single method to evaluate impacts to the Napa River, County’s groundwater consultants, Luhdorff & Scalmanini Consulting Engineers (LSCE), have determined that complying with the Tier 3 analysis from the County’s 2015 Water Availability Analysis Guidance Document (the 2015 WAA Guidance Document) satisfies its legal obligations. Therefore, PBES cannot find applications which use a project well within 1,500 feet of a Significant Stream complete unless accompanied by a Tier 3 analysis or an equivalent analysis (see options below).

## **II. Background.**

The Doctrine dates back to ancient Roman and English common law and has been part of California law since the State's admission to the Union in 1850.<sup>1</sup> The Doctrine is borne out of the concept "that the public rights of commerce, navigation, fishery and recreation are so intrinsically important and vital to free citizens that their unfettered availability to all is essential in a democratic society."<sup>2</sup> The Doctrine is an affirmation of state power to use public property for public purposes, and the state's duty to protect the people's common heritage of streams, lakes, marshlands and tidelands.<sup>3</sup>

"Under the public trust doctrine, the state has title as trustee to all tidelands and navigable lakes and streams and is charged with preserving these waterways for navigation, commerce, and fishing, as well as for scientific study, recreation, and as open space and habitat for birds and marine life."<sup>4</sup> In Napa County, the Napa River is the only navigable waterway to which the Doctrine applies. Napa County has a duty under the Doctrine to evaluate projects which may cause harm to public trust resources. The duty has existed since 1850 but gained renewed significance in 1983 when the California Supreme Court decided National Audubon Society v. Superior Court (1983) 33 Cal.3d 419.

## **III. Application to Groundwater.**

The Doctrine is only implicated by groundwater use if the groundwater in question is hydrologically interconnected to the Napa River. A public trust analysis begins and ends with whether the project allegedly harms a navigable waterway.<sup>5</sup> The Doctrine applies only if the project approval "will result in extraction of groundwater adversely affecting the public's right to use [a navigable waterway] for trust purposes, [then] the County must take the public trust into consideration and protect public trust uses when feasible."<sup>6</sup> The County's obligation is to consider and give due regard but not necessarily to prohibit uses or to fully mitigate impacts as required by CEQA.

The County's 2015 WAA Guidance Document was adopted by the Board of Supervisors on May 12, 2015. It contains three tiers of groundwater review with which groundwater-using projects must comply. A Tier 3 considers groundwater and surface water interaction if the groundwater comes from a well within 1,500 feet of a "Significant Stream" which the County has determined has a high probability of being hydrologically connected to the Napa River, a "navigable waterway" for public trust purposes. A Tier 3 review is the County's adopted method for complying with its duties under the Doctrine. Alternatively, applicants may forego a Tier 3 analysis under the 2015 WAA Guidance Document by assuming connectivity and proposing modifications to the project well(s) to reduce impacts (hereafter referred to as an equivalent analysis).

Any project which is using groundwater from a well within 1,500 feet of a Significant Stream must complete a Tier 3 or an equivalent analysis regardless of whether more water is being withdrawn from the project well or if there is no net increase or a reduction in water extraction because the County's duties under the

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<sup>1</sup> Environmental Law Foundation v. State Water Resources Control Bd. (2018) 26 Cal.App.5th 844, 856; World Business Academy v. California State Lands Commission (2018) 24 Cal.App.5th 476, 508.

<sup>2</sup> Zack's Inc. v. City of Sausalito (2008) 165 Cal.App.4th 1163, 1175.

<sup>3</sup> National Audubon Society v. Superior Court, (1983) 33 Cal.3d 419, 441.

<sup>4</sup> Santa Teresa Citizen Action Group v. City of San Jose (2003) 114 Cal.App.4th 689, 709 [citing National Audubon].

<sup>5</sup> Environmental Law Foundation, 26 Cal.App.5th at 859.

<sup>6</sup> (Id. at 85 1, 853-54.)

Doctrine are ongoing.<sup>7</sup> An adequate Tier 3 or an equivalent analysis will allow County to discharge its duty and review a legally defensible project. Applicants can satisfy the Tier 3 or an equivalent analysis in one of the following ways:

- Retain a qualified professional to analyze whether connectivity exists and if no connectivity exists, the Tier 3 analysis is complete and no further analysis is needed.
- Retain a qualified professional to analyze whether connectivity exists and if there is some degree of connectivity, upon demonstrating compliance with Tables 3, 4 and 5 of the WAA Guidance, the Tier 3 analysis is complete.
- Retain a qualified professional to prepare an equivalent analysis. This equivalent analysis would forego the connectivity analysis, assume connectivity exists, and propose modifications to the project well(s) to reduce impacts. Such modifications may include, but not be limited to, changes to the location of the well (e.g., more than 1,500 feet from a Significant Stream), to well construction, well operations (e.g., duration and timing of pumping), and/or a reduction in the volume of groundwater pumped in accordance with the Groundwater Sustainability Plan (GSP), as determined by a qualified professional.

Please see updated well permitting table which has been revised to clearly reflect the Doctrine's requirement and applicant options given the evolution of common law and the decision from 2018 in Environmental Law Foundation v. State Water Resources Control Bd. (2018) 26 Cal.App.5th 844.

File: 2000.170/Doc. No. 107871

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<sup>7</sup> Unless the applicant can point to some documentation in the record that it has performed some level of review and consideration of trust resource impacts during a prior project's permitting.

## Interim Napa County Well Permit Standards and WAA Requirements - January 2024

WAA Tier 1: Groundwater Use for Napa County					WAA Tier 2: Well & Spring Interference	WAA Tier 3: Groundwater / Surface Water Interaction	
Napa County new regulatory requirements for the a Tier 1 analysis are pursuant to CEQA, Napa County's Water Availability Analysis (WAA) Guidelines, dated May 12, 2015, Napa County's Drought Emergency, Governor's Executive Order N-7-22/N-3-23, Napa Valley Subbasin Groundwater Sustainability Plan, Napa County Resolution 2022-178, Napa County Code Groundwater Conservation Ordinance - Chapter 13.15, recent court decisions, and pending State-litigation.					Tier 2 analysis is governed by the WAA and the Governor's Executive Order N-7-22/N-3-23. Tier 2 analysis must be performed by licensed professional retained by applicant or through County services and paid for by applicant.	Tier 3 analysis is governed by CEQA, the WAA, and the Public Trust Doctrine, and County Resolution 2022-178. Tier 3 analysis must be performed by licensed professional retained by applicant or through County services and paid for by applicant.	
Well Type	Groundwater Use	Inside Napa Valley Subbasin	Inside Napa County Groundwater Deficient Area (MST)	Outside Napa Valley Subbasin & MST	Less than 500-feet to neighboring well(s) and/or 1,500-feet to a natural spring(s)	Less than 1,500- feet to a Significant Stream <u>Inside</u> the Napa River Watershed	Less than 1,500- feet to a Significant Stream <u>Outside</u> the Napa River Watershed
NEW WELL	Domestic - Individual User	0.3 AF/acre <sup>2,3</sup>	0.6 AF/year	NA <sup>1</sup>	NA <sup>1,7</sup>	Tier 3 Required	NA <sup>1,7</sup>
	Commercial, Industrial, or Agricultural	0.3 AF/acre <sup>3</sup>	No Net Increase and 0.3 AF/acre	Parcel Specific Recharge <sup>4</sup>	Tier 2 Required	Tier 3 Required	Tier 3 Required
	Public Water System	0.3 AF/acre <sup>3</sup>	No Net Increase and 0.3 AF/acre	Parcel Specific Recharge <sup>4</sup>	NA <sup>7</sup>	Tier 3 Required	NA <sup>7</sup>
REPLACEMENT WELL	Domestic - Individual User	0.3 AF/acre <sup>3</sup>	No Net Increase	Parcel Specific Recharge <sup>1</sup>	NA <sup>1,7</sup>	Tier 3 Required <sup>6</sup>	NA <sup>1,7</sup>
	Commercial, Industrial, or Agricultural	0.3 AF/acre <sup>3</sup>	No Net Increase	Parcel Specific Recharge <sup>4</sup>	Tier 2 Required <sup>5</sup>	Tier 3 Required <sup>6</sup>	Tier 3 Required <sup>5</sup>
	Public Water System	0.3 AF/acre <sup>3</sup>	No Net Increase	Parcel Specific Recharge <sup>4</sup>	NA <sup>7</sup>	Tier 3 Required <sup>6</sup>	Tier 3 Required <sup>5</sup>
EXISTING WELL	New, Altered or Increased Water Use for Discretionary Project	0.3 AF/acre <sup>3</sup>	No Net Increase and 0.3 AF/acre	Parcel Specific Recharge <sup>4</sup>	Tier 2 Required <sup>8</sup>	Tier 3 Required <sup>6</sup>	Tier 3 Required <sup>8</sup>

NA = Not Applicable

<sup>1</sup> Assumes less than 2-acre-feet per year of groundwater for individual domestic users.

<sup>2</sup> Requirement can be met by submitting a "Water Use Declaration" that reflects the allowed water usage.

<sup>3</sup> Where existing groundwater use exceeds the 0.3 ac-ft/ac, No Net Increase in Groundwater use is required (Subject to change by the GSA), and shall be demonstrated through a water demand analysis.

<sup>4</sup> Where existing groundwater use exceeds the Parcel Specific Recharge, No Net Increase or reduction in Groundwater use is required, and shall be demonstrated through a water demand analysis.

<sup>5</sup> The analysis is not required when the replacement well is located further away from the neighboring well, natural spring, or Significant Stream and there is no increase in groundwater use.

<sup>6</sup> The analysis is not required if modifications to the location, construction, or operations of the project well(s) are made to reduce harm relative to current conditions based on the conclusions by a qualified professional.

<sup>7</sup> Unless associated with a Discretionary Project; and every effort should be made to locate the well as far as possible from neighboring wells and springs.

<sup>8</sup> The analysis is only required for an increase in groundwater use.

**Source:**

*Historical Distribution and Current Status of Steelhead (Oncorhynchus mykiss), Coho Salmon (O. kisutch), and Chinook Salmon (O. tshawytscha) in Streams of the San Francisco Estuary, California*  
October 2003  
Robert A. Leidy  
U. S. Environmental Protection Agency, Region 9  
San Francisco, California 94105  
Gordon S. Becker  
Brett N. Harvey  
Center for Ecosystem Management and Restoration  
Oakland, California 94611

**Redwood Creek**

Redwood Creek is tributary to Napa Creek. It consists of approximately 13 miles of channel draining about 15 square miles.

In November 1958, DFG visually surveyed easily accessible reaches of Redwood Creek from the confluence with the Napa River to the headwaters. *Oncorhynchus mykiss* (75-100 mm average length) was found to be fairly common in the reach that sustained perennial flow, beginning just upstream of the junction of Browns Valley and Redwood roads and continuing upstream 3.5 miles to a natural falls. As a result, this reach of Redwood Creek was considered to be an excellent nursery ground for juvenile steelhead (Elwell 1958k).

In April 1965, the Napa Water Department inadvertently discharged chlorine into Redwood Creek, killing more than 10,000 fingerling steelhead in a 1.5 mile reach (Greenwald 1965a). In June 1966, DFG visually surveyed portions of Redwood Creek accessible by automobile. *Oncorhynchus mykiss* were found at a density of 250-330 per 30 meters upstream of the Redwood and Mt. Veeder roads junction. Most of the fish sighted were YOY, with only a very few larger than 75 mm FL. Upstream of the confluence with Pickle Canyon Creek, YOY and other *O. mykiss* up to 230 mm in length were observed at an estimated density of 70-100 per 30 meters. Two five-pound steelhead also were observed in the upper reach (Hicks and McCurdy 1966b). According to DFG, natural propagation appeared to be good throughout the section surveyed (Hicks and McCurdy 1966b).

