



WATER AUDIT CALIFORNIA

A PUBLIC BENEFIT CORPORATION

952 SCHOOL STREET #316 NAPA CA 94559

VOICE: (707) 681-5111

EMAIL: GENERAL@WATERAUDITCA.ORG

July 15, 2025

To Napa County Planning Commission

Sent via email to: meetingclerk@countyofnapa.org

RE July 16, 2025

Item 7A. JEREMY NICKEL / VINEYARD HOUSE WINERY / USE PERMIT P18-00448-UP, USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS P21-00341-UP AND EXCEPTIONS TO THE NAPA COUNTY ROAD AND STREET STANDARDS

To whom it may concern:

Water Audit California ("Water Audit") is a public benefit corporation with a mission to protect the public trust. As result of its experience in Napa County, that mission has been expanded to a mission to ensure integrity in governmental processes that affect the environment.

Objections to Process

Water Audit recommends Option 3 - Deny Applicant's Proposal, on the basis that the facts support no other conclusion.

Water Audit again reminds the County Counsel that closed captions are required by law however there continues to be no closed caption during remote access of proceedings.

Objections to the Application

A. Previous code violations are not disclosed.

The project parcel appears to have previously been APN 027-360-012 and 027-360-017. (Exhibit 1)

The Staff Report does not include the full historical record, in particular Code Enforcement violations. Staff represents “Code Compliance History: **There are no records of prior code violations** related to the project site.” (Packet page 17)

Staff omit several code violations that have riddled the project parcel. Not in the agenda packet but on the County Electronic Document Retrieval database are 20 Code Enforcement files. A sampling of the files reveals Planning Director Brian Bordona, in his capacity as then Supervising Planner, is personally knowledgeable of the violations, and Planner Matt Ringel is knowledgeable of the County policy prohibiting barn conversions:

CE11-00625 "unauthorized vineyard development on the subject property" with document cc: Brian Bordona Supervising Planner (Conservation). (Exhibit 2)

B12-01068 Barn Remodel red-stamped “CODE VIOLATION” with applicant disclosure statement “I make this statement under penalty of law.” (Page 1/2). (Exhibit 3)

CE12-00063 Complaint for Damages re no building permits, and unsafe job site. (Exhibit 4):

“SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNT OF NAPA RONALD (RUSS) CLAWSON, JESSE WANAMAKER, AND CHRISTOPHER SMITH Plaintiffs, v. THE VINEYARD HOUSE, LLC, JEREMY NICKEL, and DOES 1 through 50. Defendant. Case No. 26-58763 COMPLAINT FOR DAMAGES:

... 15b. No Building Permits. Defendant Nickel instructed Plaintiffs and other workers to construct a building on the Vineyard Property and refused to take out any building permits from the County of Napa. The permits were needed because of the nature and extent of the repairs. One building, called a “Coop” as substantially rebuilt without permits. Today, it appears to be a finished building, but it is structurally unsound and presents a danger to all who enter it. (Page 4)

CE15-00378 Staff letter “you have been advertising and potentially holding wine tastings and wine sales at the above address/assessor’s parcel number without the benefit of a use permit and in violation of Title 18 of the Napa County Code.” (Exhibit 5)

CE18-00423 Staff letter “again received information and/or observed that a Code violation exists or has occurred” (page 2). (Exhibit 6)

CE19-00627 EDR 027-360-022 2019 CE19-00627 Staff letter “Application incomplete”. (Exhibit 7):

Advisory

Be advised that pursuant to Resolution No. 2010-48 (enclosed) adopted by the Board of Supervisors on May 11, 2010 “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 substantially modified within the last 5 to 7 years.**” The submitted project statement indicates that the barn was completed in 2016. (Page 2) (emphasis added)

B. The Public Trust review is nonconforming.

The Staff Report does not acknowledge three neighboring wells, and an additional existing parcel well, located on APNs 027-360-018, 027 360-001, and 027-490-021. The proximate distance from project well to neighboring wells and springs is uncertain because the Overall Site Plan limits the radius to 100 feet. According to the Interim Napa County Well Permit Standards and Water Availability Analysis (“WAA”) Requirements (January 2024), the correct standards are 500 feet from a well, and 1,500 from a surface water stream. Compared with the historical record, the four wells omitted from the project’s 2022 Overall Site Plan were known by the Applicant’s consultant Jon Web, New Albion Surveys, Inc, per the historical record’s 2015 Plans. (Exhibit 8)

The Staff Report states that Tier 3 is not required:

"The significant streams are diverted to subsurface piping that flow through the property. Hence, the streams are isolated from and cannot interact with the alluvial deposits within the property. For these reasons, **the aquifers of the project wells are not directly connected to Lincoln Creek and the unnamed ephemeral stream"** (packet page 20/1) (emphasis added)

There is no evidence that the foregoing was permitted by a Fish and Game Code section 1602 application, as required by law. This injury to the public trust is evergreen and requires review.

C. Documentation and notice is incomplete.

The State Clearing House website does not demonstrate notice to surrounding cities or the NRCDD, and the Location Waterways description omits the Napa River.

The Historical Report lists "2011-2016 An ancillary building (referred to as the "chicken coop") was demolished" (packet page 292.) However, there is no record of a demolition permit on the County record.

The Historical Report also claims that new sewage was constructed, footnoting two permits from the Parcel Report (packet page 292.) However, and although not in the agenda packet, the Parcel Report clearly demonstrates that the *New Install* permit expired on 4/19/2016. Assigned Staff are not named, and the chronology of permit numbers and dates don't comport (i.e. the "Plan Check" Permit E11-00459 Permit Status shows "Approved" as of **4/15/2016**, which is four days before the "New Install Conventional" Permit E11-00458 shows "Expired". (Exhibit 9)

The Use Permit does not include or refer to the CDFW recommended California Aquatic Resources Inventory (CARI) map (<https://ecoatlas.org/regions/ecoregion/statewide>); the CARI identifies three blueline streams that traverse the project parcel.

There is no indication the streams are diverted underground.

The Application Checklist is omitted from the application packet for both Use Permit P18-00448 and the Exception to Conservation Regulation P21-00341.

The Application omits required Checklist documents, such as the Assessor Pages used in compiling a property owners list, and a Title Insurance Company

Certified List of All Property Owners within 1000 feet of the subject parcel specifying name, address, and parcel number. The County website highlights the importance of these required documents:

In my capacity as the elected Assessor-Recorder-Clerk I want to provide as much information to the public as possible regarding property tax, document recording and other related issues. **An informed public is the key to good customer service and to ensuring that every property owner and resident receives fair and prompt treatment. Some of the duties of the department include property tax assessment and parcel map maintenance.** (<https://www.countyofnapa.org/149/Assessor>) (emphasis added)

The Exception to Conservation Regulations Checklist requires a site location map to identify water supply, septic components and watershed features (<https://www.countyofnapa.org/DocumentCenter/View/3363/Conservation-Regulations-Exception.pdf>). However, the Applicant has omitted several water related items from its Overall Site Plan including a spring source and 14.7 acre feet reservoir and four underground cisterns.

Not in the agenda packet but found in County records:

1982 reporting spring water supply source and 14.7 acre-feet vineyard reservoir. (Exhibit 10)

2000 Erosion Control Plan (ECP) 00130 reporting four underground cisterns. (Exhibit 11)

2013 Lot Line Adjustment (LLA) Permit W13-00156 “existing water source reservoir” and a list of “Not Locatable Easements for the reservoir & pipeline, and creek & spring water easement”. (Exhibit 12)

Omitted from the Application are (1) the spring source and distribution line; (2) the “vineyard reservoir; (3) the quantity and “source of water stored in the cisterns; (4) the beneficial use of the cistern water; and (5) “recorded” easements.

Standards of information that is required, not included in the agenda packet, yet found on the County's website (see <https://www.countyofnapa.org/DocumentCenter/View/1056/Water-Availability-Analysis-Adopted-Policy-May-12-2015-PDF>):

The WAA application contains the following information:

2. Site map of the project parcel and adjoining parcels. The **map should include**... location of existing or proposed project well(s) and **other water sources**...

3. **A narrative...including description of interconnecting plumbing between the various water sources...**

4. **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...**

PBES and **Public Works (PW) staff will review** the application for completeness and reasonableness (page 5/6) (emphasis added)

The Applicant's Exception to the Conservation Regulations form has numerous anomalies (packet page 146): "Date submitted" is incomplete, "Date published" and "Date complete" are blank, "Application Fee Deposit, Receipt No., Received by, Date" all are blank (packet page 146.)

Not in the agenda packet, the Project APN 027-360-022 Parcel Report P21-00341 describes a "Development Approval", and not an Exception to the Conservation Regulation (Parcel Report page 9.) This omission is subtle, and omits the fact that a mandatory pre-application meeting was not scheduled, and therefore the Checklist is on its face incomplete:

Prior to submittal, the applicant must schedule a pre-application meeting with a representative of the Planning Division to determine whether or not the proposed project can meet the minimum standards and requirements of the Conservation Regulations. (Application form page 3 <https://www.countyofnapa.org/DocumentCenter/View/3363/Conservation-Regulations-Exception>) (emphasis added)

The Parcel Report “Submittal Received” is dated 12/30/2021. Water Audit recently received a clerk email reminder detailing the winter recess December 24 through January 1. (Exhibit 13) This could appear that staff is fabricating submittal dates, if the County offices were closed on December 30, 2021, as they are more recently.

D. Objections to and insufficiency of findings and conditions of approval.

The Findings do not establish that review has been performed by the County Department of Public Works. Not in the agenda packet but found on County websites:

Natural Resources, Groundwater, Water Conservation, Watershed Information (<https://www.countyofnapa.org/1646/About-Us>)

Director of Public Works Steve Lederer, Deputy Director of Public Works - Flood Control & Water Resources Richard Thomasser, Water Resources & R.I.Ds Engineering Manager Water Resources - Chris Silke (<https://www.countyofnapa.org/DocumentCenter/View/3244/Public-Works-Department-Organizational-Chart-PDF>)

In Napa County, Watershed Management consists of: Clearing problem areas within the Napa River and its tributaries, Managing and monitoring groundwater, Overseeing adjudicated watersheds, Preparing special studies for flood protection and watershed management (<https://www.countyofnapa.org/1161/Watershed-Management>)

Water Audit disagrees with Use Permit Finding 23 and 24, as the Water Availability Analysis did not include all existing water sources in the water demand calculations. Omitted were the six historic spring sources, the un-sited reservoir, four underground water storage cisterns on culverted creek pipeline path, and an undisclosed vineyard off-site water source:

“USE PERMIT: The Commission has reviewed the use permit request in accordance with the requirements of Napa County Code §18.124.070 and makes the following findings:

23. The proposed winery use complies with the applicable provisions of Napa County Code and is consistent with the policies and standards of the Napa County General Plan” (packet page 80)

Policy CON -55 requires the County to consider existing water uses during the review of new water uses:

Applicable Napa County General Plan goals and policies:

Policy CON-55: The County shall consider existing water uses during the review of new water uses associated with discretionary projects, and where hydrogeological studies have shown that the new water uses will cause significant adverse well interference or substantial reductions in groundwater discharge to surface waters that will alter critical flows to sustain riparian habitat and fisheries or exacerbate conditions of overdraft, the County shall curtail those new or expanded water uses. (Packet page 80) (emphasis added)

Because the WAA omits several water sources from the project parcel, 26 acres of vineyards and the “Harlan Well” (see below), it cannot be determined if the project, as existing, or as proposed, is not already drawing more water from the limited acre foot recharge. Finding 24 Analysis does not comply with CON-55, and misstates the policy by omitting the language “shall consider existing water uses”:

24. The proposed use 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 Section 13.15.070 or 13.15.080 of the Napa County Code.

Analysis: The subject property is not located in a “groundwater deficient area” as identified in Section 13.15.010 of the Napa County Code, and is consistent with General Plan Conservation Policies CON-53 and CON-55 which require that applicants, who are seeking discretionary land use approvals, prove that adequate water supplies are available to serve the proposed use without causing significant negative impacts to shared groundwater resources.

The proposed project would increase water usage by 4.187 af/yr, to a total of 15.952 af/yr. (Packet page 81/2) (emphasis added)

The Conditions of Approval omits the Public Works Groundwater Memorandum. There is no condition prohibiting trucked-water.

The COA omits language "jointly implemented by Public Works and PBES", altogether.

4.9 GROUND WATER MANAGEMENT – WELLS [RESERVED] (page 89)

The PBES Director continues to assign data to the PBES Director, without authority, which strips authority from Public Works, and delegates it to the PBES Director's representative:

6.15 OTHER CONDITIONS APPLICABLE TO THE PROJECT PERMITTING PROCESS

1. ... permittee shall submit for review and approval by the PBES Director a groundwater demand management plan...

5. ... the permittee shall read the meters...at the beginning of each month and **provide the data to the PBES Director** monthly... if the permittee fails to report, additional reviews and analysis and/or a corrective action program at the permittee's expense shall be required to be **submitted to the PBES Director for review and action**...Permittee shall also **provide well level data to the PBES Director**." (packet page 100) (emphasis added)

7.i. ...permittee shall read the water meter and **provide the data to the PBES Director**...The **PBES Director, or the Director's designated representative**" (packet page 101) (emphasis added)

There is no well monitoring data in the agenda packet. Well 1 is not equipped with a pump, there are only three Well Completion Reports, and the Domestic well sanitary seal is only 26'.

"Because they are not project wells, no Tier 2 or Tier 3 assessment of the Domestic Well or the Harlan Easement Well are required as part of the WAA analysis." (packet page 159)

"No driller's log is available for the onsite well known as the Harlan Easement Well." (Packet page 161)

"The actual amount of groundwater extracted from this Easement Well for these offsite uses is unknown due to a lack of a flow meter on this well." (packet page 192)

"To our knowledge, Well 1 has never been equipped with a permanent pump since its construction" (packet page 161)

The pumping data is inaccurate for Well 1 and Well 2:

The geologist also measured the water levels in both of the project wells in May 2022. **In Well 1, a static (non-pumping) water level depth** of 126 ft below ground surface (bgs) was measured. **Well 2 was being actively pumped during the site visit, and the pump was observed by the geologist to be frequently cycling on and off.** During a period of non-pumping, the geologist measured a water level of 142.8 ft bgs **in Well 2. This water level is not considered to be a true static level, as the well was still recovering** from the recent pumping events while the measurement was taken. **Hence, this water level is considered to be a “pumping water level” for the purposes of this Memorandum.** (Packet page 190)

The Harlan Easement Well has no easement on record or site plan, and no pumping data worksheets:

This well was observed to be equipped with permanent pump at time of our initial site visit to this well on May 12, 2016. An initial SWL of 122.0 ft brp was measured by the RCS geologist on May 12, 2016; the reference point was measured to be approximately 1 ft ags. Additional SWL readings of 125.3 ft and 118.7 ft brp, were measured by the RCS geologist on June 15, 2016 and June 28, 2018, respectively. No totalizer flow dial device was observed to be installed at this well during any of our site visits. **Reportedly, groundwater extracted from this well is used by the neighboring Harlan Estate property through an existing water well easement; the operational frequency of use of this well and/or the amount of water annually that is pumped from this well are not known to RCS.** (Packet page 163/4)

There are no water level measurement worksheets. The WAA calculations are ten years old, claiming Well #2 data is 24 hours, but that data is corrupted and there are no worksheets to support the claim:

Below is a summary of the water level data collected from Well 2 (the pumping well) and from the water level observation wells (Well 1, Domestic Well, and Harlan Easement Well) during the pumping portion and subsequent water level recovery portion of the Well 2 aquifer test:

... Note that it appears the pumping rate during this test was adjusted a couple of times by the pumper, thus, causing the sudden increases/decreases in water levels that were observed in the transducer data in the early portion of the pumping test. Also, **the LGS pumper reported that vineyard property staff had driven over the discharge hose connected to Well 2 and possibly caused some back pressure on the pump,** thus causing water levels to increase/decrease in the well near the end of the pumping test. At the very end of

the 24-hour pumping test period, pumping water levels appear to suddenly decrease to a depth on the order of 190 ft brp. **LGS reported that the pumper likely got his electric tape sounder cable tangled with the steel wire rope that hangs the transducer downwell and inadvertently moved the transducer.** Therefore, **a portion of the water level data recorded by the transducer near the end of testing may be erroneously deep.** (Packet page 178)

...water levels in Well 2 did not fully recover before the transducer was removed on June 28, 2016

...the Domestic Well is considered to have been impacted very slightly by the pumping of Well 2 during its aquifer test. The Domestic Well is located only 360 ft northwest of Well 2

... Harlan Easement Well – **The occasional manual water level measurement collected by the pumper in the Harlan Easement Well** showed that water levels increased by 0.1 ft (from 121.6 ft to 121.5 ft brp) during the 24-hour pumping period of Well 2. (Packet page 179) (emphasis added)

The WAA reports a seven-year-old test, February 7, 2018 Well 2 pumping test, where results were corrupted by the Domestic well daily onsite water demands during observation resulting in partial recovery level:

Also, during our site visit on February 7, 2018, Well 2 was observed to be pumping, and the SWL of 94 ft brp recorded by the RCS geologist was collected only ± 15 hours after the pump had reportedly been turned off by TVH personnel. Thus, the February 2018 SWL may only be considered to be a partial recovery level. Water levels in the Domestic Well appear to have decreased by roughly 10 ft (from 148 ft brp in June 2016 to 158 ft brp in February 2018). Again, this well is used daily for onsite water demands, thus, the February 2018 SWL recorded by RCS geologist may be considered to be a partial recovery level, as well. (Packet page 183)

The WAA assumes that project parcel groundwater extractions can cover the vineyard irrigation. GW recharge volume is assumed to be sufficient for vineyard irrigation:

In the event that delivery of offsite easement water currently used at the property is disrupted or otherwise not available, the subject property owner may elect to use, if/as needed, a portion or all of the estimated groundwater recharge “surplus” of 6.2 AFY to irrigate the existing onsite vineyards. Even if groundwater is used to irrigate the onsite vineyards, the total specific annual groundwater recharge calculated above). (Packet page 186)

The WAA Groundwater Use Estimates omits existing vineyard estimated water use¹:

26 +/- acre vineyard. Water delivered from an offsite property via an existing water easement, as has been done historically. If water is unavailable from the offsite source, total annual groundwater use at the subject property will not exceed the volume of site-specific annual groundwater recharge calculated elsewhere in this WAA. (Packet page 218.) (emphasis added)

If calculating from the Allowable Groundwater Use (AFY) Total = 17.7 (packet page 186) [and not from the COA 4.20a AF limit 15.952] the claimed surplus 6.2 AF is still not sufficient to irrigate 26 acres of vineyards: $26\text{ac} \times 0.5\text{AF}^2 = 13\text{AF}$, and subtracting a presumed 6.2AF surplus, the remainder is an over extraction of 6.8AF.

The WAA omits supporting documents from public review: testing worksheets with geologist signature and date, constant rate pumping test, occasional manual water level measurements for Harlan Easement Well (note that an occasional test is not a constant rate pumping test.) There is no record that there is an easement to source water off-site to the Harlan property.

Aquifer testing, which included a step drawdown test, **background water level monitoring, a constant rate pumping test, and a final water level recovery period**, were performed in Wells 1 and 2 between April and June 2016. Water level measurements were automatically recorded during each constant rate test by water level pressure transducers that were installed by RCS geologists into Well 1, Well 2, and the Domestic Well; **occasional manual water level measurements** were also collected by the pumper in the onsite Harlan Easement Well. (Packet page pdf193)

Not in the agenda packet and not calculated in the WAA is a recorded 1982 Map reporting an off-site spring water source and storage tank servicing the project parcel. (Exhibit 14)

¹ Water Audit reviewed the County GIS Erosion Control Plan layer and discovered that there appears to be an approximately 5-acre vineyard not assigned an ECP permit or acreage. (Exhibit 15)

² "Guidelines For Estimating Non-Residential Water Usage: Agricultural: Vineyards Irrigation Only 0.2 to 0.5 acre-feet per acre per year, Heat Protection 0.25 acre-feet per acre per year, Frost Protection 0.25 acre-feet per acre per year" (page 19 <https://www.countyofnapa.org/DocumentCenter/View/1056/Water-Availability-Analysis-Adopted-Policy-May-12-2015-PDF?bidId=>)

The WAA Figure 8 Groundwater Basin Map identifies the "Point of spring flow enters property" (packet page 212) Not shown is the source of the spring and what is the distance to the project Well No.1 and Well No. 2.

The 2019 Stormwater Control Plan is a "Draft" document. The Draft reports the project abides by all required stream setbacks:

II.A.3. Setbacks from creeks, wetlands, and riparian habitats
Stream setbacks are illustrated on the plans and **the project abides by all required stream setback** provisions. (Page 358) (emphasis added)

The Draft does not reflect the revised site plan sought in the Applicant's Exception to Conservation Regulations description:

... The revised plan includes an access driveway that crosses the existing ephemeral stream - this improvement is located within the now 35' setback ... It is this encroachment that the applicant is now seeking approval of the conservation regulation exception. (Packet page 147.) (emphasis added)

E. The Public Trust.

The public trust is evergreen; every new day of injury or violation creates a new cause of action. "Public rights cannot be lost nor the public trust as to their administration and exercise be destroyed either by adverse possession or by laches or other negligence on the part of the agents of the state or municipality who may from time to time be invested with the duty of their protection and administration." (*San Diego v. Cuyamaca Water Co.* (1930) 209 Cal. 105, 109.) Public agencies have a ministerial duty to consider the public trust interest, and mitigate harm when feasible, when making its daily decisions to divert water, by the operations and/or permitting of well extractions that impact the Napa River. (See *Envtl. Law Found. v. State Water Res. Control Bd.* ("Envtl. Law Found.") (2018) 26 Cal.App.5th 844, 852.)

Once an appropriation is approved, "the public trust imposes a duty of continuing supervision over the taking and use of the appropriated water." (*Nat'l Audubon Soc'y v. Superior Court* ("Audubon") (1983) 33 Cal.3d 419, 424.) A public agency is "not confined by past allocation decisions that may be incorrect in light of current knowledge or inconsistent with current needs [and] accordingly has the power to reconsider allocation decisions even though those decisions were made after due consideration of their effect

on the public trust.” (*Audubon*, *supra*, 33 Cal.3d 419, 424; see also *Cal. Trout v. State Water Res. Control Bd.* (1989) 207 Cal.App.3d 585, 629, stating that “the rule in section 5946 pertains to a public trust interest no private right in derogation of that rule can be founded upon the running of a statute of limitations, for the same reasons that one may not acquire an interest in public lands by means of adverse possession.”.)