In June 1967, DFG surveyed Redwood Creek upstream of the confluence of Redwood and Pickle Canyon creeks. *Oncorhynchus mykiss* density in two miles of the creek was estimated on average to be 25 per 30 meters. The greatest densities occurred immediately upstream of the Pickle Canyon Creek confluence, where *O. mykiss* density was estimated at 50 per 30 meters. Fish captured ranged between 25 and 75 mm in length (Thompson 1967b). Using population densities from earlier surveys, DFG estimated that 24,200 and 8,600 juvenile steelhead used 4.25 miles of Redwood Creek for "nursery purposes" in 1966 and 1967, respectively (Jones 1967). In October 1969, DFG electrofished Redwood Creek one mile northwest of Mont La Salle School, near the end of Redwood Road. Of the 70 *O. mykiss* collected, 68 had fork lengths ranging from 38-76 mm (Anderson 1969d). A 112 mm and a 132 mm steelhead also were noted. Density was estimated at 75 per 30 meters. Based on the survey results, DFG estimated the 1969

standing crop of steelhead juveniles to be between 21,400 and 29,700 fish in Redwood Creek and its tributaries (Anderson 1969d).

In April 1977, DFG visually surveyed Redwood Creek from the mouth to near the headwaters. A small flowing reach near the mouth did not support live *O. mykiss*, although a dead adult steelhead was found at the upstream end of this reach. From five miles upstream of the mouth to the headwaters, *O. mykiss* (100–180 mm) were found at an estimated density of 10 per 30 meters (Gillespie and Rowser 1977).

In October and November 1984, DFG visually surveyed Redwood Creek from the Redwood Road crossing near Dry Creek Road upstream to the end of Redwood Road. *Oncorhynchus mykiss* (50–125 mm) was observed most commonly in the main canyon upstream of the Mt. Veeder Road crossing (Emig 1984c).

In November 1985, DFG electrofished two Redwood Creek sites, one immediately downstream, the other extending 0.25 miles upstream from the intersection of Redwood and Mount Veeder roads. Two juvenile steelhead were caught, one 91 mm in length and the other 92 mm in length (Gray 1986b).

In June and July 1987, DFG visually surveyed Redwood Creek from Castle Rock to the mouth. *Oncorhynchus mykiss* was observed throughout the creek, with various age classes in the upper portion but very few YOY. In the lower part of the creek, most of the trout were YOY (Montoya 1987c). *Oncorhynchus mykiss* was estimated to average 65 mm in length (Montoya 1987c). In January 1988, a spawned out *O. tshawatscha* carcass was found 100 yards upstream from West Pueblo Avenue, and a partially-eaten chinook was found 200 yards further upstream (Vestal 1988).

Leidy sampled 30 meter reaches at three Napa River locations in January 1994. About 0.3 miles upstream from Castle Rock, he caught 13 *O. mykiss* (50-132 mm FL) and two larger *O. mykiss* (245, 260 mm) (Leidy 2002). The lack of spotting on the sides and the condition of the anal and pectoral fins suggested anadromy in the larger fish. At Castle Rock, Leidy caught five *O. mykiss* (57-93 mm) and observed six others reflecting two size classes (4: 60-100 mm; 2: 125-150 mm). The most downstream station, immediately downstream of the Redwood Road Bridge, produced three *O. mykiss* (104, 119, 122 mm).

Ecotrust and FONR carried out surveys in tributaries of the Napa River system in July and August 2001. Relative density of steelhead was noted between 1 and 3, with 3 indicating greater than one individual per square meter. Of 21 Redwood Creek reaches, eight were found to have *O. mykiss* at density level "1," while five reaches had density level "2" and three reaches had level "3" (Ecotrust and FONR 2001). Follow-up surveys were performed between June and September 2002. *Oncorhynchus mykiss* were found in numerous Redwood Creek reaches, including two reaches at density level "2" (Ecotrust and FONR 2002).

# SITE PLANS

## Site Plan Requirements:

A Site Plan gives a clear view of the existing development on the project property. It shows all existing property improvements and the proposed improvements you are applying for with your permit application. A property improvement includes dwellings, structures, tanks, generators, septic systems, wells, bridges, driveways, turnarounds, etc. A site plan can also show the location and size of sources of electrical, gas and utility trenching if those features are part of your project.

The Site Plan gives our divisions the information needed to ensure that a proposed structure/improvement or alteration or addition to a structure/improvement on your property will be safe, conform to setbacks (distance from property line, center of road, sanitary systems and water sources, etc.). It ensures that any natural elements of the property such as creeks and streams are safe from the negative effects of proposed construction. It also assists Fire and Engineering with the details of access routes to your property in the event of an emergency.

### Aerial photographs will not be accepted as Site Plans

The Site Plan page will be consistent with the size of plans at a minimum of 11 x 17" (**with legible, easy to read font**). Site Plans will not be accepted unless they are a part of the plans, unless it is directed otherwise. Plans must contain a Title Page, Site Plan and project drawings and or details.

### What to Include on your Site Plan:

- (A) **Title Block** shall include the following:
- |                                     |  |
|-------------------------------------|--|
| *Parcel number and property address | *Draftsman (may be yourself), Architect or Engineer and contact information. |
| *Owner name and address             | *Date the plans were drawn and/or amended                                    |
- (B) **Property line boundaries** The Site Plan must be a drawing of the **entire** project property. As some properties are large, it may be difficult to include the details that are needed. We can accept two or more drawings with one of the entire property and one or more of the developed areas drawn as an enlargement. Mark the location of the enlarged developed areas with a square/s on the entire property drawing. Please include a North Arrow.
- (C) **Label existing and proposed structures and uses** Provide dimensions and distance between existing and proposed structures/development. Show all property improvements, such as buildings/dwellings/decks, storage tanks of any kind (including propane tanks), etc. Setbacks from these improvements will enable our divisions to establish safe distance from possible safety/sanitary issues.
- Be sure to label all existing (E) and proposed (P) improvements, including area of addition, area of remodel, new structure, etc.
- (D) **Setbacks** Provide the setbacks that we need to review your submittal for permit. Setbacks are the distance between existing and proposed property improvements. They are the distance of your project from property lines, septic systems, wells, tanks, structures, dwellings (and in case of generator exhaust, the distance from the nearest opening on the structure closest to the installation). Indicate the distance from the center of road for all improvements.
- (E) **Roads/Driveways/Turnarounds** Show all driveways, access roads (including Public Roads that border the project property), turnarounds. Our Fire and Engineering Divisions will establish if your proposed project may interfere with emergency access to the project property.
- (F) **Identify Natural Features** such as creeks as there are creek setbacks that must be maintained to protect the natural feature from damage and prevent possible flood issues. Identify required creek setback distance pursuant to County Code 18.108.025.

# Site Plan Requirements (Continued):

**G Existing and proposed water, wastewater, and stormwater treatment systems** must be shown and include:

- Wells on the property
- Wells within 100 feet of the project property
- Septic system tanks and sewer line location
- Leach fields (existing and proposed)
- 100% reserve area (existing and proposed). This is the area that will be used in the event of a septic system failure.
- Storage tanks (Water, grey-water, waste storage)
- Label distances between well(s), septic tank, leach field, and creek, streams, rivers or lakes, if applicable

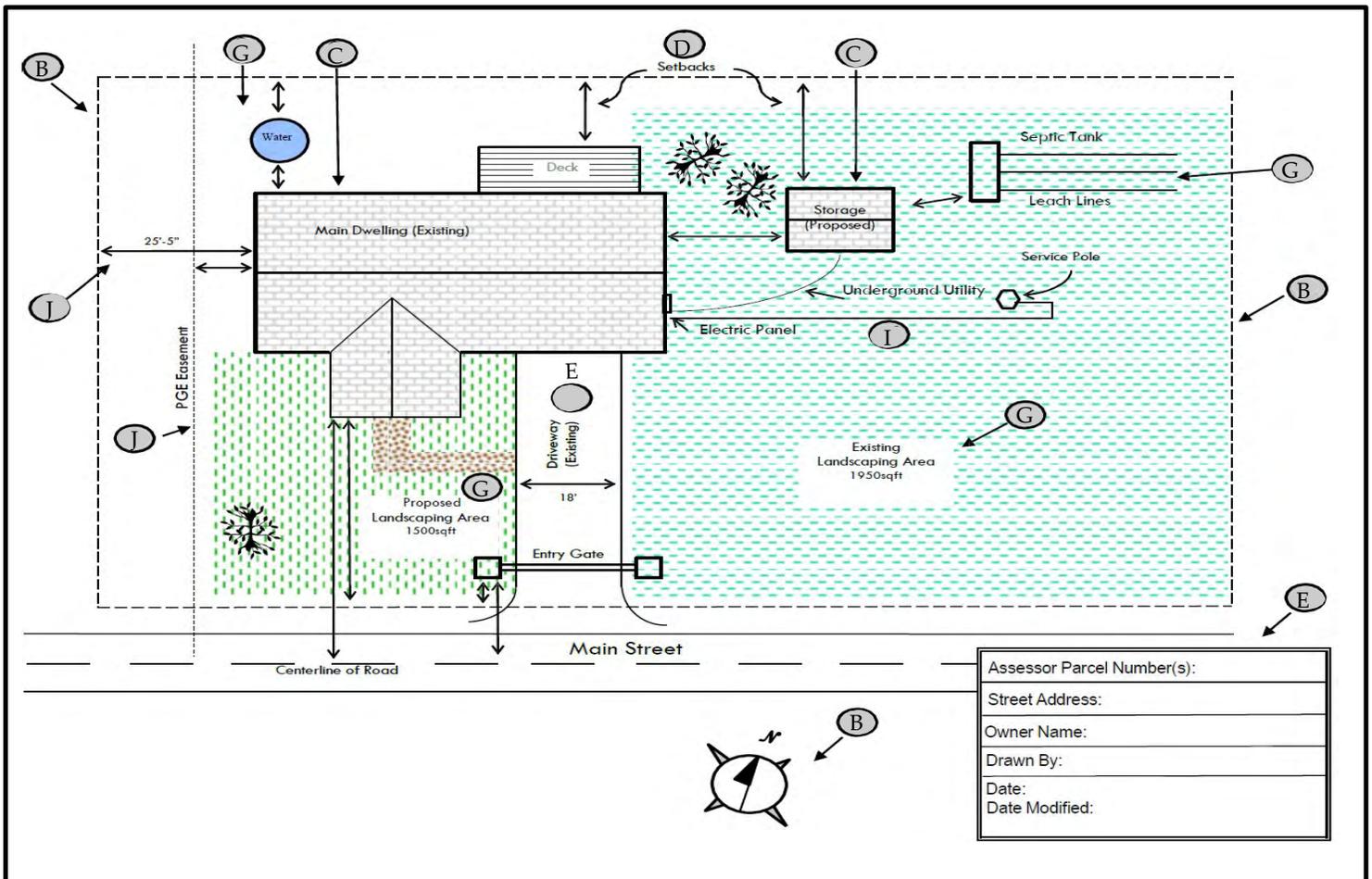
**H Flood Zone** If the project property is in a Special Flood Hazard Area (SFHA) or a portion thereof, illustrate the SFHA boundary on the site plan. To determine this visit the FEMA website at <https://msc.fema.gov/portal/home>. Enter your address and click on Search.

**I Utilities** Show utility lines or service points of connection (water, sewer, electrical, gas, cable). Indicate work areas under overhead lines or above buried lines. If a utility line crosses over a structure/improvement, show clearance above the structure/improvement.

**J Easements** Show any easements that exist. Indicate the location of all easements (water, sewer, roadways, open space, etc.)

**K Fire** Locations of fire water storage tanks, fire hydrants and Fire Department Connections/Post Indicator Valves (FDC's/PIV's.) Contact CalFire for additional information.

Example





A Tradition of Stewardship  
A Commitment to Service

Planning, Building & Environmental Services

1195 Third Street, Suite 210  
Napa, CA 94559  
www.countyofnapa.org

**Brian D. Bordona**  
Director

## USE PERMITS & MODIFICATIONS

### FAQ

#### Planning, Building and Environmental Services Department

\*\*\*DISCLAIMER: A number of code sections are referenced and quoted in this document. When going through the Use Permit process, please consult a given code section in its entirety, and not merely an isolated excerpt.\*\*\*

#### What is a Use Permit?

While Napa County allows a number of uses “by right” in specific zoning districts county-wide (including, for instance, single-family residences and many agricultural structures), many uses in most zoning districts require a Use Permit. Use Permits are discretionary and are reviewed and acted on by either the Zoning Administrator or the Napa County Planning Commission and all Use Permits include a scope of the approved use, as well as conditions imposed by the County on that approved use. The scope of a Use Permit is a highly detailed description of the permitted use, including all of the buildings, facilities, and infrastructure which will be a part of the operation. These detailed descriptions allow the Planning Commission and Zoning Administrator to ensure consistency with applicable zoning and General Plan requirements, as well as to meet the County’s obligations under the California Environmental Quality Act (CEQA); they also serve a vital record-keeping function allowing the County to maintain up-to-date information about the activities occurring within its boundaries and to better plan for future development. For example, a Winery Use Permit would include its allowed annual wine production, visitation and marketing activities, the size of its visitor parking lot, and the square footage of its tasting room, production areas, and many other items. Two additional Winery Use Permit process types were added in 2020 – Small Winery Exemption (for existing wineries with a Certificate of Exemption) and in 2022 – Micro Winery (for small family farm wineries). Similarly, a Use Permit for lodging, a church, or an office building might describe the number of visitor rooms, church service attendance and hours, other on-site activities, the building size, the number of parking spaces, and building’s architectural details. To implement the County’s Conservation Regulations, a Use Permit may include the granting of an exception to a stream or an ephemeral/intermittent stream setback or slope regulation. It is the Use Permit scope, along with any conditions of approval adopted by the Planning Commission or Zoning Administrator, which actually constitute the entitlements granted through the formal Use Permit.

- **Types of Use Permits:**

- Winery Uses

- New Winery [NCC Chapter 18.124]:

- To establish a new winery of any size with employees, tours and tastings and marketing activities based upon review of infrastructure capacity limitations such as groundwater, wastewater, and traffic, etc.
- Subject to CEQA review.
- Subject to a public hearing and authorized by the Planning Commission.

- Small Winery Use Permit [NCC Section 18.10.020 (A)(10)]:

- Only applicable to those wineries that have an active Certificate of Exemption granted prior to 1990, subject to specific thresholds.
- Subject to CEQA review.
- Subject to a public hearing and authorized by the Zoning Administrator.

- Micro Winery [NCC 18.08.377 Defined; NCC Chapter 18.124]:

- To establish a Micro Winery (a winery use type that is limited to 5,000 gallons of production and cannot hold marketing events, among other limitations) which is subject to specific thresholds.
- Subject to CEQA review.
- Subject to a public hearing and authorized by the Zoning Administrator.

- An Exception to the Conservation Regulations. [NCC Chapter 18.108]:

- Granting of an exception to a stream or an ephemeral/intermittent stream setback or to permit development on slopes exceeding 30%.
- Subject to CEQA review.
- Subject to a public hearing and authorized by the Planning Commission.

- Residential and Non-Residential Uses

- New Use [NCC Chapter 18.124]:

- To establish a new use as permitted within a specific Zoning District upon grant of a Use Permit based upon review of infrastructure capacity limitations such as groundwater, wastewater, and traffic, etc.
- Subject to CEQA review.
- Subject to a public hearing and authorized by the Planning Commission.

- An Exception to the Conservation Regulations. [NCC Chapter 18.108]:

- Granting of an exception to a stream or an ephemeral/intermittent stream setback or to permit development on slopes exceeding 30%.
- Subject to CEQA review.

- Subject to a public hearing and authorized by the Planning Commission.

### What is a Use Permit Modification?

As everyone knows, businesses grow and change over time to accommodate operational, staffing, and customer needs. There's also the common situation where development plans reviewed and approved during the Planning Commission or Zoning Administrator approval are changed upon submittal of the Building Permit, making the building permit request inconsistent with the scope of the approved Use Permit. Napa County has established a Use Permit modification process to provide a streamlined way for businesses which are growing or changing to expand their operations and adjust their Use Permit. Sections 18.124.130 and 18.126.065 of the Napa County Code sets the ground rules for processing Use Permit modifications. In 2020, the Board of Supervisors adopted Ordinance No 1455 and Ordinance No. 1474 in 2022 to further streamline the Use Permit process.

Each class of modification has its own specific review, thresholds, public noticing, application and processing requirements. For Winery Uses, they are Winery Administrative Permit, Minor Modification, and Major Modification. For Residential and Non-Residential Uses, they are Very Minor Modification, Minor Modification, and Major Modification.

### • **Types of Modifications**

#### • Winery Uses

##### ▪ Major Modification [NCC Chapter 18.124]:

- Applicable to an existing winery based upon review of infrastructure capacity limitations such as groundwater, wastewater, and traffic, etc.
- Subject to CEQA review.
- Subject to a public hearing and authorized by the Planning Commission.

##### ▪ Minor Modification [NCC Section 18.124.130(C)]:

- Subject to specific thresholds. Allows for a minor increase in employees, tours and tastings, production, marketing activities, a change in days of operation, a high-risk kitchen where a medium and low risk kitchen is existing, and an increase in the aggregate building footprint by a maximum of 10,000 sf or 25% of the total footprint whichever is greater. Furthermore, any additions, modifications, or changes that qualify for a Winery Administrative Permit as noted below may be processed when in connection with a minor modification application.
- Subject to CEQA review.

- Subject to a notice of intent and authorized by the Zoning Administrator without a public hearing.
- Minor Modification for a Micro Winery [NCC Section 18.124.130 (F)[D]]:
  - Amendments can be processed 2 years after initial approval.
  - Subject to specific thresholds.
  - Subject to CEQA review.
  - Subject to a notice of intent and authorized by the Zoning Administrator without a public hearing.
- Winery Administrative Permit [NCC Section 18.126.065]:
  - Subject to specific thresholds. Allows for minor changes to winery structures and/or winery operations, and allows for an increase or changes in buildings square feet by no more than 10%, not to exceed 2,500 square feet.
  - Ministerially Exempt from CEQA review.
  - Not subject to conditions of approval.
  - Authorized by the Director without a public notice.
- Residential and Non-Residential Uses
  - Major Modification [NCC Chapter 18.124]:
    - Applicable to a use under an existing Use Permit based upon review of infrastructure capacity limitations such as groundwater, wastewater, and traffic, etc.
    - Subject to CEQA review.
    - Subject to a public hearing and authorized by the Planning Commission.
  - Minor Modification [NCC Section 18.124.130(B)]:
    - Minor non-controversial modifications to approved changes in location and/or size of approved structures or portions.
    - Does not result in any structure or the aggregate of all approved structures being increased more than 25% in size or one story in height based on the sized allowed under the approved Use Permit.
    - Equipment enclosures whose permanent installation outdoors was approved by the use permit are not subject to this size limitation.
    - Subject to CEQA review.
    - Subject to a notice of intent without a public hearing unless any member of the public requests a public hearing subject to a new public notice.
    - Authorized by the Zoning Administrator.

- Minor Modification – Business Park [NCC Section 18.124.130(E)]:
  - Applicable to the Napa Valley Business Park Specific Plan including wineries.
  - Refer to provisions above.
  - Subject to a public hearing and authorized by the Zoning Administrator.
  
- Very Minor Modification [NCC Section 18.124.130(G)]:
  - Non-controversial modifications to approved Use Permits including wineries in the Napa Valley Business Park Specific Plan (NVBPSP).
  - An extension of Use Permit expiration time not to exceed one year up to three annual extensions.
  - Small (less than 10%) changes in square footage or building footprint.
  - Realignment of internal circulation roads.
  - Similar items at the discretion of the Director.
  - Subject to CEQA review.
  - Authorized by the Director without a public notice.

### Permit Type Processing Flow Charts

Attached to this FAQ are processing steps for all use permit types that will be heard before the Planning Commission and Zoning Administrator, as well as for a Minor Modification, and Very Minor Modification and a Winery Administrative Permit that require either Zoning Administrator or Director Authorization.

### What is a Status Determination? [Board of Supervisor Resolution No. 2018-164]

This type of application is used to determine existing authorized entitlements for the issuance of a Use Permit and subsequent modifications. It includes an evaluation of all planning actions and building permit issuance for the subject property. This process does not allow any Modifications to the existing entitlement, and is not subject to the County’s appeal process.

### What is a Use Determination? [NCC Section 18.124.080]

NCC Section 18.124.080 - Automatic expiration of Use Permits. A Use Permit shall, without further action by any county officer or body, expire and become void two years after the date the approving officer or body orders the Use Permit issued or, if an appeal is taken to the board of supervisors, two years after the date the decision of the board on appeal becomes final; provided, however, that if a shorter or longer time period is included in the conditions of approval of the use permit, that time period shall control (for purposes of this chapter this date shall hereafter be referred to as the "Use Permit expiration date").

The processing of a Use Determination before Use Permit Expiration allows the permittee to deem the project entitlement “used” and not subject to expiration deadlines if construction has not been commenced as follows:

Substantial evidence of use may be demonstrated by any of the following:

1. Securing a building permit, wastewater or sewage disposal permit, or other construction permit for the project.
2. In the case of projects requiring regional, state or federal approvals subsequent to the issuance of the use permit before construction may commence, by a showing that sufficient funds have been expended (or liabilities incurred) in the process of securing those approvals in an amount that is equivalent to the cost of constructing any foundation, wastewater or sewage disposal system, bridge, or similar improvement required by the use permit.
3. By showing that, subsequent to the issuance of the use permit and prior to the use permit expiration date, sufficient funds have been expended (or liabilities incurred) in preparing the site for construction that is equivalent to the cost of constructing any foundation, wastewater or sewage disposal system, bridge, cave or similar improvement required by the use permit [funds associated with the processing of a Use Permit are not acceptable].

What is required to be submitted to the Planning Division to provide proof on expenses? Submittal of invoices and proof of payment. After review and confirmation, Staff will issue a letter that the project has been deemed used.

This process is also used to confirm if a project is “Used” for property owner and/or permittee records. It should be noted that subsequent modifications to a use permit do not have expiration dates if the winery or non-winery use has been in operation.

### [Why a PreApplication Meeting?](#)

A PreApplication Meeting is an opportunity to meet with staff from applicable Divisions to receive feedback on a proposed project. It is not mandatory. The intent is to: 1) Identify the type of application and related permits that may be necessary, permit processing steps and timelines; and 2) Identify pertinent information and technical studies that will be required to submit a complete application. There are two types of PreApplication meetings: Office (Virtual or In-Office) and Site Visit. How does one set up an Office meeting? Visit the PBES On-Line Permit Center here [Online Permit Center: Getting Started | Napa County, CA \(countyofnapa.org\)](https://www.countyofnapa.org/online-permit-center/getting-started) to set up an Office meeting. Office meetings are only held on Thursdays 10:00 a.m. to Noon. To make a request for a Site Visit, please contact Planning, Building and Environmental Services at (707) 253-4417. At this time, we are not accepting Site Visit pre-application meeting requests through the Online Permit Center. A PreApplication meeting request will generally take at least three weeks to schedule and there is a fee associated with scheduling a meeting.

### [Appeals](#) [NCC Chapter 2.88 – APPEALS]

Since the Planning Director and the Zoning Administrator have the discretion to refer particularly controversial modifications to the Planning Commission, more contentious items are often decided at that level. However, discretionary permits such as a Use Permit (including a New Winery, a Small Winery and a Micro Winery Use Permits), a Major Modification, a Minor

Modification, a Very Minor Modification for either Residential/Non-Residential or Winery Projects, whether it is decided by the Planning Director, the Zoning Administrator, or the Planning Commission, are all ultimately appealable to the Board of Supervisors. A Winery Administrative Permit or a Status Determination on entitlement limits and Use Determinations are the only applications that are not subject to an appeal due to their administrative nature in changes to the winery or County interpretation of Use Permit entitlement limits.

### Operational Rules Affecting Wineries Associated with Napa County Code (NCC) and/or State Law

- On Premise Consumption.