[T]he determinative fact is the impact of the activity on the public trust resource. If the public trust doctrine applies to constrain fills which destroy navigation and other public trust uses in navigable waters, it should equally apply to constrain the extraction of water that destroys navigation and other public interests. Both actions result in the same damage to the public trust. The distinction between diversion and extraction is, therefore, irrelevant. The analysis begins and ends with whether the challenged activity harms a navigable waterway and thereby violates the public trust.

(*Env'tl. Law Found.*, *supra*, 26 Cal.App.5th 844.)

Tributaries to navigable waterways are also subject to the public trust doctrine. For example, see Fish and Game Code section 711.7. (a) which states in part “The fish and wildlife resources are held in trust for the people of the state ...”

The public trust doctrine imposes independent and unavoidable obligations on trustee agencies overseeing groundwater extraction. California precedent makes clear that subdivisions of the state³ have “a duty to consider the public trust interest⁴ when making decisions impacting water that is imbued with the public trust,”⁵ and merely complying with CEQA does not discharge that duty.⁶

The public trust requires reconsideration of past or ongoing water use decisions where those decisions were made “without any consideration of the impact upon the

³ *Env't L. Found. (ELF) v. State Water Res. Control Bd.* (SWRCB) (2018), 26 Cal. App. 5th 844, 868 (“Although the state as sovereign is primarily responsible for administration of the trust, the county, as a subdivision of the state, shares responsibility for administering the public trust and may not approve of destructive activities without giving due regard to the preservation of those resources.”) (internal quotation marks omitted).

⁴ The Napa River and its tributaries, and the fish within those water ways, are protected public trust resources.

⁵ *Id.* at 863.

⁶ *Id.* at 868.

public trust.”⁷ Thus, compliance with public trust duties is not discretionary, it is obligatory.

As Napa County is a legal subdivision of the state, it must deal with the trust property for the beneficiary’s⁸ benefit. No trustee can properly act for only some of the beneficiaries – for example 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.

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

If at any time the trustee determines that a use of water other than the then current use would better serve the public trust, the State has the power and the obligation to reallocate that water in accordance with the public's interest. Even if the water at issue has been put to beneficial use (and relied upon) for decades, it can be taken from one user in favor of another need or use. The public trust doctrine therefore means that no water rights in California are "vested" in the traditional sense of property rights.

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.

⁷ *Nat'l Audubon Soc'y v. Superior Ct.* (1983) 33 Cal. 3d 419, 426.
⁸ i.e. people of California

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>.)

Respectfully,



William McKinnon
General Counsel
Water Audit California

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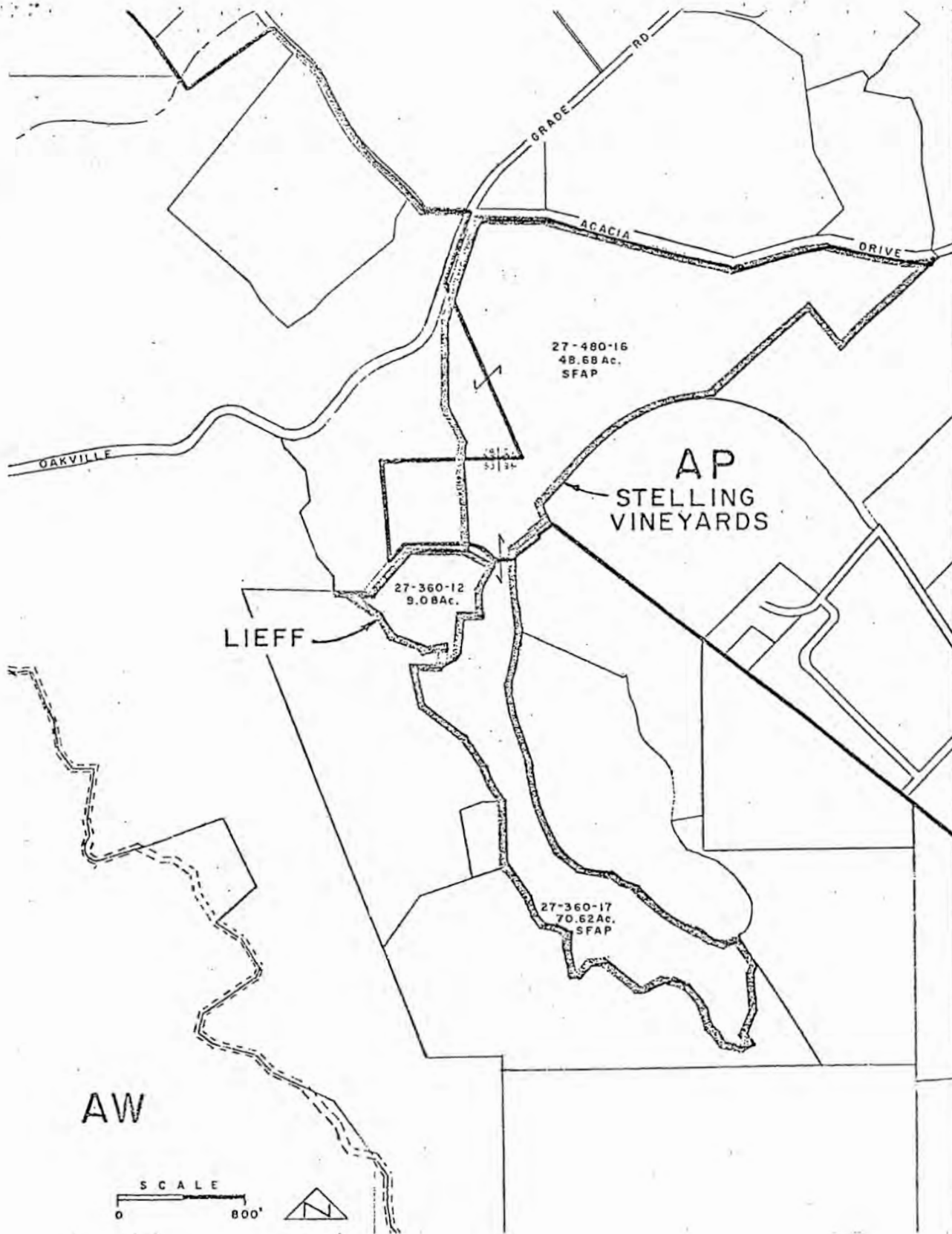
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NOTICE of VIOLATION

RECEIVED
 11/11/2011
 11/11/2011
 11/11/2011

PROPERTY: 1581 OAKVILLE GRADE, APN 027-360-012
 LOCATION: 1581 OAKVILLE GRADE, APN 027-360-012

DATE OF VIOLATION: 11/11/2011

The Department of Conservation, Development and Planning believes that the following conditions and/or discrepancies exist on the property identified above in violation of Title 18 of the Napa County Code.

- Chapter 18.108.070B (Conservation Regulations) = Grading, earthwork and/or vegetation removal for your existing vineyard developed on slopes exceeding 5% required the prior approval of an Erosion Control Plan.
- Section 18.144.040 (Nuisance) = Any use of property contrary to the provisions of Title 18 of the County Code shall be declared to be unlawful and a public nuisance.

Approval of an Erosion Control Plan will be required for your unauthorized vineyard development on the subject property. Please contact Dan Zador in our Conservation Division @ (707) 259-8239 for any questions regarding the submittal and processing of an erosion control plan application.

Please call me at (707) 259-8226 within seven (7) days of the date of this letter to inform me of your plans to comply with the Napa County Code. Your cooperation is requested, however, failure to respond and voluntarily comply may result in the issuance of Administrative Citations and/or additional enforcement action by Napa County.

Sincerely,
 Edward S. Colby, Planner III
 Code Compliance Unit

CC: Hillary Gitelman, Director
 Darrell Mayes, Chief Building Official
 Patrick Lowe, Deputy Planning Director

Brian Bordona, Supervising Planner (Conservation)
 David Giudice, Code Enforcement Supervisor

RECEIVED
 11/11/2011
 11/11/2011
 11/11/2011

PROPERTY: 1581 OAKVILLE GRADE, APN 027-360-012
 LOCATION: 1581 OAKVILLE GRADE, APN 027-360-012

DATE OF VIOLATION: 11/11/2011

The Department of Conservation, Development and Planning believes that the following conditions and/or discrepancies exist on the property identified above in violation of Title 18 of the Napa County Code.

- Chapter 18.108.070B (Conservation Regulations) = Grading, earthwork and/or vegetation removal for your existing vineyard developed on slopes exceeding 5% required the prior approval of an Erosion Control Plan.
- Section 18.144.040 (Nuisance) = Any use of property contrary to the provisions of Title 18 of the County Code shall be declared to be unlawful and a public nuisance.

Approval of an Erosion Control Plan will be required for your unauthorized vineyard development on the subject property. Please contact Dan Zador in our Conservation Division @ (707) 259-8239 for any questions regarding the submittal and processing of an erosion control plan application.

Please call me at (707) 259-8226 within seven (7) days of the date of this letter to inform me of your plans to comply with the Napa County Code. Your cooperation is requested, however, failure to respond and voluntarily comply may result in the issuance of Administrative Citations and/or additional enforcement action by Napa County.

Sincerely,
 Edward S. Colby, Planner III
 Code Compliance Unit

CC: Hillary Gitelman, Director
 Darrell Mayes, Chief Building Official
 Patrick Lowe, Deputy Planning Director

Brian Bordona, Supervising Planner (Conservation)
 David Giudice, Code Enforcement Supervisor



A Tradition of Stewardship
 A Commitment to Service

Conservation Development and Planning

1195 Third Street, Suite 210
 Napa, CA 94559
 www.co.napa.ca.us

Main: (707) 253-4417
 Fax: (707) 253-4336

Hillary Gitelman
 Director

NOTICE of VIOLATION

September 7, 2011

NICKEL LAND CO.
 c/o Jeremy J. Nickel
 8177 South Harvard Avenue #903
 Tulsa, OK 74137-1612

SUBJECT: NAPA COUNTY CODE VIOLATION
LOCATION: 1581 OAKVILLE GRADE APN 027-360-012

Dear Mr. Nickel:

The Department of Conservation, Development and Planning believes that the following conditions and/or discrepancies exist on the property identified above in violation of **Title 18 of the Napa County Code**.

- Chapter 18.108.070B (Conservation Regulations) = Grading, earthwork and/or vegetation removal for your existing vineyard developed on slopes exceeding 5% required the prior approval of an Erosion Control Plan.
- Section 18.144.040 (Nuisance) = Any use of property contrary to the provisions of Title 18 of the County Code shall be declared to be unlawful and a public nuisance.

Approval of an Erosion Control Plan will be required for your unauthorized vineyard development on the subject property. Please contact Dan Zador in our Conservation Division @ (707) 259-8239 for any questions regarding the submittal and processing of an erosion control plan application.

Please call me at (707) 259-8226 within seven (7) days of the date of this letter to inform me of your plans to comply with the Napa County Code. Your cooperation is requested, however, failure to respond and voluntarily comply may result in the issuance of Administrative Citations and/or additional enforcement action by Napa County.