In July 2008, the State adopted AB 2004 (Evans), which amended the State's Business and Professional Code (Section 23358) to allow wineries to sell wine produced by the winery to customers for consumption on premises. The addition of retail wine sales for on-site consumption to an existing winery Use Permit is subject to a Winery Administrative Permit. It is not the sale of wine itself which triggers the need for this permit, but the need to create a space on the property for the on-site consumption. If, however, a new area inside or outside (within the existing winery development area, provided the location is not within 500 feet from the nearest off-site residence) is proposed for on-site consumption, and there is no increase in visitation or marketing, a Modification of some description would be necessary. For a new winery, all proposed on-site consumption locations (inside or outside within the proposed winery development area) shall be identified on project plans and processed during the use permit process.

- NCC Section 18.16.030(H)(4) – AP & 18.20.030(I)(4) – AW: Sale of Wine Related Products.

Subject to a Use Permit. However, for existing wineries, so long as the sale of wine-related products occurs entirely within existing legal tasting room space (as opposed to any approved "production" area), no Modification is generally necessary to allow it.

- NCC Section 18.16.030 (G)(5)(c) – AP & 18.20.030 (I)(5)(c) – AW: Retail Sales of Wine.

Subject to a Use Permit. Retail sale of (1) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of subsections (B) and (C) of Section 18.104.250 regulating the source of grapes; and (2) wine produced by or for the winery from grapes grown in Napa County.

- Definition: NCC Section 18.08.370 - Marketing of wine.

"Marketing of wine" means any activity of a winery which is conducted at the winery on a prearranged basis for the education and development of customers and potential customers with respect to wine which can be sold at the winery on a retail basis pursuant to Chapters 18.16 and 18.20. Marketing of wine may include cultural and social events directly related to

the education and development of customers and potential customers provided such events are clearly incidental, related and subordinate to the primary use of the winery. Marketing of wine may include food service, including food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery.

Business events are similar to cultural and social events, in that they will only be considered as "marketing of wine" if they are directly related to the education and development of customers and potential customers of the winery and are part of a marketing plan approved as part of the winery's use permit. Marketing plans in their totality must remain "clearly incidental, related and subordinate to the primary operation of the winery as a production facility" (subsection (G)(5) of Sections 18.16.030 and subsection (I)(5) of 18.20.030). To be considered directly related to the education and development of customers or potential customers of the winery, business events must be conducted at no charge except to the extent of recovery of variable costs, and any business content unrelated to wine must be limited. Careful consideration shall be given to the intent of the event, the proportion of the business event's non-wine-related content, and the intensity of the overall marketing plan.

- Definition: NCC Section 18.08.620 - Tours and tastings.

"Tours and tastings" mean tours of the winery and/or tastings of wine, where such tours and tastings are limited to persons who have made unsolicited prior appointments for tours or tastings. Tours and tastings may include food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery and is incidental to the tasting of wine. Food service may not involve menu options and meal service such that the winery functions as a café or restaurant.

- Board of Supervisor Resolution No. 2010-48 - Exhibit A Interpretative Guidance, dated May 11, 2010.

II. Conversion of Existing Structures: To discourage property owners from constructing residences and barns with the express intent of converting them to wineries, the County does not generally support Use Permit proposals seeking to convert existing buildings to winery use if the buildings have been constructed or substantially modified within the last 5-7 years.

- Board of Supervisor Resolution No. 2018-164 - County Code Compliance Program, dated December 4, 2018.

Section 1(a)(v): Except for substantially conforming applications received by the Planning Building and Environmental Services (PBES) Department prior to the deadline (March 29, 2019), all properties that have new or continued health and safety or significant pre-existing violations to come into immediate compliance with legal entitlements and all applicable County Code requirements. Owners of properties with health and safety or significant

violations shall be required to operate within their existing legal entitlements for one year from the date of the initial Notice of Violation, absent extraordinary circumstances, before a use permit or modification application to remedy the violation(s) may be submitted to PBES. Owners may also be subject to fines or penalties for past and ongoing violations. This provision is intended to and shall require that the environmental impacts of discretionary permit applications shall be assessed against a "baseline" of operations that are within existing legal entitlements, rather than in violation of them. Owners may submit a Use Permit or Modification application to remedy violation(s) during the one-year period while they operate within their legal entitlements, but only if they agree in writing that their legal entitlements or their existing legal operations, whichever is lower, shall be used as the environmental baseline for all CEQA analysis related to the application. Public hearings for such Use Permit or Modification applications shall not be scheduled until the owner has operated within legal entitlements for one year from the date of the Initial Notice of Violation, absent extraordinary circumstance.

For Questions - Please contact:

Planning, Building and Environmental Services

1195 Third Street, Suite 210

Napa, California 94559

Phone: 707-253-4417

E-mail: [planning@countyofnapa.org](mailto:planning@countyofnapa.org)

Web: [www.countyofnapa.org](http://www.countyofnapa.org)

# NAPA COUNTY

Planning, Building and Environmental Services



A Tradition of Stewardship  
A Commitment to Service

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USE PERMIT/MAJOR MODIFICATION APPLICATION  
WINERY USES

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**EXHIBIT 8**

## ***Before you file an application...***

Before you submit your application materials, and generally as early in the process as possible, applicants should schedule a Pre-Application meeting with a member of the Planning Department staff as well as staff from other applicable Divisions in PBES.

Pre-Application meetings are an opportunity to meet with staff from all Divisions and receive valuable feedback on your project. In particular, staff can identify the type of application and related permits that may be necessary, permit processing steps and timelines, and pertinent information and technical studies that will be required to submit a complete application.

To schedule a Pre-Application meeting, please visit the Planning Division website at: <https://www.countyofnapa.org/1709/Planning-Division> and follow the steps provided to use our Online Permit Center system.

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### **Contents**

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___	General Application Form
___	Use Permit/Major Modification Checklist of Required Application Materials
___	<b>Signed</b> Indemnification Form
___	<b>Signed</b> Hourly Fee Agreement
___	Supplemental Application for Winery Uses
___	Voluntary Best Management Practices Checklist for Development Projects
___	Form Adjoining Property Owner List Requirements



**Planning, Building, & Environmental Services**  
 1195 Third Street, Suite 210  
 Napa, CA 94559  
 Main: (707) 253-4417  
 Fax: (707) 253-4336

A Tradition of Stewardship  
 A Commitment to Service

## PLANNING APPLICATION FORM

### Applicant Information

<b>Applicant Contact</b> Name: _____ Mailing Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ E-Mail Address: _____	<b>Property Owner Contact</b> Name: _____ Mailing Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ E-Mail Address: _____
---	--

<b>Agent Contact</b> Name: _____ Mailing Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ E-Mail Address: _____	<b>Other Representative Contact</b> <input type="checkbox"/> Engineer <input type="checkbox"/> Architect <input type="checkbox"/> Agent Name: _____ Mailing Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ E-Mail Address: _____
---	---

### Property Information

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Assessor's Parcel Number(s): \_\_\_\_\_

Size of site (acreage and/or square footage): \_\_\_\_\_

General Plan Designation: \_\_\_\_\_ Zoning: \_\_\_\_\_

### Application Type<sup>1</sup>

File No(s) \_\_\_\_\_

Administrative	Planning Commission/ALUC/BOS	Zoning Administrator
Erosion Control Plan: <input type="checkbox"/> Track I <input type="checkbox"/> Track II  <input type="checkbox"/> Admin Viewshed <input type="checkbox"/> Fence Entry Structure Permit <input type="checkbox"/> Land Division/Mergers <input type="checkbox"/> Site Plan Approval/Modification <input type="checkbox"/> Winery Administrative Permit <input type="checkbox"/> Other Very Minor Modification <input type="checkbox"/> Addressing <input type="checkbox"/> Signs  Temporary Event: <input type="checkbox"/> 51-400 <input type="checkbox"/> 401+ <input type="checkbox"/> Late Application Submittal <input type="checkbox"/> Application Entitled to Fee Waiver <input type="checkbox"/> Other: _____	Major Modification: <input type="checkbox"/> Winery <input type="checkbox"/> Other  Use Permit: <input type="checkbox"/> Winery <input type="checkbox"/> Other  <input type="checkbox"/> Viewshed <input type="checkbox"/> AG Preserve Contract <input type="checkbox"/> Development Agreement <input type="checkbox"/> Airport Land Use Consistency Determination <input type="checkbox"/> General, Specific or Airport Land Use Plan Amendment <input type="checkbox"/> Variance <input type="checkbox"/> Zoning Map/Text Amendment <input type="checkbox"/> Road Exception <input type="checkbox"/> Con. Reg. Exception <input type="checkbox"/> Other: _____	<input type="checkbox"/> Certificate of Legal Non Conformity <input type="checkbox"/> Other Minor Modification <input type="checkbox"/> Road Exception <input type="checkbox"/> Small Winery Exemption <input type="checkbox"/> Winery Minor Modification <input type="checkbox"/> Variance <input type="checkbox"/> Viewshed <input type="checkbox"/> Other: _____ <hr/> <div style="text-align: center; background-color: #d3d3d3; padding: 2px;"><b>Misc. Services</b></div> <input type="checkbox"/> Use Determination <input type="checkbox"/> Status Determination <input type="checkbox"/> Other: _____

<sup>1</sup>: Include corresponding submittal requirements for each application type.

Detailed Project Description (required): A typed, detailed project description is required that describes the proposed development or use(s); the existing site conditions/uses; the number, size, type and nature of any proposed residential dwelling units or total amount of new non-residential square-footage by type of use. Please refer to specific Supplemental Application submittal handouts for details to describe the project and required special studies.

**Conditions of Application**

1. All materials (plans, studies, documents, etc.) and representations submitted in conjunction with this form shall be considered a part of this application and publicly available for review and use, including reproduction.
2. The owner shall inform the Planning Division in writing of any changes.
3. Agent authorization: The property owner authorizes the listed agent(s) and/or other representative(s) to appear before **staff, the Director, the Zoning Administrator, and Planning Commission to represent the owner’s interests and to file applications, plans and other information on the owner’s behalf.**
4. Certification and Indemnification Form: Refer to attached form for notifications and required signature.
5. Fees: The applicant agrees to pay the County any and all processing fees imposed by the Board of Supervisor’s **current** Fee Resolution including the establishment of an hourly fee application agreement and initial deposit. Applicant understands that fees include, but not limited to: Planning, Engineering, Public Works, and County Counsel staff time billed at an hourly rate; required Consultant service billed rates; production or reproduction of materials and exhibits; public notice advertisements; and postage. In the event the property owner is different than the applicant, the property owner must sign to indicate consent to the **filing and agreement to pay fees in the event of the applicant’s failure to pay said** fees. Failure to pay all accumulated fees by the time of public hearing will result in a continuance.
6. This form, together with the corresponding application forms for specific permits, will become the Permit Document.

I have read and agree with all of the above. The above information and attached documents are true and correct to the best of my knowledge. All property owners holding a title interest must sign the application form. If there are more than two property owners, list their names, mailing addresses, phone numbers and signatures on a separate sheet of paper.

If you wish notice of meetings/correspondence to be sent to parties other than those listed on Page 1, please list them on a separate piece of paper.

\_\_\_\_\_  
Property Owner’s Signature and Date

\_\_\_\_\_  
Property Owner’s Signature and Date

**Applicant/Agent Statement**

I am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application.

\_\_\_\_\_  
Applicant’s Signature and Date

Date Received: _____  Received by: _____  Receipt No. _____  File No. _____	Application Fees	
	Deposit Amount	\$
	Flat Fee Due	\$
	Total	\$
	Check No	

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## Checklist of Required Application Materials

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Please make sure that the following documents are complete and legible. Consistent with the State Permit Streamlining Act and Departmental policy, the Planning, Building and Environmental Services (PBES) Department will make an application completeness determination within thirty days of application submittal and the payment of all required initial fees.