Sincerely,

Edward S. Colby

Edward S. Colby, Planner III
 Code Compliance Unit

CC: Hillary Gitelman, Director
 Darrell Mayes, Chief Building Official
 Patrick Lowe, Deputy Planning Director

Brian Bordona, Supervising Planner (Conservation)
 David Giudice, Code Enforcement Supervisor



A Tradition of Stewardship
A Commitment to Service

1195 Third Street
Second Floor
Napa, California 94559
707-253-4417 FAX 707-253-4336
www.countyofnapa.org/building

RESIDENTIAL BUILDING PERMIT APPLICATION

Planning, Building & Environmental Services

FOR OFFICE USE ONLY	Code Enf Auth	Permit # B12-1068	Bin
Notes			
☐ New ☐ Addition ☒ Alteration ☐ Replace ☐ Demo ☐ Move ☐ QP			

(Please Print Clearly)

PROPERTY/WORK DESCRIPTION

Is this application the result of a Code Violation? ☐ YES ☒ NO

Street Address: 1581 Oakville Grade
Suite/Unit #: City: Oakville Zip: 94558
Cross Street: Hwy. #29
APN# 0 2 7 3 6 0 0 1 2 New Sq. Ft: -0-
Construction Cost: 50,000.00

Work Description:
Barn remodeling & upgrade, landscape
lighting and misc. retaining walls
along pathways.

PROPERTY OWNER

Is this permit being pulled as Owner/Builder? ☐ YES ☒ NO

Owner Name: Nickel Land Co. Attn: Jeremy J. Nickel
Mailing Address: 8177 So Harad Ave. City: Tulsa State: OK Zip: 74137-1612
Phone: 415-999-2499 Fax: Email: jeremeyjnickel@msn.com

CONTRACTOR

Company Name: Bruce Tucker Construction License #: 881951 Class: B Expires: 8/3/2014
Mailing Address: 2260 Brown Street City: Napa State: CA Zip: 94558
Email: warren@brucetuckerconstruction.com Contact Person: Warren Bowers Phone: 707-255-1587

PRIMARY CONTACT

All communication from our office regarding your permit will be made to this person.

Primary Contact Name: Michael Rada
Firm: Michael Rada Architect License #: CA-14,155
Address: 1000 Brown Street #6 City: St. Helena State: CA Zip: 94574
Phone: 707-963-2999 Fax: same Email: michael_rada@att.net
I Represent: ☒ Owner ☐ Contractor Authorized Agent: ☒ N (Please provide a signed Authorized Agent Form)

CODE VIOLATION

YOU MUST COMPLETE BOTH SIDES

B-APP 20120612

EXHIBIT 3

OWNER BUILDER DECLARATION

(Sec. 7031.5). Business and Professions Code. Any city or county which requires a permit to construct, alter, improve, demolish or repair any structure prior to its issuance, also requires the applicant for such permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions' Code) or that he or she is exempt there from and basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).

☐ I, AS OWNER OF THE PROPERTY, OR MY EMPLOYEES WITH WAGES AS THEIR SOLE COMPENSATION, WILL DO THE WORK, AND THE STRUCTURE IS NOT INTENDED OR OFFERED FOR SALE. (Sec. 7044 Business and Professions Code: The Contractors' State License Law does not apply to an owner of the property, who builds or improves thereon, and who does such work himself or herself or through his or her employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the builder will have the burden of proving that he or she did not build or improve for the purpose of sale.)

☒ I, AS OWNER OF THE PROPERTY, AM EXCLUSIVELY CONTRACTING WITH LICENSED CONTRACTORS TO CONSTRUCT THE PROJECT (Sec. 7004, Business and Professions Code. The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a Contractor's State License Law.

☐ I AM EXEMPT under section _____ for this reason: _____

I HEREBY ATTEST UNDER PENALTY OF PERJURY that I am exempt from the Contractors' State License Law for the above marked reason :

Signature: ☒

Jeremy Field Date: 08/22/2012

WORKER'S COMPENSATION

☐ I HAVE AND WILL MAINTAIN A CERTIFICATE OF WORKERS' COMPENSATION INSURANCE, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation carrier and policy No. are:

Carrier:

☐ I HAVE AND WILL MAINTAIN A CERTIFICATE OF CONSENT TO SELF-INSURE FOR WORKERS' COMPENSATION, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

Policy:

Exp. Date:

☐ I CERTIFY THAT IN THE PERFORMANCE OF THE WORK FOR WHICH THE PERMIT IS ISSUED, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the worker's compensation provisions of Section 3700 of the Labor Code, I shall herewith comply with those provisions. **WARNING:** Failure to secure workers' compensation coverage is unlawful, and subjects an employer to criminal penalties and civil fines up to one hundred thousand dollars (\$100,000), in addition to the cost of compensation, damages as provided for in Section 3706 of the Labor Code, interest and attorney's fees.

I HEREBY AFFIRM UNDER PENALTY OF PERJURY to the above marked declarations:

Signature: ☒

Date:

DISCLOSURE STATEMENT

I certify that I have read this application and state that the information here in is correct, I agree to comply with all local ordinances and state laws relating to building construction and I make this statement under penalty of law. Furthermore I hereby authorize representatives of the county to enter upon the above-mentioned property for inspection purposes.

NOTICE: This permit will expire by limitation if work is not started in one year or if work is abandoned for more than 180 days. A request for an extension of time must be submitted in writing to the Chief Building Official within one year of issuance or 180 days from last inspection. This application will expire by limitation 180 days from the date of submission.

I (We) agree to save, indemnify and keep harmless the County of Napa against judgments, cost, and expenses which may in any way accrue against said County in consequence of the granting of this permit.

Signature: ☒

Jeremy Field Date: 08/22/2012

☒ Owner

☐ Contractor

☐ Authorized Agent (Must attach letter)

who reside in the County of Santa California.

8 Plaintiff and defendant and defendant and its true assigns, find Defendant, the Vinograd House Development ("VHD"), to be a distinct business enterprise, organized under the laws of the state of California. The development and many of its parcels and operated by Defendant, which is a licensee of the TVM. TVM does business in the County of Santa California. Plaintiff is informed and believes that Defendant acted as the sole or managing licensee of TVM.

9 Plaintiff is ignorant of the true names and capacities of the Defendant and believe as D0052 1 through 50, and therefore was taken defendant by said defendant system. Plaintiff will amend this complaint to allege that it was taken and subjected when incorrectly. Plaintiff is informed and believes that Defendant states that each of these intentionally named defendant is responsible for Plaintiff's damages, as set forth herein.

10 At all times herein presented, both of the Defendant was the agent or employee of both of the remaining Defendant, and was at all times herein mentioned acting within the scope of such agency or employment. Plaintiff is informed and believes, and hence thereof allege, that each defendant acted in all respects pertinent to this action at the agent of the other defendant, carried out a direct action, business plan or policy in all respects (except herein, and that the acts of such defendant are legally attributable to the other defendant).

11 Plaintiff was informed and believes and therefore alleges that it is being taken mentioned, its above named defendant and each of them; and the D001 defendant, said each of them, was taking an express agency, implied agency, ostensible agency, accessory, partnership, and to negligence of each time. Plaintiff was informed and believes and therefore alleges that it being the said being taken, the named defendant and each of them, and the D001 defendant, each one of them, was at all times acting within the scope of, and pursuant to, such agency and employees, and with the full knowledge, consent, permission, approval and authorization of

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a. No Workers Compensation Insurance. Defendants Nickel and TVH did not self-insure their workers for workplace injuries. Additionally, intentionally and improperly, TVH and Defendant Nickel classified them as "Independent Contractors," despite the fact that TVH and Defendant Nickel controlled all aspects of their work and regularly supervised their work¹. TWH and Defendant Nickel classified all Plaintiffs as Independent Contractors to avoid the costs associated with Workers' Compensation insurance benefits, and to avoid taxation. The failure to maintain Workers Compensation Insurance or to adequately self-insure were in violation of California Labor Code §3700

b. No Building Permits. Defendant Nickel instructed Plaintiffs and other workers to construct a building on the Vineyard Property and refused to take out any building permits from the County of Napa. The permits were needed because of the nature and extent of the repairs. One building, called a "Coop," was substantially rebuilt without permits. Today, it appears to be a finished building, but it is structurally unsound and presents a danger to all who enter it. For instance:

- (1) The electrical system which was installed, does not have a breaker box with access. Nickel instructed workers to build shelves in front of the access. The voltage sent to the garage is excessive; the voltage sent to the Coop is inadequate. Because of this, there exists the possibility of an electrical fire in the garage.
- (2) The walls and floor studs were not anchored to the concrete slab, despite insistence by the workers that anchor bolts be installed.
- (3) Walls are out of plumb.
- (4) Windows are not flashed.

¹ Nickel once described Plaintiff Clawson as being "an employee" in writing.



A Tradition of Stewardship
A Commitment to Service

Planning, Building & Environmental Services

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

David Morrison
Director

NOTICE of VIOLATION

October 30, 2015

Jeremy J. Nickel
7107 S. Yale Ave. #322
Tulsa Ok 74136

LOCATION: 1581 Oakville Grade, Napa CA. APN 027-360-022-000

Dear Property Owner:

The Napa County Department of Planning, Building, & Environmental Services received information that you have been advertising and potentially holding wine tastings and wine sales at the above address/assessor's parcel number without the benefit of a use permit and in violation of Title 18 of the Napa County Code as follows:

Section 18.20.010 through 040 (Agricultural Watershed [AW] District) – All activities listed above, wine sales and tastings are allowed - but only upon the issuance of a use permit.

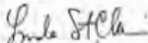
Section 18.12.080: (Establishment of Zoning Districts) - No land shall be used or occupied except in conformity with all of the regulations established for the zoning district in which it is located.

Section 18.144.040: (Nuisance) - Any use of property contrary to the provisions of Title 18 is hereby declared to be unlawful and a public nuisance.

You are directed to **immediately cease** all unapproved sales, tours and tastings, and remove any website or other advertisements of said unauthorized commercial activities on the subject property until a use permit has been obtained and a certificate of occupancy has been issued.

Please respond within seven (7) days of the date of this letter (November 6, 2015) to inform us of your willingness to comply with Napa County Code. You may reach me at (707) 299-1348. Your cooperation is requested; however, failure to comply and to promptly respond to this letter may result in referral to the District Attorney or County Counsel for appropriate legal action.

Regards,


Linda St. Claire,
Code Enforcement Officer

Cc: David Morrison PBES Director; David Giudice, Supervising Code Enforcement Officer; John Tuteur, Assessor; Chron, File

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



INFORMATION AND NOTICE REGARDING APPARENT CODE VIOLATION

October 30, 2018
1581 Oakville Grade, Napa, CA 94559
253-4018

LOCAL ORDINANCE CODES: 253-4018

Dear Property Owner:

The Napa County Department of Planning, Building, & Environmental Services has again received information and/or observed that a Code violation exists or has occurred at the above-referenced Property. We have received a complaint that you are advertising and hold wine tastings and sales at the winery without the benefit of a use permit and in violation of Title 18 of the Napa County Code.

Please refer to the attached notice and informational sheet that describes in more detail the reported or apparent Code violation(s) and the references to the provisions that appear to have been violated.

These violations were observed on October 30, 2018 at the site of the above-referenced Property. We look forward to discussing this situation with you and resolving the apparent violation promptly. You may reach me at (707) 253-4018.

Sincerely,

Joseph W. Ssenkumba

Code Compliance Officer

Planning, Building, & Environmental Services



A Tradition of Stewardship
A Commitment to Service

Form 1 - Information Sheet Planning, Building & Environmental Services

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

David Morrison
Director

INFORMATION AND NOTICE REGARDING APPARENT CODE VIOLATION

October 30, 2018

Via Certified and Regular USPS Mail

Nickel, Jerome J
7101 S. Yale Ave. # 322
Tulsa, OK 74136

LOCATION: 1581 Oakville Grade; APN: 027-360-022-000

Dear Property Owner:

The Napa County Department of Planning, Building, & Environmental Services has again received information and/or observed that a Code violation exists or has occurred at the above-referenced Property. We have received a complaint that you are advertising and hold wine tastings and sales at the winery without the benefit of a use permit and in violation of Title 18 of the Napa County Code.

Please refer to the attached notice and informational sheet that describes in more detail the reported or apparent Code violation(s) and the references to the provisions that appear to have been violated.

Please contact us within ten (10) calendar days of the date of this Notice (by November 08, 2018) to indicate your willingness to comply with Napa County Code and the California Building Code. We look forward to discussing this situation with you and resolving the apparent violation promptly. You may reach me at (707) 253-4018.

Sincerely,

Joseph W. Ssenkumba
Code Compliance Officer
Planning, Building & Environmental Services

Cc: Chron, File



REPORTED OR APPARENT CODE VIOLATION IMPORTANT ENFORCEMENT INFORMATION

This notice is to inform you of a reported or apparent Code violation at the above-referenced Property. The Napa County Department of Planning, Building, & Environmental Services has again received information and/or observed that a Code violation exists or has occurred at the above-referenced Property. We have received a complaint that you are advertising and hold wine tastings and sales at the winery without the benefit of a use permit and in violation of Title 18 of the Napa County Code.

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Sincerely,

Joseph W. Ssenkumba

Code Compliance Officer

Planning, Building, & Environmental Services

October 30, 2018

1581 Oakville Grade, Napa, CA 94559

253-4018

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Code Compliance Officer

Planning, Building, & Environmental Services

October 30, 2018

1581 Oakville Grade, Napa, CA 94559

253-4018

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Planning, Building, & Environmental Services

October 30, 2018

1581 Oakville Grade, Napa, CA 94559

253-4018

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Planning, Building, & Environmental Services

October 30, 2018

1581 Oakville Grade, Napa, CA 94559

253-4018

LOCAL ORDINANCE CODES: 253-4018

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Sincerely,

Joseph W. Ssenkumba

Code Compliance Officer

Planning, Building, & Environmental Services

October 30, 2018

1581 Oakville Grade, Napa, CA 94559

253-4018

LOCAL ORDINANCE CODES: 253-4018

January 25, 2019
File #P18-00448-UP & P18-00451-VAR
The Vineyard House Winery
Page 2 of 3

Advisory

Be advised that pursuant to Resolution No. 2010-48 (enclosed) adopted by the Board of Supervisors on May 11, 2010 "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 to 7 years." The submitted project statement indicates that the barn was completed in 2016.

Building Division

See the enclosed comment memorandum from the Building Division, dated January 14, 2019.

Engineering Services Division

See the enclosed comment memorandum from the Engineering Division, dated January 23, 2019.

Environmental Health Division

Completeness comments from the Environmental Health Division will be sent under separate cover the week of January 28, 2019.

Fire Department

See the enclosed comment memorandum from the Napa County Fire Department, dated January 23, 2019.

Public Works Department

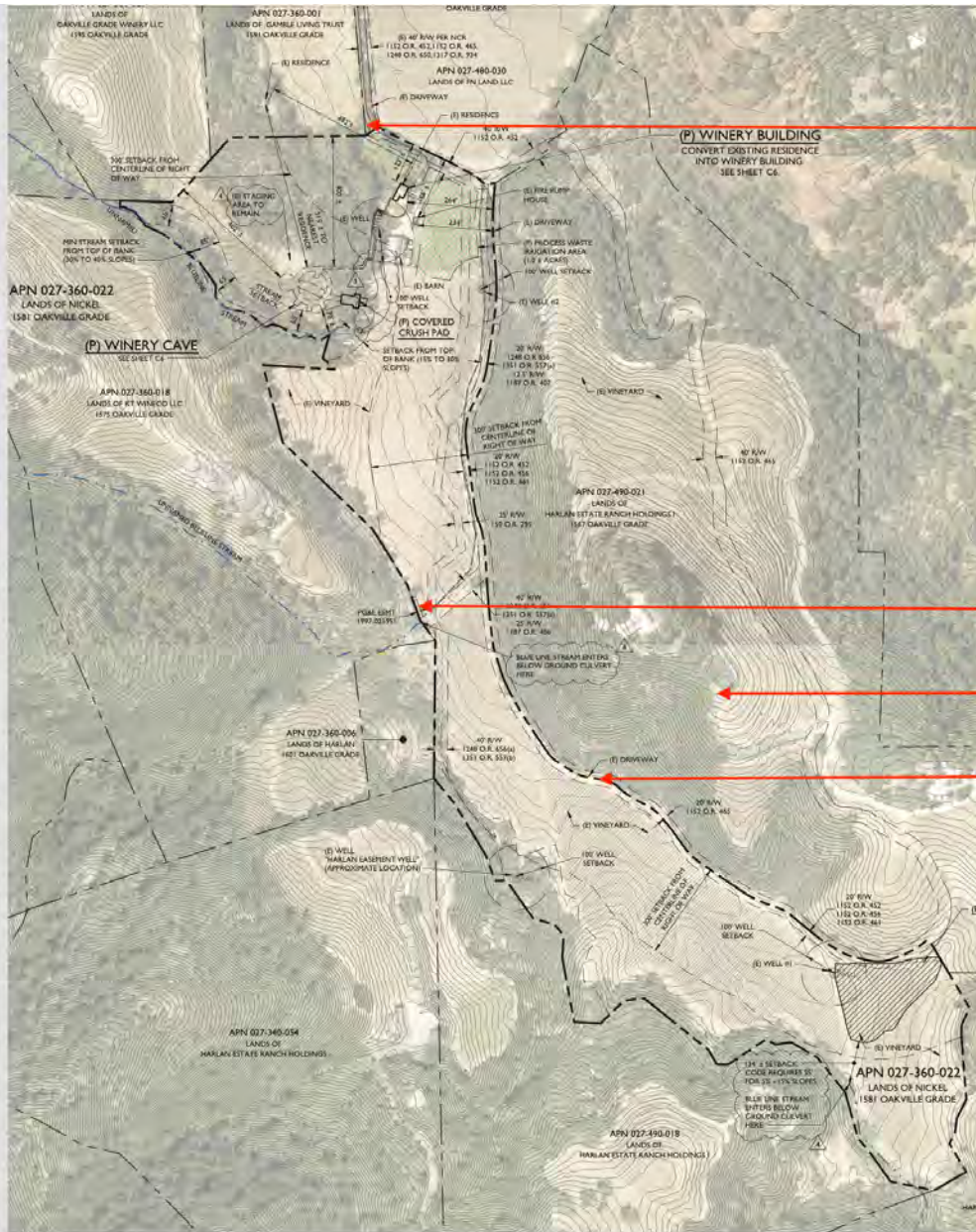
See the enclosed comment memorandum from the Public Works Department, dated January 24, 2019.

Please be aware that this is an identification of information known to be necessary at this time to continue processing of your application. Further review of your project may necessitate the request for additional information, including supplemental reports in the event County staff determines that submitted reports have been prepared in a manner inconsistent with County protocol or otherwise inadequate for the purposes of application processing and evaluation under the CEQA.

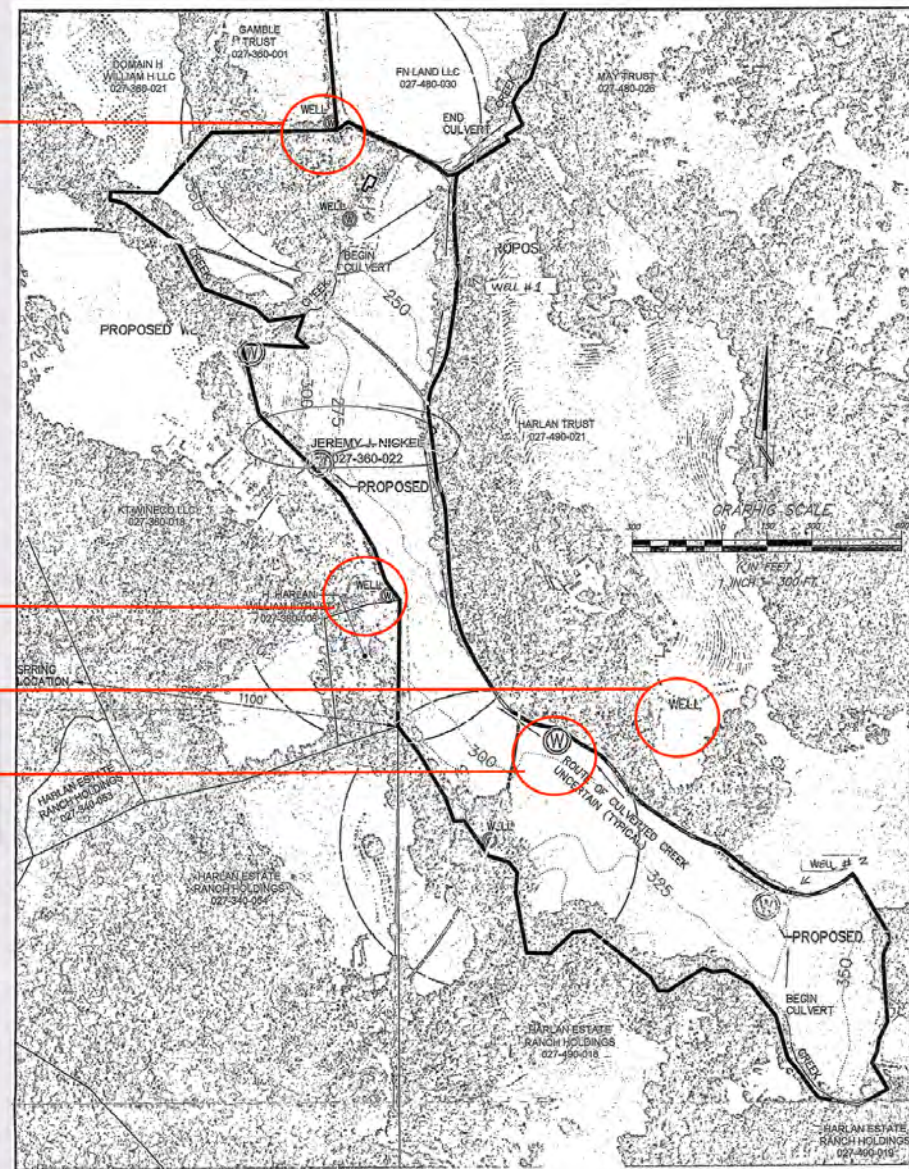
Thank you in advance for providing the above material. Please submit all materials required for completeness as one resubmittal, and submit it directly to me. Partial resubmittals will not be accepted. In addition, please insure that all revised plans, reports, or other resubmitted documents are clearly marked "revised" and dated.

To facilitate uploading of the materials to the County's current projects website (<http://www.countyofnapa.org/cdpdprojects/>) in accordance with the direction of the Planning Commission and Board of Supervisors, please provide all application materials, plans, and supplemental reports in electronic format (.pdf, with plans converted directly from the CAD or electronic files), as well as hard copy.