- General Application Form:** The attached General Application Form must be completed in full and signed by the property owner or their authorized agent. Corporations, partnership, and the like have special signature requirements as noted on the Form.
- Application Fee:**
  - Use Permit/Major Modification (All Uses):** Total Fees are based on actual time and materials and flat fees. A deposit in the amount of \$10,000. Check made payable to County of Napa.
  - Small Winery Exemption (Winery Uses):** Total fees are based on actual time and materials and flat fees. A deposit in the amount of \$5,000. Check made payable to County of Napa.
  - Minor Modification (Winery Uses):** Total fees are based upon flat rates with exception to Engineering Services which are based on actual time and materials over 3 hours for Roads & Street Standards evaluation. All County Counsel fees are based on actual time and materials. Check made payable to County of Napa.
  - Administrative Permit (Winery Uses):** Total Fees are based on actual time and materials and flat fees. A deposit in the amount of \$1,500. Check made payable to County of Napa.
  - Minor Modification (Non-Residential & Residential Uses):** Total fees are based upon flat rates. All County Counsel fees are based on actual time and materials. Check made payable to County of Napa.
  - Very Minor Modification (Non-Residential & Residential Uses):** Total fees are based upon flat rates. All County Counsel fees are based on actual time and materials. Check made payable to County of Napa.
- Read and Sign the Hourly Fee Agreement**
- Detailed Project Description:** The Project Description should address all of the applicable items listed below:
  1. Existing site conditions and uses.
  2. Proposed type of development and size, proposed uses/business, development phases, changes or alterations to the property or building including new/modified improvements and off-site improvements.
  3. Days of the week and hours of operation.
  4. Maximum number of employees per shift and hours of shifts.
  5. Are there additional licenses and/or approvals from outside agencies needed from a Special District, Regional, State, Federal?
  6. What is your water supply? How/where is liquid/solid waste disposed?
- To-Scale Site Development Plans (ALL plans must be to an identified architect's or engineer's scale and shall be legible):**

Submit **three (3) 24" X 36"** and **one 11" x 17"** copies of plans consistent with information contained in the *Building Division – Design Information - Sample Site Plan Handout*: <https://www.countyofnapa.org/1890/Building-Documents> .
- To-Scale Floor Plans (ALL plans must be to an identified architect's or engineer's scale, shall show the existing and proposed conditions of the building and shall be legible):**

Submit **three (3) 24" X 36"** and **one 11" x 17"** copies of plans with the following information and details:

  1. Dimensions and area of all rooms, hallways and covered or partially enclosed outdoor areas.
  2. Use of each area within each structure/building.
  3. Location of emergency exists.
- To-Scale Building Elevations (ALL plans must be to an identified architect's or engineer's scale, shall show the existing and proposed conditions of the building and shall be legible):**

Submit **three (3) 24" X 36"** and **one 11" x 17"** copies of plans with the following information and details:

  1. All relevant dimensions.
  2. Exterior materials.
  3. Exterior colors.
  4. Existing grade.
  5. Finished grade.
  6. Finished floor level.
  7. Building height consistent with Figure 209-1 of the 1997 UBC Handbook.

**Technical Information and Reports**

The following technical information and studies are generally required unless waived by County Planning Staff at or following a Pre-Application Review Meeting. Please see County Planning Staff for a list of pre-qualified consultants.

1. FOR WINERY PROJECTS: Additional submittal information is necessary and should be included with the submittal packet consistent with the Winery Use Permit Supplemental Submittal Requirements.
2. Traffic Study consistent with Traffic Impact Study Preparation Requirements Please fill out the enclosed current Trip Generation Sheet for existing and proposed project to determine the need for the preparation of a Traffic Impact Study.
3. Archeological/Cultural Resources Study (consistent with *Guidelines for Preparing Cultural Resource Surveys* and State of California requirements)
4. Historic Resources Study (consistent with State Office of Historic Preservation requirements)
5. Biological Study – Includes Special Status Survey (consistent with *Guidelines for Preparing Biological Resources Reconnaissance Surveys* and *Guidelines for Preparing Special-Status Plant Studies*)
6. Water Availability/Groundwater Study (consistent with the *WAA Guidance Document* adopted by the Board 5/12/2015). Please refer to the following link: <https://www.countyofnapa.org/876/Water-Availability-Analysis> .
7. For projects located within Sensitive Domestic Water Supply Drainages and/or within the Agricultural Watershed (AW) zoning district, please provide vegetation coverage removal and retention information/analysis based on 1993 Vegetation totals and parcel configuration, including a map or figure that includes the following information:

**Tree canopy coverage:**

Tree canopy cover (1993): \_\_\_\_\_ acres  
Tree canopy cover to be removed: \_\_\_\_\_ acres \_\_\_\_\_ %  
Tree canopy cover to be retained: \_\_\_\_\_ acres \_\_\_\_\_ %

**Understory (i.e. brush, shrubs, grasses):**

Understory cover (1993): \_\_\_\_\_ acres  
Understory to be removed: \_\_\_\_\_ acres \_\_\_\_\_ %  
Understory to be retained: \_\_\_\_\_ acres \_\_\_\_\_ %

This information may be provided as part of the Biological Report if one is required for your project. Guidance on how to prepare vegetation removal and retention calculations can be found in the County's Water Quality & Tree Protection Ordinance Implementation Guide, located on our website:

<https://www.countyofnapa.org/DocumentCenter/View/12882/WOTPO-implementation-guide?bidId=>

8. Special Studies (The following may be required on a project-specific basis at the discretion of the PBES Director.)
  - Noise Study (demonstrating consistency with Napa County Code Chapter 8.16).
  - Aviation Compatibility Study (consistent with Airport Land Use Compatibility Plan requirements)
  - Visual Impacts Study (Photographic simulations)
  - Geological/Geotechnical Hazard Report – Alquist Priolo Act
  - Hydraulic Analysis (flood impact) if within Floodplain and/or Floodway
  - Stormwater Control Plan (consistent with Napa County BASMAA Post Construction Manual)
  - Other: \_\_\_\_\_
  - Other: \_\_\_\_\_

**Additional Information Required by the Environmental Health Department:**

1. Soil Evaluation Report if an on-site septic system is proposed.
2. Septic Feasibility Report for any new or upgraded septic systems or any expansion of use relying on an existing septic system.
3. Water System Feasibility Report if the water supply system will serve 25 or more people inclusive of employees, visitors, and residents or if kitchen is proposed. See enclosed handout provided by Environmental Services.
4. Water and/or Sewage Disposal Easement if an off-site spring, well, reservoir, storage tank, or individual sewage disposal system is proposed.
5. Completed Business Activities form, enclosed.
6. Solid Waste & Recycling Storage area location and size included on overall site plan. See guidelines at [www.countyofnapa.org/DEM/](http://www.countyofnapa.org/DEM/).
7. Cave setback plan if a cave is proposed. See handout provided by Environmental Services.

Please click on Other Information tab at <https://www.countyofnapa.org/1904/Environmental-Health-Division> for forms and handouts related to use permit application submittal.

**Additional Information Required by the Engineering Services:**

2020 Napa County Road & Street Standards

<https://www.countyofnapa.org/DocumentCenter/View/3787/Napa-County-Road-and-Street-Standards--2020-PDF>

Project Guidance for Stormwater Compliance

<https://www.countyofnapa.org/DocumentCenter/View/3778/Project-Guidance-for-Stormwater-Quality-Compliance-PDF>

BASMAA Post-Construction Stormwater Management Manual

<https://www.countyofnapa.org/DocumentCenter/View/3780/Bay-Area--Stormwater-Management-Agencies-Association-BASMAA-Post-Construction-Manual-PDF>

Napa Countywide Stormwater Pollution Prevention Program (NCSPPP) Erosion and Sediment Control Plan Guidance

<https://www.countyofnapa.org/DocumentCenter/View/3780/Bay-Area--Stormwater-Management-Agencies-Association-BASMAA-Post-Construction-Manual-PDF>

***Please Note***

While this checklist includes all information generally required to process a Use Permit/Major Modification or other Use Permit related application, it is primarily focused on winery uses. Additional information may be required at the discretion of the Deputy Planning Director, and in particular in those cases where non-winery commercial uses (such as restaurants) or residential use related projects are proposed. **The Planning Division will make every effort to identify any additional required information at or directly following the Pre-application Review Meeting.**

**Plans and Studies provided electronically via file share (coordinated at intake).**

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## Certification and Indemnification

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Applicant certifies that all the information contained in this application, including all information required in the Checklist of Required Application Materials and any supplemental submitted information including, but not limited to, the information sheet, water supply/waste disposal information sheet, site plan, floor plan, building elevations, water supply/waste disposal system site plan and toxic materials list, is complete and accurate to the best of his/her knowledge. Applicant and property owner hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, *including the right of access to the property involved.*

Pursuant to Chapter 1.30 of the Napa County Code, as part of the application for a discretionary land use project approval for the project identified below, Applicant agrees to defend, indemnify, release and hold harmless Napa County, its agents, officers, attorneys, employees, departments, boards and commissions (hereafter collectively "County") from any claim, action or proceeding (hereafter collectively "proceeding") brought against County, the purpose of which is to attack, set aside, void or annul the discretionary project approval of the County, or an action relating to this project required by any such proceeding to be taken to comply with the California Environmental Quality Act by County, or both. This indemnification shall include, but not be limited to damages awarded against the County, if any, and cost of suit, attorneys' fees, and other liabilities and expenses incurred in connection with such proceeding that relate to this discretionary approval or an action related to this project taken to comply with CEQA whether incurred by the Applicant, the County, and/or the parties initiating or bringing such proceeding. Applicant further agrees to indemnify the County for all of County's costs, attorneys' fees, and damages, which the County incurs in enforcing this indemnification agreement.

Applicant further agrees, as a condition of project approval, to defend, indemnify and hold harmless the County for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if the Applicant desires to pursue securing approvals which are conditioned on the approval of such documents.

In the event any such proceeding is brought, County shall promptly notify the Applicant of the proceeding, and County shall cooperate fully in the defense. If County fails to promptly notify the Applicant of the proceeding, or if County fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County. The County shall retain the right to participate in the defense of the proceeding if it bears its own attorneys' fees and costs, and defends the action in good faith. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.

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Print Name of Property Owner

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Print Name Signature of Applicant (if different)

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Signature of Property Owner

Date

---

Signature of Applicant

Date

## Hourly Fee Agreement

PROJECT File: \_\_\_\_\_; request for \_\_\_\_\_  
\_\_\_\_\_. I, \_\_\_\_\_

the undersigned, hereby authorize the County of Napa to process the above referenced permit request in accordance with the Napa County Code. I am providing \$ \_\_\_\_\_ as a deposit to pay for County staff review, coordination and processing costs related to my permit request based on actual staff time expended and other direct costs. **In making this deposit, I acknowledge and understand that the deposit may only cover a portion of the total processing costs. Actual costs for staff time are based on hourly rates adopted by the Board of Supervisors in the most current Napa County fee schedule. I also understand and agree that I am responsible for paying these costs even if the application is withdrawn or not approved.**

I understand and agree to the following terms and conditions of this Hourly Fee Agreement:

1. Time spent by Napa County staff in processing my application and any direct costs will be billed against the available deposit. "Staff time" includes, but is not limited to, time spent reviewing application materials, site visits, responding by phone or correspondence to inquiries from the applicant, the applicant's representatives, neighbors and/or interested parties, attendance and participation at meetings and public hearings, preparation of staff reports and other correspondence, or responding to any legal challenges related to the application during the processing of your application. "Staff" includes any employee of the Planning, Building and Environmental Services Department (PBES), the Office of the County Counsel, or other County staff necessary for complete processing of the application. "Direct costs" include any consultant costs for the peer review of materials submitted with the application, preparation of California Environmental Quality Act (CEQA) documents, expanded technical studies, project management, and/or other outside professional assistance required by the County and agreed to by the applicant. The cost to manage consultant contracts by staff will also be billed against the available deposit.
2. Staff will review the application for completeness and provide me with a good faith estimate of the full cost of processing the permit. Any requested additional deposit shall be submitted to PBES to allow continued processing of the project.
3. I understand that the County desires to avoid incurring permit processing costs without having sufficient funds on deposit. If staff determines that inadequate funds are on deposit for continued processing, staff shall notify me in writing and request an additional deposit amount estimated necessary to complete processing of my application. I agree to submit sufficient funds as requested by staff to process the project through the hearing process within 30 days of the request.
4. I understand that if the amount on deposit falls below zero, staff will notify me and stop work on the application until sufficient additional funds are provided
5. If the final cost is less than the amount remaining on deposit, the unused portion of the deposit will be refunded to me. If the final cost is more than the available deposit, I agree to pay the amount due within 30 days of billing.
6. If I fail to pay any invoices or requests for additional deposits within 30 days, the County may either stop processing my permit application, or after conducting a hearing, may deny my permit application. If I fail to pay any amount due after my application is approved, I understand that my permit may not be exercised, or may be subject to revocation. I further agree that no building, grading, sewage, or other project related permits will be issued if my account is in arrears.