Please be advised that failure to provide the responsive information requested above, within 120 days of the date of this letter, shall cause the application to be deemed "abandoned" in accordance with Section 401(b)(2) of Napa County's Local Procedures for Implementing the California Environmental Quality Act.

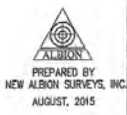


OVERALL SITE PLAN
SCALE: 1" = 200'



500' WELL SETBACK LINE
1,500' SPRING SETBACK LINE

PLANS APPROVED
Division of Environmental Health
COUNTY OF NAPA
By: _____ Date: _____



1581 Oakville Grade Rd
Napa CA 94574
EXHIBIT OF WELL AND CREEK LOCATIONS

1996	Permit issued to Gil Nickel for an interior remodel of the house, including new plumbing and electrical fixtures, mechanical upgrades, new floor and ceiling finishes, and new cabinetry. The house was also re-roofed and repainted. ²⁰
2003	After Gil Nickel's death (2003), his son, Jeremy Justin Nickel, inherited 17 acres encompassing the original Baldridge House and a portion of the estate. Ownership of the property was transferred to the Nickel Vineyard Company, LLC. ²¹
2011	Permit approved for the construction of a new barn. ²²
	Permits approved for the construction of a new sewage system. ²³
2013	The lot line adjustment to encompass Halter Valley was approved, expanding Nickel's property to a total of 43 acres. ²⁴
2014	An extension of the permit for the construction of the barn was granted and the application reissued. ²⁵
2015	Permit approved for the construction of the pump house. ²⁶
2016	Construction of the barn and pump house was completed. ²⁷
2011-2016	An ancillary building (referred to as the "chicken coop") was demolished.

In addition to the chronology outlined above, a number of alterations were noted during the May 2, 2017 site visit. Following is a list of alterations undertaken at unknown dates:

- A one-story addition, including a new entrance porch and patio, was constructed on the north façade of the original two-story house.
- An L-shaped one-story addition was constructed on the south façade of the original two-story house. The current appearance (including its roofline, arrangement of fenestration, and window dimensions) of the southern addition suggests it may date to the 1940s or 1950s.

²⁰ Application Forms, 896.00251 and 896.00274, Napa County PDES, accessed May 20, 2017.

²¹ <http://services.countyofnapa.org/PDES/DocumentSearch#>

²² Napa County Book of Deeds.

²³ Application Form, B12.00956, Napa County PDES, accessed May 20, 2017.

²⁴ <http://services.countyofnapa.org/PDES/DocumentSearch#>

²⁵ Document Nos. E11.00458 and E11.00459, Parcel Report, APN 027-360-022, Napa County PDES, accessed June 12, 2017.

²⁶ <http://www.countyofnapa.org/pbes/parceldata/>

²⁷ Document No. W13.00156, Parcel Report, APN 027-360-022, Napa County PDES, accessed June 12, 2017.

²⁸ <http://www.countyofnapa.org/pbes/parceldata/>

²⁹ Extension Request/Response, B11.00956, Napa County PDES, accessed May 30, 2017.

³⁰ <http://services.countyofnapa.org/PDES/DocumentSearch#>

³¹ Application Form, B15.01743, Napa County PDES, accessed July 7, 2017.

³² <http://services.countyofnapa.org/PDES/DocumentSearch#>

³³ Certificate of Occupancy, B11.00956, Napa County PDES, accessed July 7, 2017.

³⁴ <http://services.countyofnapa.org/PDES/DocumentSearch#>

PARCEL REPORT



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Parcel Report: 027-360-022-000 - For Public Use
Developed by gissstaff@countyofnapa.org | Visit Napa County GIS Data Hub | Submit Ideas!

E11-00459 - { Environmental / EM Permits / Sewage System / Plan Check Conventional System }	
Applied Date:	9/29/2011
Permit Status:	Approved as of 4/15/2016
Assigned Staff:	Environmental Staff

Permit Activity
No Workflow data available. Contact environmental@countyofnapa.org for more information.

Permit Inspections
No Inspection data available. Contact environmental@countyofnapa.org for more information.

E11-00458 - { Environmental / EM Permits / Sewage System / New Install Conventional }	
Applied Date:	9/29/2011
Permit Status:	Expired Permit as of 4/19/2016
Assigned Staff:	Environmental Staff

Task	Status	Date	Contact	Email Contact
Application Acceptance	Approved	10/5/2011	Teri Price	environmental@countyofnapa.org
Closure	CLOSED	10/5/2011	Teri Price	environmental@countyofnapa.org

Task	Status	Date	Contact	Email Contact
Leach Lines	Scheduled	10/5/2011	REBECCA SETLIFF	environmental@countyofnapa.org
Sewer Line	Scheduled	10/5/2011	REBECCA SETLIFF	environmental@countyofnapa.org
Environmental Management Final	Scheduled	10/5/2011	REBECCA SETLIFF	environmental@countyofnapa.org

NAPA COUNTY
CALIFORNIA

Search

Search Type
Planning, Building & Environmental Service

NOTE: Searching by APN or Establishment ID only will yield the most results; too many filed fields will narrow results.

Permit #
E11-00459

Parcel # (###-###-###-000)

PDES Division

Street #

Results
No documents found.

NAPA COUNTY
CALIFORNIA

Search

Search Type
Planning, Building & Environmental Service

NOTE: Searching by APN or Establishment ID only will yield the most results; too many filed fields will narrow results.

Permit #
E11-00459

Parcel # (###-###-###-000)

PDES Division

Street #

Results
No documents found.

October 13, 1982

RE: Use Permit

Dear Ms. Abate:

Stelling Vineyards owns Assessor Parcel No. 27-360-17, a parcel of approximately 119.3 acres. On this parcel, grapes are planted on approximately 90 acres.

In connection with the operation of Stelling Vineyards, it is necessary to have a foreman on location. There is no dwelling on Stelling Vineyards' parcel no. 27-360-17 or any place for a dwelling. There is the old dwelling on parcel no. 27-360-12 owned by Robert L. Loeff. We propose having the Stelling Vineyard foreman live in that structure with his family.

Stelling Vineyards is a limited partnership. The general partners of Stelling Vineyards are Douglas B. Stelling and Robert L. Lieff. There is one limited partner, H. Gil Nickel.

If you need additional information from Stelling Vineyards,
please let us know.

Very truly, yours,

ROBERT L. LIEFF

RLL/db **RECEIVED**
OCT 9 1982
Napa County Conservation,
Development & Planning Committee

CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT
SUPPLEMENTAL INFORMATION SHEET
USE PERMIT APPLICATION

9. UTILITIES

WATER SUPPLY SOURCE: Spring METHOD OF WASTE DISPOSAL: Septic System

IS AMERIGATION TO A SPECIAL SERVICE DISTRICT PROPOSED: YES NO X

NAME OF DISTRICT: SEASIDE AREA COMMUNITY DISTRICT (SEE PAGE 130)

A. LICENSES AND APPROVALS REQUIRED:

STATE: REGULATORY FEDERAL: NO

DISTRICT: NO

OTHER: MINUTE ORDINANCE

WATER: N/A WASTE: N/A AIR: N/A SOIL: N/A

DRAINAGE: PERMITMENT STORAGE/AGING: NO

SUPPLYING: VIAT ADMINISTRATION: NO

OTHER: NO

CALLS/MT OF WINE TO BE PRODUCED: INITIAL OR CURRENT PRODUCTION CALLS/MT/YEAR

ULTIMATE ESTIMATED PRODUCTION CALLS/MT/YEAR

NEEDED PRODUCTION CAPACITY CALLS/MT/YEAR

METHOD OF DOMESTIC WASTE DISPOSAL: septic tank/leach field

METHOD OF INDUSTRIAL WASTE DISPOSAL: N/A

CALLS/MT OF INDUSTRIAL WASTE PRODUCED: PER

CALLS/MT OF INDUSTRIAL WASTE PRODUCED: N/A PER

METHOD OF SOLID WASTE DISPOSAL: septic tank

CAPACITY OF WATER SUPPLY: 10,000 GALLONS, CAPACITY OF WASTE TREATMENT: 10,000 GALLONS, TO BE TESTED: 10,000 GALLONS PER MINUTE

ON-SITE (FIRE PROTECTION): NO

EMERGENCY WASTE STORAGE: 10,000 GALLONS, + 14.7 ACRES feet on adjoining property

TYPE OF STORAGE FACILITY: landlocked storage tank 10,000 gal.; vineyard reservoir 14.7 acres feet

TYPE OF CANE: N/A

TOTAL NUMBER OF GUESTS: EXISTING: PROPOSED:

NUMBER OF RESIDUES: EXISTING: PROPOSED:

SPECIAL CANE HOVE WITHIN 300 FEET OF PROPERTY: EXISTING: PROPOSED:

NUMBER OF EMPLOYEES: FULL TIME: PART TIME:

5/17/80



JAMES H. HICKEY
DIRECTOR

NAPA COUNTY

CONSERVATION — DEVELOPMENT
AND PLANNING DEPARTMENT

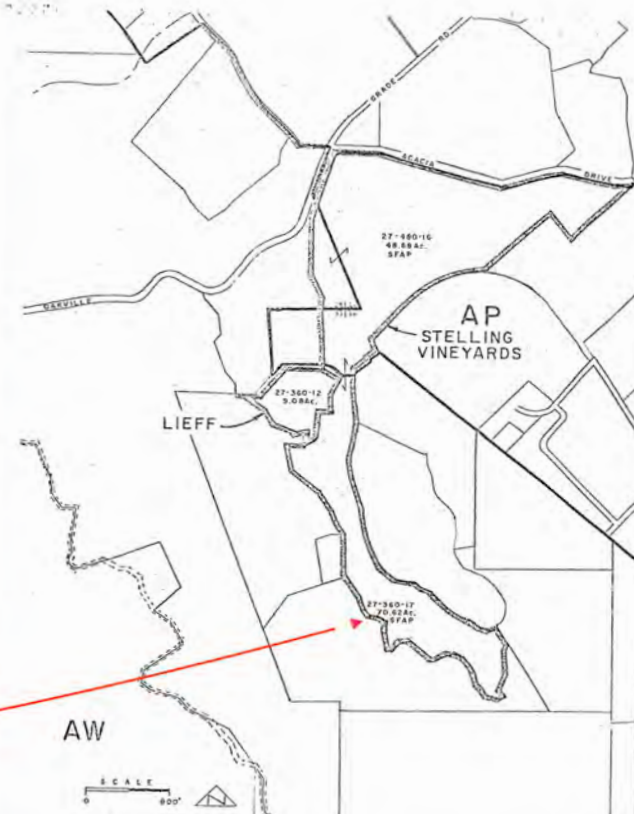
1185 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94558
AREA CODE 707/253-4415

IS# 1368

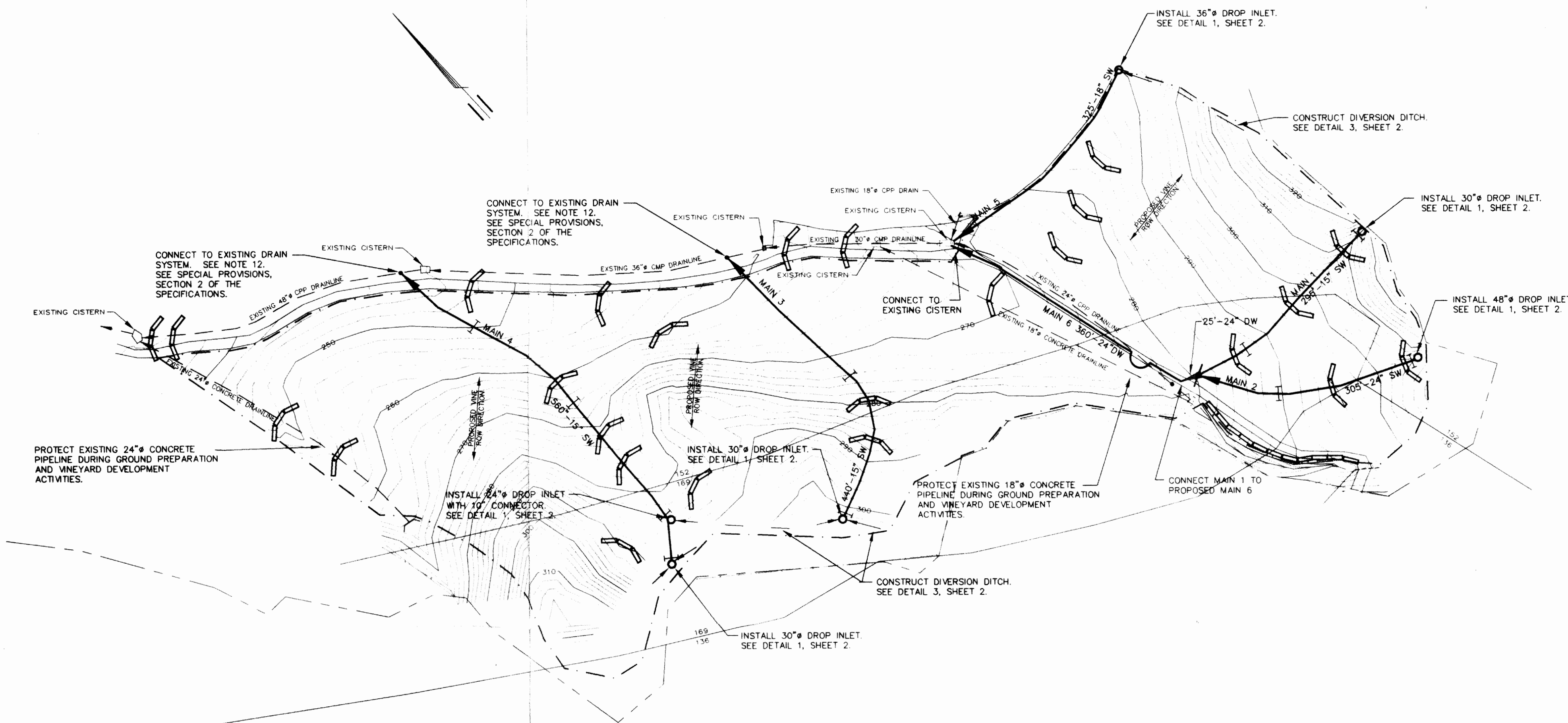
TO: Environmental Health Major County Conservation
Development & Planning Commission

APPLICATION TITLE: Robert L. Giff FILE #: 11-202283

RESPONSE REQUEST DATE: 18 Oct. '82 RESPONSE RETURN DATE: 1 Nov. '82



12-8-82



LOCATION MAP
1"=±2000'

NOTES:

- OWNER: STELLING VINEYARDS
P.O. BOX 327
OAKVILLE, CA 94562-0327
- SITE ADDRESS: NO SITUS ADDRESS
APN 027-360-017
- EXISTING VEGETATION CONSISTS OF ANNUAL GRASSES. VINES WERE REMOVED PRIOR TO JUNE 2000.
- THE NAPA COUNTY SOIL SURVEY MAPS PROJECT SOILS AS HAMBRIGHT-ROCK OUTCROP COMPLEX, 30-75% SLOPES, FELTON GRAVELLY LOAM, 30-80% SLOPES, AND PERKINS GRAVELLY LOAM 5-9% SLOPES.
- PERMANENT COVER CROP (NO-TILL)
ALL DISTURBED AREAS WITHIN THE PROJECT AREA AND ALL AVENUES SHALL BE SEEDED WITH A PERMANENT, NO-TILL COVER CROP PRIOR TO OCTOBER 15 OF THE YEAR OF CONSTRUCTION. THIS COVER CROP WILL BE GENERATED BY SEEDING WITH THE FOLLOWING MIX:

VARIETY	RATE (LBS/ACRE)
BLANDO BROME	8
ZORRO FESCUE	12
ROSE CLOVER	6

- THE PERMANENT COVER CROP WILL BE MANAGED EACH YEAR SUCH THAT ANY AREAS WHICH HAVE LESS THAN 70% VEGETATIVE COVER WILL BE RESEED AND MULCHED UNTIL ADEQUATE COVERAGE IS ACHIEVED. THE PERMANENT COVER CROP SHALL BE MOVED ONLY AND NOT DISSED.
- STRAW MULCH SHALL BE APPLIED TO ALL DISTURBED AREAS AT A RATE OF 3000 LBS/ACRE BY OCTOBER 15 OF THE YEAR OF CONSTRUCTION.
 - CONSTRUCT CUTOFF COLLARS AS SHOWN IN DETAIL 2, SHEET 2. CUTOFF COLLARS SHALL BE LOCATED AS SHOWN ON THE PLAN OR AS STAKED IN THE FIELD BY THE ENGINEER.
 - OWNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.
 - PROPERTY LINES AS SHOWN ARE APPROXIMATE. OWNER SHALL BE RESPONSIBLE FOR SURVEYING PROPERTY LINE(S) AS NECESSARY PRIOR TO ANY SITE DISTURBANCE.
 - TOPOGRAPHIC MAPPING PROVIDED BY MICHAEL W. BROOKS & ASSOCIATES USING ASSUMED ELEVATION DATUM, BASE MAP CREATED FROM ORIGINAL DRAWING 2858TOPO, DATED MAY 12, 2000.
 - THE LOCATIONS OF THE EXISTING DRAINLINES INTERCONNECTING THE CISTERNS ARE APPROXIMATE.
 - ALL AVENUES SHALL CONFORM TO NATURAL GRADE.

LEGEND

- APPROXIMATE PROPERTY LINE
- APPROXIMATE VINEYARD REPLANT AREA
- PROPOSED SURFACE DRAINAGE MAINLINE (SEE DETAIL 4, SHEET 2)
- PROPOSED PIPE UNDERCROSSING
- PROPOSED CUTOFF COLLAR (SEE DETAIL 2, SHEET 2)
- PROPOSED STRAW BALE DIKE (SEE DETAIL 5, SHEET 2)
- SW
DW
136
152
- SINGLE WALL CORRUGATED POLYETHYLENE PIPE
- DUAL WALL CORRUGATED POLYETHYLENE PIPE
- SOIL TYPE BOUNDARY
- SOIL CONSERVATION SERVICE SOIL CLASSIFICATIONS:
FELTON GRAVELLY LOAM, 30 TO 50% SLOPES
HAMBRIGHT ROCK OUTCROP COMPLEX, 30 TO 75% SLOPES
PERKINS GRAVELLY LOAM, 5 TO 9% SLOPES