7. I may file a written request for a further explanation or itemization of invoices, but such a request does not alter my obligation to pay any invoices in accordance with the terms of this agreement.

Name of Applicant responsible for payment of all County processing fees (Please Print):

\_\_\_\_\_

Mailing Address of the Applicant responsible for paying processing fees:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature: \* \_\_\_\_\_

Email Address: \_\_\_\_\_

Date: \_\_\_\_\_

Phone Number: \_\_\_\_\_

\*ATTENTION - The applicant will be held responsible for all charges.

# Supplemental Application for Winery Uses

## Definitions

The below are paraphrased from County Code, please see referenced code sections for full text.

- Winery Development Area** – All aggregate paved or impervious or semi-permeable ground surface areas of the production facility which includes all storage areas (except caves), offices, laboratories, kitchens, tasting rooms and paved parking areas for the exclusive use of winery employees. *See Napa County Code §18.104.210*
- Winery Coverage** – The total square foot area of all winery building footprints, all aggregate paved or impervious ground surface areas of the production facility which includes all outside work, tank and storage areas (except caves); all paved areas including parking and loading areas, walkways, and access driveways to public or private roads or rights-of-way; and all above-ground wastewater and run-off treatment systems. *See Napa County Code §18.104.220*
- Production Facility** – (For the purpose to calculate the maximum allowable accessory use) The total square footage of all winery crushing, fermenting, bottling, bulk and bottle storage, shipping, receiving, laboratory, equipment storage and maintenance facilities, and employee-designated restrooms but does not include wastewater treatment or disposal areas which cannot be used for agricultural purposes. *See Napa County Code §18.104.200*
- Accessory Use** - The total square footage of area within winery structures used for accessory uses related to a winery that are not defined as “production facility” which would include offices, lobbies/waiting rooms, conference/meeting rooms, non-production access hallways, kitchens, tasting rooms (private and public areas), retail space areas, libraries, non-employee designated restrooms, art display areas, or any area within winery structures not directly related to wine production. *See Napa County Code §18.104.200*

**Planning, Building & Environmental Services**

## Winery Production Process



A Tradition of Stewardship  
A Commitment to Service

The Napa County Code contains various references to winery production and refers to production capacity as “the wine bottled or received” at a winery and refers to “bottling and storage of bottled wine and shipping and receiving of bulk and bottled wine “(Code Section 18.16.030(G)(4)).<sup>1</sup>

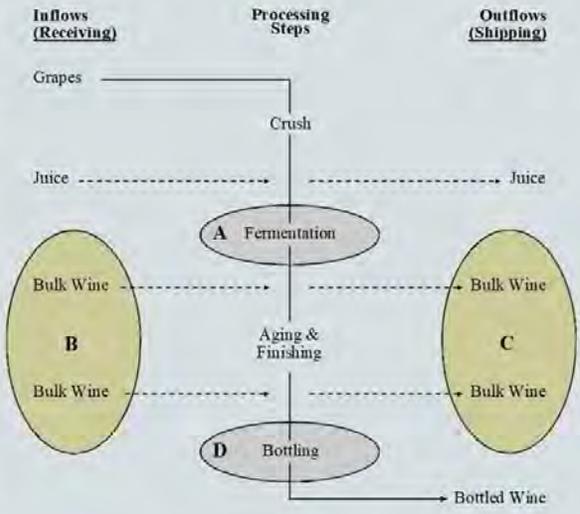
This handout was developed by the County planning staff with the assistance of a number of local industry representatives to assist property owners and other interested parties in interpreting Napa County Code references to winery production. It does not create a new definition or regulation.

A winery’s total annual production equals either (1) the sum of all wine created through fermentation in a given year, plus the net total of all fermented bulk wine received and shipped in the same year, including all bottled wine received on the premises during the same year, or (2) the amount of wine bottled on the premises in the same given year, *whichever is greater*.

Using the diagram on the right, this means the greater of A+(B-C), or D. If B-C is a negative number, total production is equal to either A or D, whichever is greater.

This interpretation holds true for all physical winery facilities regardless of the number of business entities (e.g. Alternating Proprietors/Custom Crush) they accommodate or the date that their production capacity was established or recognized. However, wineries occupying multiple facilities are governed by the specific terms of their use permit or Certificate of Legal Non-conformity (CLN), which may vary.

Quantities represented by items A through D on the diagram can be determined by reviewing a winery’s annual submittals to the federal Alcohol and Tobacco Tax and Trade Bureau (TTB). The County may periodically request a copy of these submittal(s) as a way to monitor compliance with previously adopted conditions/requirements. The County recognizes that annual variations can occur due to the grape harvest and the timing of finishing/bottling, and will generally review and average three consecutive years of data.



The diagram illustrates the winery production process flow. It is organized into three columns: **Inflows (Receiving)**, **Processing Steps**, and **Outflows (Shipping)**.  
**Inflows (Receiving):** Grapes enter from the top left. Juice enters from the left, indicated by a dashed line.  
**Processing Steps:** Grapes go to **Crush**. Juice goes to **Crush**. From **Crush**, the flow goes to **A Fermentation**. From **A Fermentation**, the flow goes to **Aging & Finishing**. From **Aging & Finishing**, the flow goes to **D Bottling**.  
**Outflows (Shipping):** Bulk Wine enters from the left, indicated by a dashed line, and goes to **B** (Bulk Wine storage). Bulk Wine enters from the left, indicated by a dashed line, and goes to **C** (Bulk Wine storage). From **B**, Bulk Wine goes to **Aging & Finishing**. From **C**, Bulk Wine goes to **Aging & Finishing**. From **D Bottling**, Bottled Wine exits to the right.

**Figure 1. Winery Production Process**

<sup>1</sup> The complexity of these statements can be attributed to the authors’ desire to avoid “double counting” bulk wine that is both received and bottled at a winery, and the fact that multiple vintages are present within a winery at any given time.

February 2019

## WINERY OPERATIONS

Please indicate whether the activity or uses below are already legally **EXISTING**, whether they exist and are proposed to be **EXPANDED** as part of this application, whether they are **NEWLY PROPOSED** as part of this application, or whether they are neither existing nor proposed (**NONE**).

Retail Wine Sales	<input type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Tours and Tasting- Open to the Public	<input type="checkbox"/> Existing			
Tours and Tasting- By Appointment	<input type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Food at Tours and Tastings	<input type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Marketing Events*	<input type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Food at Marketing Events	<input type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Will food be prepared...		<input type="checkbox"/> On-Site?	<input type="checkbox"/> Catered?	
Public display of art or wine-related items	<input type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Wine Sales/Consumption – AB 2004	<input type="checkbox"/> Existing		<input type="checkbox"/> Proposed	<input type="checkbox"/> None

\* For reference please see definition of "Marketing," at Napa County Code §18.08.370 - <http://library.municode.com/index.aspx?clientId=16513>

## Production Capacity \*

Please identify the winery's...

Existing permitted \_\_\_\_\_ gal/y Per permit : \_\_\_\_\_ Permit date: \_\_\_\_\_  
production capacity:

Current maximum actual production: \_\_\_\_\_ gal/y For what year? \_\_\_\_\_

Average 3 year production: \_\_\_\_\_ gal/y

Proposed production capacity: \_\_\_\_\_

\* For this section, please see "Winery Production Process".

## Visitation and Operations

Please identify the winery's...

Maximum daily tours/tastings visitation: \_\_\_\_\_ existing \_\_\_\_\_ proposed

Maximum weekly tours/tastings visitation: \_\_\_\_\_ existing \_\_\_\_\_ proposed

Visitation hours (e.g. M-Sa, 10am-4pm): \_\_\_\_\_ existing \_\_\_\_\_ proposed

Production days and hours<sup>1</sup>: \_\_\_\_\_ existing \_\_\_\_\_ proposed

<sup>1</sup> It is assumed that wineries will operate up to 24 hours per day during crush.

## **Grape Origin**

All new wineries and any existing (pre-WDO) winery expanding beyond its winery development area must comply with the 75% rule and complete the attached "Initial Statement of Grape Source". See Napa County Code §18.104.250 (B) & (C). The project description should include information on location and quantity of grapes.

## **Marketing Program**

Please describe the winery's proposed marketing program. Include event type, maximum attendance, hours, location/facilities to be used, food service details, etc. Provide a site plan showing where the marketing event activities will occur, including overflow/off-site parking. Differentiate between existing and proposed activities. (Attach additional sheets as necessary.)

## **On-Site Consumption**

If requesting On-Site Consumption, please provide a site plan showing where such activities will occur.

## **Food Service**

Please describe the nature of any proposed food service including type of food, frequency of service, whether prepared on site or not, kitchen equipment, eating facilities, etc. Please differentiate between existing and proposed food service and existing type of commercial kitchen (low, medium or high risk) and/or food preparation areas authorized by the County Environmental Health Division. (Attach additional sheets as necessary.)

## Winery Coverage and Accessory/Production Ratio

**Winery Development Area.** Consistent with the definition at “a.,” and with the marked-up site plans included in your submittal, please indicate your proposed winery development area. If the facility already exists, please differentiate between existing and proposed.

Existing \_\_\_\_\_ sq. ft. \_\_\_\_\_ acres  
 Proposed \_\_\_\_\_ sq. ft. \_\_\_\_\_ acres

**Winery Coverage.** Consistent with the definition at “b.,” and with the marked-up site plans included in your submittal, please indicate your proposed winery coverage (maximum 25% of parcel or 15 acres, whichever is less).

\_\_\_\_\_ sq. ft. \_\_\_\_\_ acres \_\_\_\_\_ % of parcel

**Production Facility.** Consistent with the definition at “c.,” and the marked-up floor plans included in your submittal, please indicate your proposed production square footage. If the facility already exists, please differentiate between existing and proposed.

Existing \_\_\_\_\_ sq. ft. Proposed \_\_\_\_\_ sq. ft.

**Accessory Use.** Consistent with the definition at “d.,” and the marked-up floor plans included in your submittal, please indicate your proposed accessory square footage. If the facility already exists, please differentiate between existing and proposed. (maximum = 40% of the production facility)

Existing \_\_\_\_\_ sq. ft. \_\_\_\_\_ % of production facility  
 Proposed \_\_\_\_\_ sq. ft. \_\_\_\_\_ % of production facility

## Caves and Crush pads

If new or expanded caves are proposed, please indicate which of the following best describes the public accessibility of the proposed and existing cave space: Please denote on cave floor plans the location of existing and proposed cave type/activities and identify location of on-site cave spoils on a site plan.

Existing Cave:

- None – no visitors/tours/events (Class I)       Guided Tours Only (Class II)       Public Access (Class III)  
 Marketing Events and/or Temporary Events (Class III)

Expanded or New Cave:

- None – no visitors/tours/events (Class I)       Guided Tours Only (Class II)       Public Access (Class III)  
 Marketing Events and/or Temporary Events (Class III)

**Please identify the winery’s...**

Cave area (total) Existing: \_\_\_\_\_ sq. ft. Proposed: \_\_\_\_\_ sq. ft.  
 Cave area (Production) Existing: \_\_\_\_\_ sq. ft. Proposed: \_\_\_\_\_ sq. ft.  
 Cave area (Accessory) Existing: \_\_\_\_\_ sq. ft. Proposed: \_\_\_\_\_ sq. ft.  
 Covered crush pad area Existing: \_\_\_\_\_ sq. ft. Proposed: \_\_\_\_\_ sq. ft.  
 Uncovered crush pad area Existing: \_\_\_\_\_ sq. ft. Proposed: \_\_\_\_\_ sq. ft.  
 Cave Spoils total: Proposed: \_\_\_\_\_ cy.

Cave Spoils Use:  Onsite  Offsite

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## Initial Statement of Grape Source

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Pursuant to Napa County Zoning Ordinance Sections 12419(b) and (c), I hereby certify that the current application for establishment or expansion of a winery pursuant to the Napa County Winery Definition Ordinance will employ sources of grapes in accordance with the requirements of Section 12419(b) and/or (c) of that Ordinance.

---

Owner's Signature

Date

*Letters of commitment from grape suppliers and supporting documents may be required prior to issuance of any building permits for the project. Recertification of compliance will be required on a periodic basis. Recertification after initiation of the requested wine production may require the submittal of additional information regarding individual grape sources. Proprietary information will not be disclosed to the public.*



A Tradition of Stewardship  
A Commitment to Service

# WINERY TRIP GENERATION WORKSHEET

Planning, Building & Environmental Services

1195 Third Street, Suite 210

Napa, CA 94559-3082

(707) 253-4417

## PROJECT DESCRIPTION

<b>Winery Name:</b> _____	<b>Date Prepared:</b> _____
---------------------------	-----------------------------

Existing Entitled Winery		Harvest	Non-Harvest
Number of Full Time Employees*	Weekday		
	Weekend		
Number of Part Time Employees*	Weekday		
	Weekend		
Maximum Daily Visitation	Weekday		
	Weekend		
Annual Gallons of Production			
Annual Tons of Grape Haul			N/A
Number of Visitors at the Largest Event that occurs two or more times per month, on average	Weekday		
	Weekend		

Proposed Winery		Harvest	Non-Harvest
Number of Full Time Employees*	Weekday		
	Weekend		
Number of Part Time Employees*	Weekday		
	Weekend		
Maximum Daily Visitation	Weekday		
	Weekend		
Annual Gallons of Production			
Annual Tons of Grape Haul			N/A
Number of Visitors at the Largest Event that occurs two or more times per month, on average	Weekday		
	Weekend		

\*Number of full time and part time employees should represent the max number of employees that will be working on any given day (including all vendors and contractors employed for the largest event that occurs two or more times per month on average).

# TRIP GENERATION

Existing Winery				Harvest	Non-Harvest
<u>Maximum Daily Weekday Traffic (Friday)</u>					
	<u>Harvest</u>	<u>Non-Harvest</u>			
FT Employees			3.05 one way trips/employee	FT Employee Daily Trips	
PT Employees			1.9 one way trips/employee	PT Employee Daily Trips	
Max Visitors			2.6 visitors/vehicle for 2 one way trips	Max Visitor Daily Trips	
Max Event			2.6 visitors/vehicle for 2 one way trips	Max Event Daily Trips	
Gallons of Production			0.000018 truck trips	Production Daily Trips	
Tons of Grape Haul#			0.013889 truck trips	Grape Haul Daily Trips	
			<b>Total Weekday Daily Trips</b>		
			<b>Total Weekday Peak Hour Trips*</b>		
<u>Maximum Daily Weekend Traffic (Saturday)</u>					
	<u>Harvest</u>	<u>Non-Harvest</u>			
FT Employees			3.05 one way trips/employee	FT Employee Daily Trips	
PT Employees			1.9 one way trips/employee	PT Employee Daily Trips	
Max Visitors			2.8 visitors/vehicle for 2 one way trips	Max Visitor Daily Trips	
Max Event			2.8 visitors/vehicle for 2 one way trips	Max Event Daily Trips	
Gallons of Production			0.000018 truck trips	Production Daily Trips	
Tons of Grape Haul#			0.013889 truck trips	Grape Haul Daily Trips	
			<b>Total Weekend Daily Trips</b>		
			<b>Total Weekend Peak Hour Trips*</b>		
<u>Maximum Annual Traffic</u>					
					<b>Total Annual Trips**</b>

Proposed Winery				Harvest	Non-Harvest
<u>Maximum Daily Weekday Traffic (Friday)</u>					
	<u>Harvest</u>	<u>Non-Harvest</u>			
FT Employees			3.05 one way trips/employee	FT Employee Daily Trips	
PT Employees			1.9 one way trips/employee	PT Employee Daily Trips	
Max Visitors			2.6 visitors/vehicle for 2 one way trips	Max Visitor Daily Trips	
Max Event			2.6 visitors/vehicle for 2 one way trips	Max Event Daily Trips	
Gallons of Production			0.000018 truck trips	Production Daily Trips	
Tons of Grape Haul#			0.013889 truck trips	Grape Haul Daily Trips	
			<b>Total Weekday Daily Trips</b>		
			<b>Total Weekday Peak Hour Trips*</b>		
<u>Maximum Daily Weekend Traffic (Saturday)</u>					
	<u>Harvest</u>	<u>Non-Harvest</u>			
FT Employees			3.05 one way trips/employee	FT Employee Daily Trips	
PT Employees			1.9 one way trips/employee	PT Employee Daily Trips	
Max Visitors			2.8 visitors/vehicle for 2 one way trips	Max Visitor Daily Trips	
Max Event			2.8 visitors/vehicle for 2 one way trips	Max Event Daily Trips	
Gallons of Production			0.000018 truck trips	Production Daily Trips	
Tons of Grape Haul#			0.013889 truck trips	Grape Haul Daily Trips	
			<b>Total Weekend Daily Trips</b>		
			<b>Total Weekend Peak Hour Trips*</b>		
<u>Maximum Annual Traffic</u>					
					<b>Total Annual Trips**</b>

Net New Trips		Harvest	Non-Harvest
<u>Maximum Weekday Traffic (Friday)</u>			
If total net new daily trips is greater than 40, a TIS is required		<b>Net New Weekday Daily Trips</b>	
		<b>Net New Weekday Peak Hour Trips*</b>	
<u>Maximum Weekend Traffic (Saturday)</u>			
If total net new daily trips is greater than 40, a TIS is required		<b>Net New Weekend Daily Trips</b>	
		<b>Net New Weekend Peak Hour Trips*</b>	
<u>Maximum Annual Traffic</u>			
			<b>Net New Annual Trips**</b>

#Trips associated with Grape Haul represent harvest season only.

\*Weekday peak hour trips are calculated as 38% of daily trips associated with visitors and production plus one trip per employee. Weekend peak hour trips are calculated as 57% of daily trips associated with visitors and production plus one trip per employee.

\*\*Annual trips represent a conservative calculation that assumes 11 weeks of harvest, all weekdays are Fridays, all weekends are Saturdays, and assumes that the largest event that occurs two or more times per month on average occurs every day.



A Tradition of Stewardship  
A Commitment to Service

Planning, Building & Environmental Services - Hillary Gitelman, Director  
1195 Third Street, Napa, CA 94559 - (707) 253-4417 - www.countyofnapa.org

Project name & APN: \_\_\_\_\_  
Project number if known: \_\_\_\_\_  
Contact person: \_\_\_\_\_  
Contact email & phone number: \_\_\_\_\_  
Today's date: \_\_\_\_\_

## Voluntary Best Management Practices Checklist for Development Projects

Napa County General Plan Policy CON-65 (e) and Policy CON-67 (d) requires the consideration of Greenhouse Gas (GHG) emissions in the review of discretionary projects and to promote and encourage "green building" design. The below Best Management Practices (BMPs) reduce GHG emissions through energy and water conservation, waste reduction, efficient transportation, and land conservation. The voluntary checklist included here should be consulted early in the project and be considered for inclusion in new development. It is not intended, and likely not possible for all projects to adhere to all of the BMPs. Rather, these BMPs provide a portfolio of options from which a project could choose, taking into consideration cost, co-benefits, schedule, and project specific requirements. Please check the box for all BMPs that your project proposes to include and include a separate narrative if your project has special circumstances.

### Practices with Measurable GHG Reduction Potential

The following measures reduce GHG emissions and if needed can be calculated. They are placed in descending order based on the amount of emission reduction potential.

Already Plan  
Doing To Do

ID # BMP Name

**BMP-1 Generation of on-site renewable energy**  
*If a project team designs with alternative energy in mind at the conceptual stage it can be integrated into the design. For instance, the roof can be oriented, sized, and engineered to accommodate photovoltaic (PV) panels. If you intend to do this BMP, please indicate the location of the proposed PV panels on the building elevations or the location of the ground mounted PV array on the site plan. Please indicate the total annual energy demand and the total annual kilowatt hours produced or purchased and the potential percentage reduction of electrical consumption. Please contact staff or refer to the handout to calculate how much electrical energy your project may need.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BMP-2 Preservation of developable open space in a conservation easement**  
*Please indicate the amount and location of developable land (i.e.: under 30% slope and not in creek setbacks or environmentally sensitive areas for vineyards) conserved in a permanent easement to prohibit future development.*

\_\_\_\_\_  
\_\_\_\_\_

Already Plan  
Doing To Do

- BMP-3 Habitat restoration or new vegetation (e.g. planting of additional trees over 1/2 acre)**  
*Napa County is famous for its land stewardship and preservation. Restoring areas within the creek setback reduces erosion potential while planting areas that are currently hardscape (such as doing a bio-retention swale rather than underground storm drains) reduces storm water and helps the groundwater recharge. Planting trees can also increase the annual uptake of CO<sub>2</sub>e and add the County's carbon stock.*
- 
- 

- BMP-4 Alternative fuel and electrical vehicles in fleet**  
*The magnitude of GHG reductions achieved through implementation of this measure varies depending on the analysis year, equipment, and fuel type replaced.*
- Number of total vehicles** \_\_\_\_\_
- Typical annual fuel consumption or VMT** \_\_\_\_\_
- Number of alternative fuel vehicles** \_\_\_\_\_
- Type of fuel/vehicle(s)** \_\_\_\_\_
- Potential annual fuel or VMT savings** \_\_\_\_\_

- BMP-5 Exceed Title 24 energy efficiency standards: Build to CALGREEN Tier 2**  
*The California Building Code update effective January 1, 2011 has new mandatory green building measures for all new construction and has been labeled CALGREEN. CALGREEN provides two voluntary higher levels labeled CALGREEN Tier I and CALGREEN Tier II. Each tier adds a further set of green building measures that go above and beyond the mandatory measures of the Code. In both tiers, buildings will use less energy than the current Title 24 California Energy Code. Tier I buildings achieve at least a 15% improvement and Tier 2 buildings are to achieve a 30% improvement. Both tiers require additional non-energy prerequisites, as well as a certain number of elective measures in each green building category (energy efficiency, water efficiency, resource conservation, indoor air quality and community).*
- 
- 

- BMP-6 Vehicle Miles Traveled (VMT) reduction plan**  
*Selecting this BMP states that the business operations intend to implement a VMT reduction plan reducing annual VMTs by at least 15%.*
- Tick box(es) for what your Transportation Demand Management Plan will/does include:
- employee incentives
  - employee carpool or vanpool
  - priority parking for efficient transportation (hybrid vehicles, carpools, etc.)
  - bike riding incentives
  - bus transportation for large marketing events
  - Other: \_\_\_\_\_
- 
- 
- Estimated annual VMT \_\_\_\_\_
- Potential annual VMT saved \_\_\_\_\_
- % Change \_\_\_\_\_

Already Plan  
Doing To Do

**BMP-7 Exceed Title 24 energy efficiency standards: Build to CALGREEN Tier 1**

*See description below under BMP-5.*

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**BMP-8 Solar hot water heating**

*Solar water heating systems include storage tanks and solar collectors. There are two types of solar water heating systems: active, which have circulating pumps and controls, and passive, which don't. Both of them would still require additional heating to bring them to the temperature necessary for domestic purposes. They are commonly used to heat swimming pools.*

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**BMP-9 Energy conserving lighting**

*Lighting is approximately 25% of typical electrical consumption. This BMP recommends installing or replacing existing light bulbs with energy-efficient compact fluorescent (CF) bulbs or Light Emitting Diode (LED) for your most-used lights. Although they cost more initially, they save money in the long run by using only 1/4 the energy of an ordinary incandescent bulb and lasting 8-12 times longer. Typical payback from the initial purchase is about 18 months.*

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**BMP-10 Energy Star Roof/Living Roof/Cool Roof**

*Most roofs are dark-colored. In the heat of the full sun, the surface of a black roof can reach temperatures of 158 to 194 °F. Cool roofs, on the other hand, offer both immediate and long-term benefits including reduced building heat-gain and savings of up to 15% the annual air-conditioning energy use of a single-story building. A cool roof and a green roof are different in that the green roof provides living material to act as a both heat sink and thermal mass on the roof which provides both winter warming and summer cooling. A green (living) roof also reduces storm water runoff.*

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**BMP-11 Bicycle Incentives**

*Napa County Zoning Ordinance requires 1 bicycle rack per 20 parking spaces (§18.110.040). Incentives that go beyond this requirement can include on-site lockers for employees, showers, and for visitor's items such as directional signs and information on biking in Napa. Be creative!*

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**BMP-12 Bicycle route improvements**

*Refer to the Napa County Bicycle Plan (NCPTA, December 2011) and note on the site plan the nearest bike routes. Please note proximity, access, and connection to existing and proposed bike lanes (Class I: Completely separated right-of-way; Class II: Striped bike lane; Class III: Signed Bike Routes). Indicate bike accessibility to project and any proposed improvements as part of the project on the site plan or describe below.*

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Already Plan  
Doing To Do

**BMP-13 Connection to recycled water**

*Recycled water has been further treated and disinfected to provide a non-potable (non-drinking water) water supply. Using recycled water for irrigation in place of potable or groundwater helps conserve water resources.*

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**BMP-14 Install Water Efficient fixtures**

*WaterSense, a partnership program by the U.S. Environmental Protection Agency administers the review of products and services that have earned the WaterSense label. Products have been certified to be at least 20 percent more efficient without sacrificing performance. By checking this box you intend to install water efficient fixtures or fixtures that conserve water by 20%.*

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**BMP-15 Low-impact development (LID)**

*LID is an approach to land development (or re-development) that works with nature to manage storm water as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat storm water as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements. By implementing LID principles and practices, water can be managed in a way that reduces the impact of built areas and promotes the natural movement of water within an ecosystem or watershed. Please indicate on the site or landscape plan how your project is designed in this way.*

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**BMP-16 Water efficient landscape**

*If your project is a residential development proposing in excess of 5,000 sq. ft. or a commercial development proposing in excess of 2,500 sq. ft. The project will be required to comply with the Water Efficient Landscape Ordinance (WELO).*

*Please check the box if you will be complying with WELO or if your project is smaller than the minimum requirement and you are still proposing drought tolerant, zeroscape, native plantings, zoned irrigation or other water efficient landscape.*

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**BMP-17 Recycle 75% of all waste**

*Did you know that the County of Napa will provide recycling collectors for the interior of your business at no additional charge? With single stream recycling it is really easy and convenient to meet this goal. To qualify for this BMP, your business will have to be aggressive, proactive and purchase with this goal in mind.*

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Already Plan  
Doing To Do

**BMP-18 Compost 75% food and garden material**

*The Napa County food composting program is for any business large or small that generates food scraps and compostable, including restaurants, hotels, wineries, assisted living facilities, grocery stores, schools, manufacturers, cafeterias, coffee shops, etc. All food scraps (including meat & dairy) as well as soiled paper and other compostable - see <http://www.naparecycling.com/foodcomposting> for more details.*

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**BMP-19 Implement a sustainable purchasing and shipping programs**

*Environmentally Preferable Purchasing (EPP) or Sustainable Purchasing refers to the procurement of products and services that have a reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. By selecting this BMP, you agree to have an EPP on file for your employees to abide by.*

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**BMP-20 Planting of shade trees within 40 feet of the south side of the building elevation**

*Well-placed trees can help keep your building cool in summer. If you choose a deciduous tree after the leaves drop in autumn, sunlight will warm your building through south and west-facing windows during the colder months. Well-designed landscaping can reduce cooling costs by 20%. Trees deliver more than energy and cost savings; they are important carbon sinks. Select varieties that require minimal care and water, and can withstand local weather extremes. Fruit or nut trees that produce in your area are great choices, providing you with local food as well as shade. Please use the site or landscape plan to indicate where trees are proposed and which species you are using.*

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**BMP-21 Electrical Vehicle Charging Station(s)**

*As plug-in hybrid electric vehicles (EV) and battery electric vehicle ownership is expanding, there is a growing need for widely distributed accessible charging stations. Please indicate on the site plan where the station will be.*

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**BMP-22 Public Transit Accessibility**

*Refer to <http://www.ridethevine.com/vine> and indicate on the site plan the closest bus stop/route. Please indicate if the site is accessed by transit or by a local shuttle. Provide an explanation of any incentives for visitors and employees to use public transit. Incentives can include bus passes, informational hand outs, construction of a bus shelter, transportation from bus stop, etc.*

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Already Plan  
Doing To Do

**BMP-23**

**Site Design that is oriented and designed to optimize conditions for natural heating, cooling, and day lighting of interior spaces, and to maximize winter sun exposure; such as a cave.**

*The amount of energy a cave saves is dependent on the type of soil, the microclimate, and the user's request for temperature control. Inherently a cave or a building burned into the ground saves energy because the ground is a consistent temperature and it reduces the amount of heating and cooling required. On the same concept, a building that is oriented to have southern exposure for winter warmth and shading for summer cooling with an east-west cross breeze will naturally heat, cool, and ventilate the structure without using energy. Please check this box if your design includes a cave or exceptional site design that takes into consideration the natural topography and sitting. Be prepared to explain your approach and estimated energy savings.*

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**BMP-24 Limit the amount of grading and tree removal**

*Limiting the amount of earth disturbance reduces the amount of CO2 released from the soil and mechanical equipment. This BMP is for a project design that either proposes a project within an already disturbed area proposing development that follows the natural contours of the land, and that doesn't require substantial grading or tree removal.*

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**BMP-25 Will this project be designed and built so that it could qualify for LEED?**

**BMP-25 (a)**

**LEED™ Silver** (check box BMP-25 and this one)

**BMP-25 (b)**

**LEED™ Gold** (check box BMP-25, BMP-25 (a), and this box)

**BMP-25 (c)**

**LEED™ Platinum** (check all 4 boxes)

## Practices with Un-Measured GHG Reduction Potential

**BMP-26 Are you, or do you intend to become a Certified Green Business or certified as a "Napa Green Winery"?**

*As part of the Bay Area Green Business Program, the Napa County Green Business Program is a free, voluntary program that allows businesses to demonstrate the care for the environment by going above and beyond business as usual and implementing environmentally friendly business practices. For more information check out the Napa County Green Business and Winery Program at [www.countyofnapa.org](http://www.countyofnapa.org).*

**BMP-27 Are you, or do you intend to become a Certified "Napa Green Land"?**

*Napa Green Land, fish friendly farming, is a voluntary, comprehensive, "best practices" program for vineyards. Napa Valley vintners and growers develop farm-specific plans tailored to protect and enhance the ecological quality of the region, or create production facility programs that reduce energy and water use, waste and pollution. By selecting this measure either you are certified or you are in the process of certification.*

Already Plan  
Doing To Do

- BMP-28 Use of recycled materials**  
*There are a lot of materials in the market that are made from recycled content. By ticking this box, you are committing to use post-consumer products in your construction and your ongoing operations.*
- 

- BMP-29 Local food production**  
*There are many intrinsic benefits of locally grown food, for instance reducing the transportation emissions, employing full time farm workers, and improving local access to fresh fruits and vegetables.*
- 

- BMP-30 Education to staff and visitors on sustainable practices**  
*This BMP can be performed in many ways. One way is to simply put up signs reminding employees to do simple things such as keeping the thermostat at a consistent temperature or turning the lights off after you leave a room. If the project proposes alternative energy or sustainable winegrowing, this BMP could include explaining those business practices to staff and visitors.*
- 

- BMP-31 Use 70-80% cover crop**  
*Cover crops reduce erosion and the amount of tilling which is required, which releases carbon into the environment.*

- BMP-32 Retain biomass removed via pruning and thinning by chipping the material and reusing it rather than burning on-site**  
*By selecting this BMP, you agree not to burn the material pruned on site.*

- BMP-33 Are you participating in any of the above BMPS at a 'Parent' or outside location?**
- 
- 
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- 

- BMP-34 Are you doing anything that deserves acknowledgement that isn't listed above?**
- 
- 
- 

**Comments and Suggestions on this form?**

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## **Sources:**

1. *Napa County Bicycle Plan, NCTPA, December 2011*
2. *California Air Pollution Control Officers Associate (CAPCOA). January 2008. CEQA and Climate Change*
3. *Napa County General Plan, June 2008.*
4. *California Office of the Attorney General. 2010. Addressing Climate Change at the Project Level available at [http://ag.ca.gov/global\\_warming/pdf/GW\\_mitigation\\_measures.pdf](http://ag.ca.gov/global_warming/pdf/GW_mitigation_measures.pdf)*
5. *U.S. Green Building Council (2009). LEED 2009 for New Construction and Major Renovations Rating System. Washington, DC: United States Green Building Council, Inc.*
6. *California Energy Commission (2008). Title 24, Part 6, of the California Code of Regulations: California's Energy Efficiency Standards for Residential and Nonresidential Buildings. Sacramento, CA: California Energy Commission.*
7. *U.S. Department of Energy (2010). Cool roof fact sheet.*
8. <http://www1.eere.energy.gov/buildings/ssl/ledlightingfacts.html>
9. *Compact Fluorescent Light Bulbs". Energy Star. Retrieved 2013-05-01.*
10. <http://energy.gov/energysaver/articles/solar-water-heaters>. Retrieved 2013-05-02.
11. <http://energy.gov/energysaver/articles/solar-water-heater>. Retrieved 2013-05-09
12. [http://www.bchydro.com/powersmart/residential/guides\\_tips/green-your-home/cooling\\_guide/shade\\_trees.html](http://www.bchydro.com/powersmart/residential/guides_tips/green-your-home/cooling_guide/shade_trees.html)
13. <http://www.napagreen.org/about>. Retrieved 2013-05-09
14. <http://www.countyofnapa.org/pages/departmentscontent.aspx?id=4294971612>
15. <http://www.napasan.com/Pages/ContentMenu.aspx?id=109>
16. <http://water.epa.gov/polwaste/green/index.cfm>

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## Adjoining Property Owner List Requirements

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All applications shall include a list of the current owners of all the properties whose outer perimeters are within **1,000 feet** of the property boundary of the project site. The list shall include the property owner's names, their addresses, and the assessor's parcel numbers of the property owned. The list may be expanded to include other affected property owners at the discretion of the Planning Director as well as individuals having a request for notice on file with the Commission Clerk.

Preparation, verification and submission of this list of property owners is the responsibility of the applicant. Lists of the property owners appearing on County tax rolls in the form required are available from all local title insurance companies. Each such list must be certified by a title insurance company as reflecting the most recent County tax roll information. While the mailing list is not necessarily required at initial project submittal, the project cannot be noticed for hearing without it.

### Instructions to the Title Company

Please prepare the property owners' list as follows:

1. Type the property owners' names, parcel numbers and mailing addresses on an 8½" by 11" sheet of Avery #5160 Laser Labels so that this information can be readily used in mailing by the Planning, Building & Environmental Services Department.
2. Submit a full page copy of the assessors' parcel book page(s) and a copy of the latest equalized assessment roll used to compile the property owners' list. Please indicate the location of all parcels listed, by check mark or colored parcel number circled on the pages.

If you have any questions, please contact the Planning, Building & Environmental Services Department at (707) 253-4417.