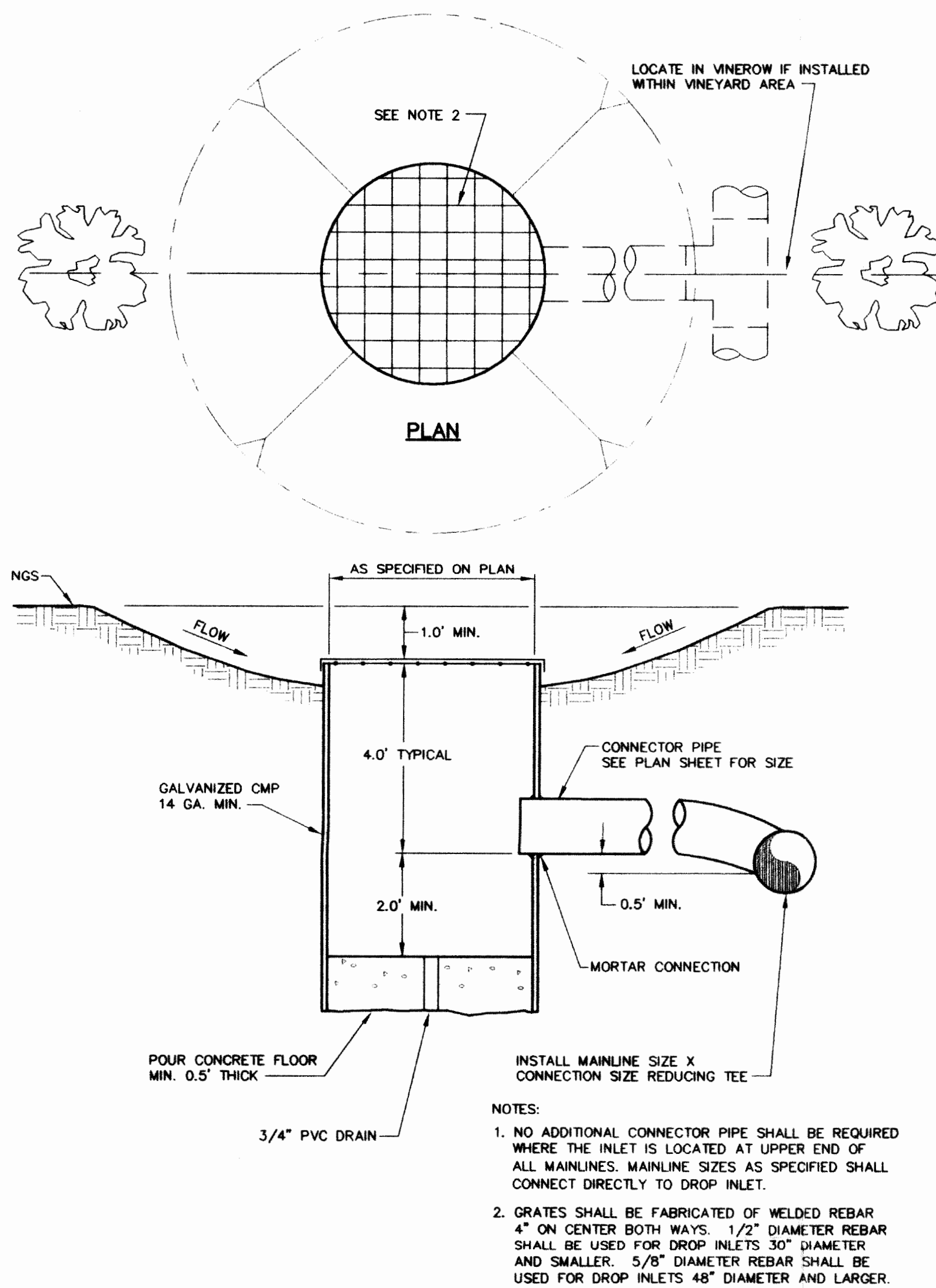


VYBORN VINEYARD MANAGEMENT
STELLING VINEYARDS
EROSION CONTROL PLAN
SITE PLAN

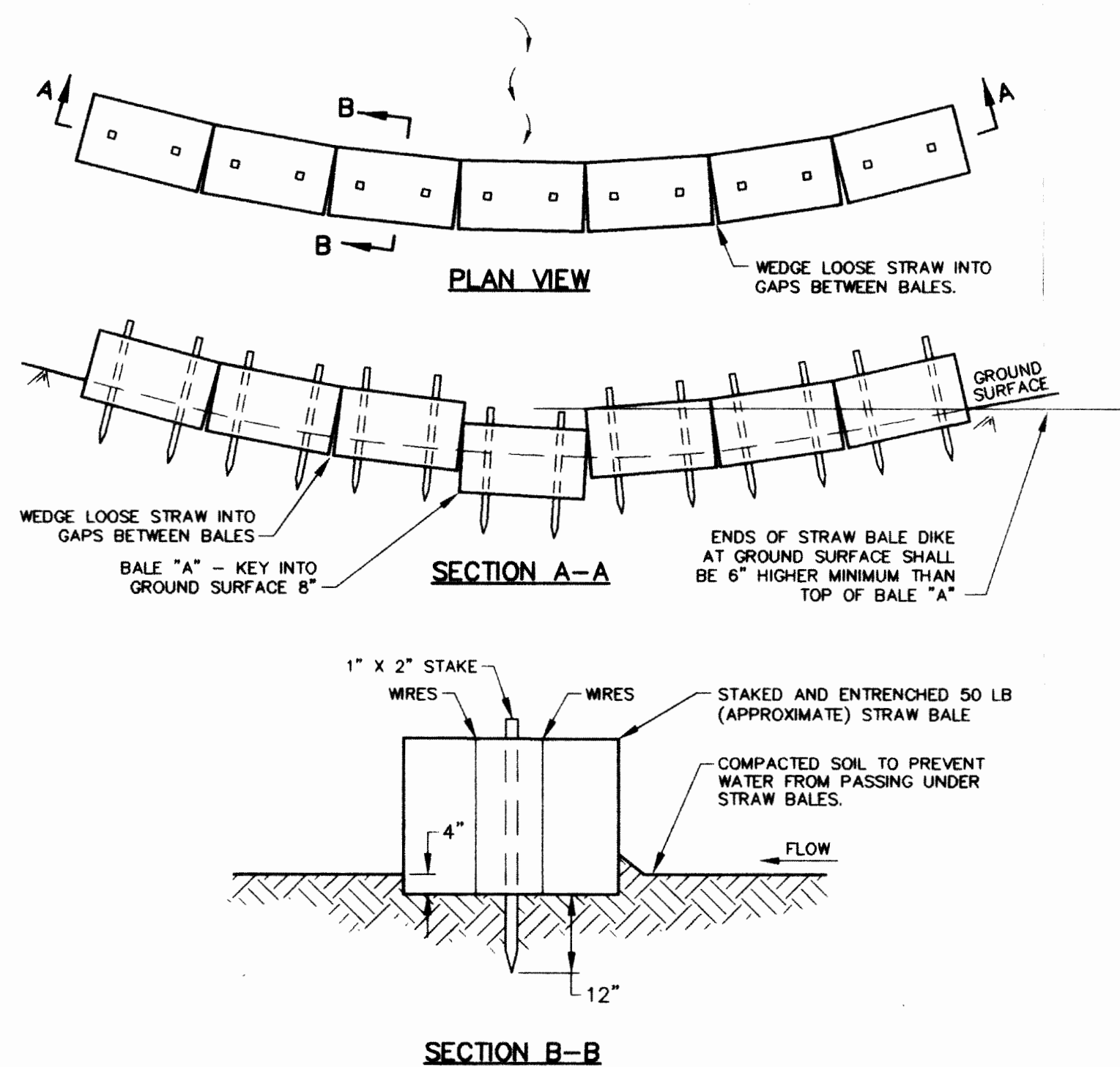


DESIGN ENGINEER: J. VICENCIO, J. BUSHEY
SCALE: 1"=100'
DRAWN BY: JV
DATE: 9-7-00
SHEET: 1 OF 2

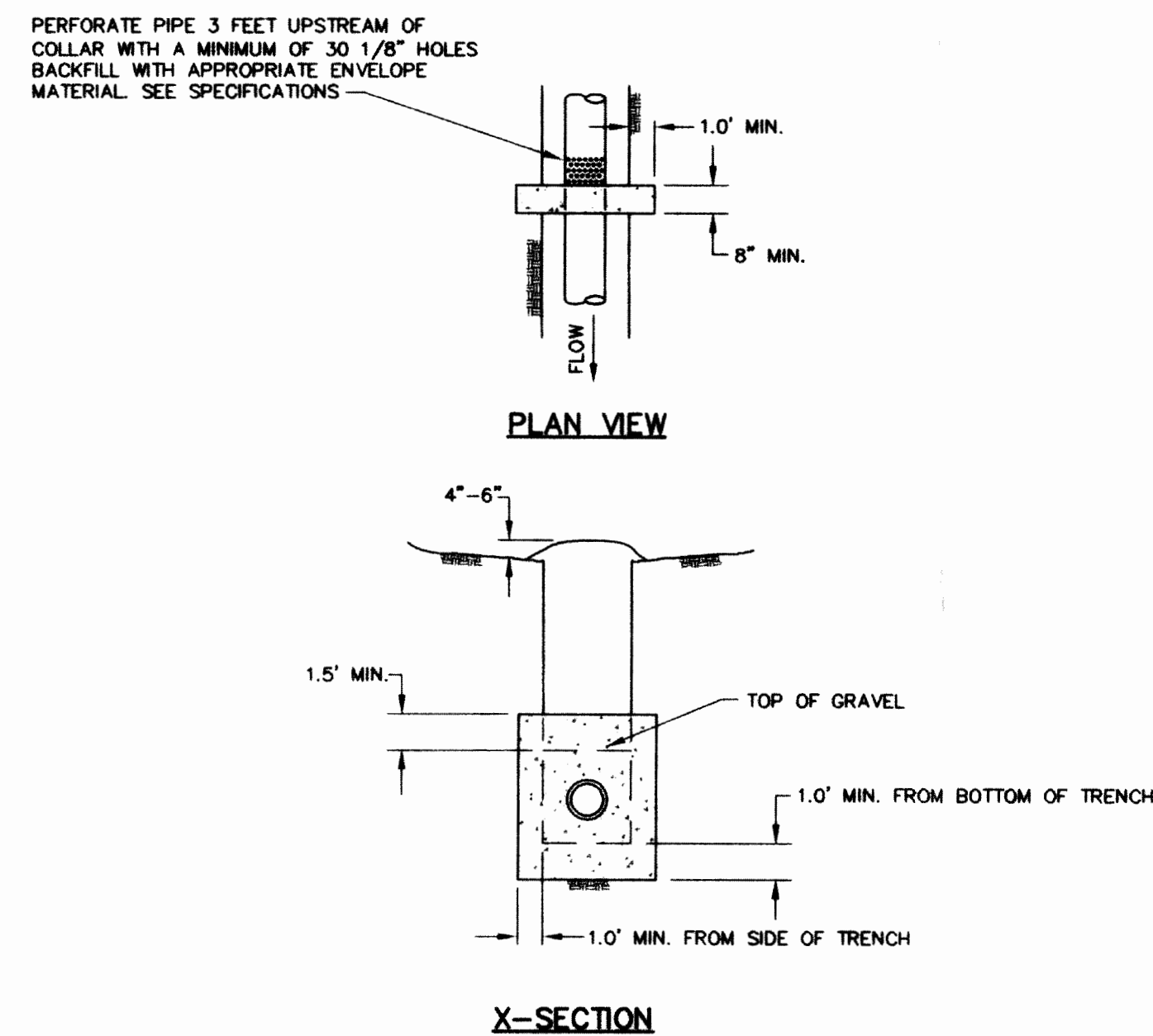
REV. NO.	DESCRIPTION	BY	DATE
1	THIS DRAWING SUPERSEDES DRAWING NO. 10013301A. REMOVED EXISTING DIVERSION DITCH AND ADDED MAINS 5 & 6 PER VINEYARD MANAGER'S REQUEST. REVISION 1 DOES NOT AFFECT SHEET 2 (10013301B) OF THIS PLAN.	JV	1-3-01



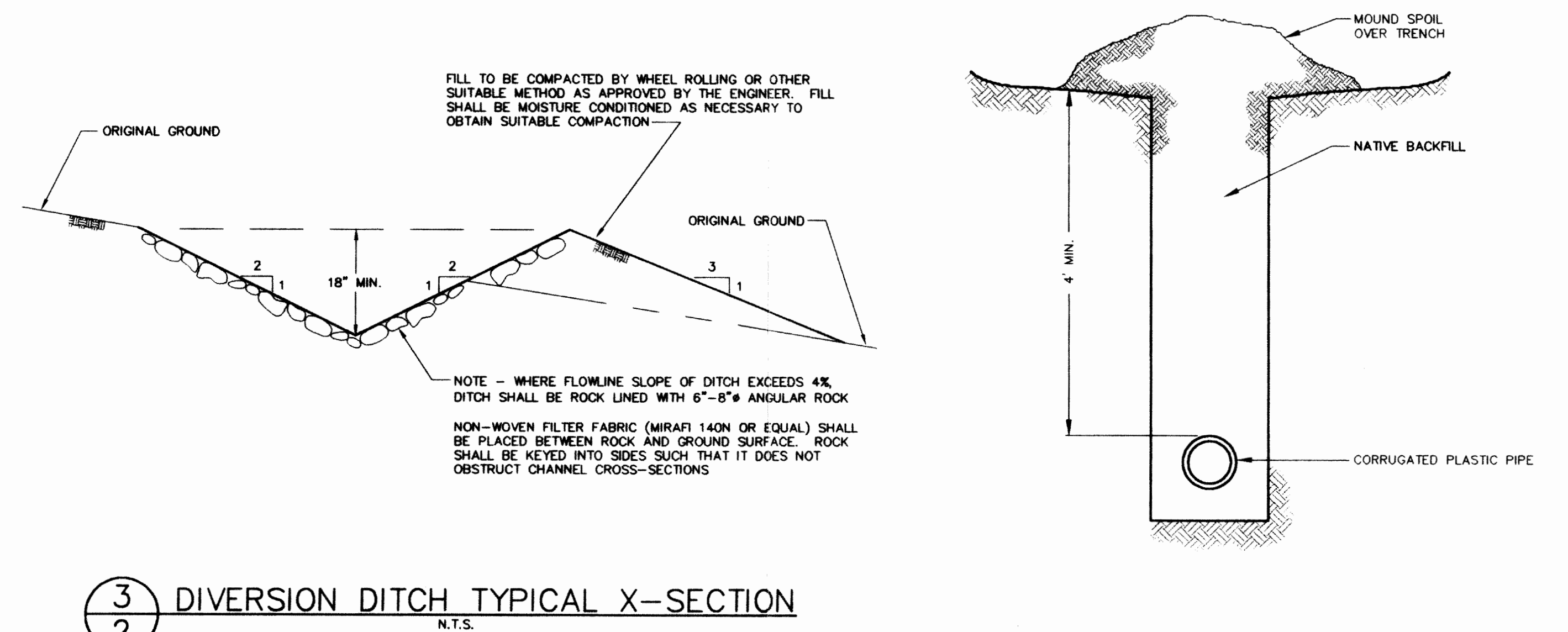
1 STANDARD DROP INLET
N.T.S.



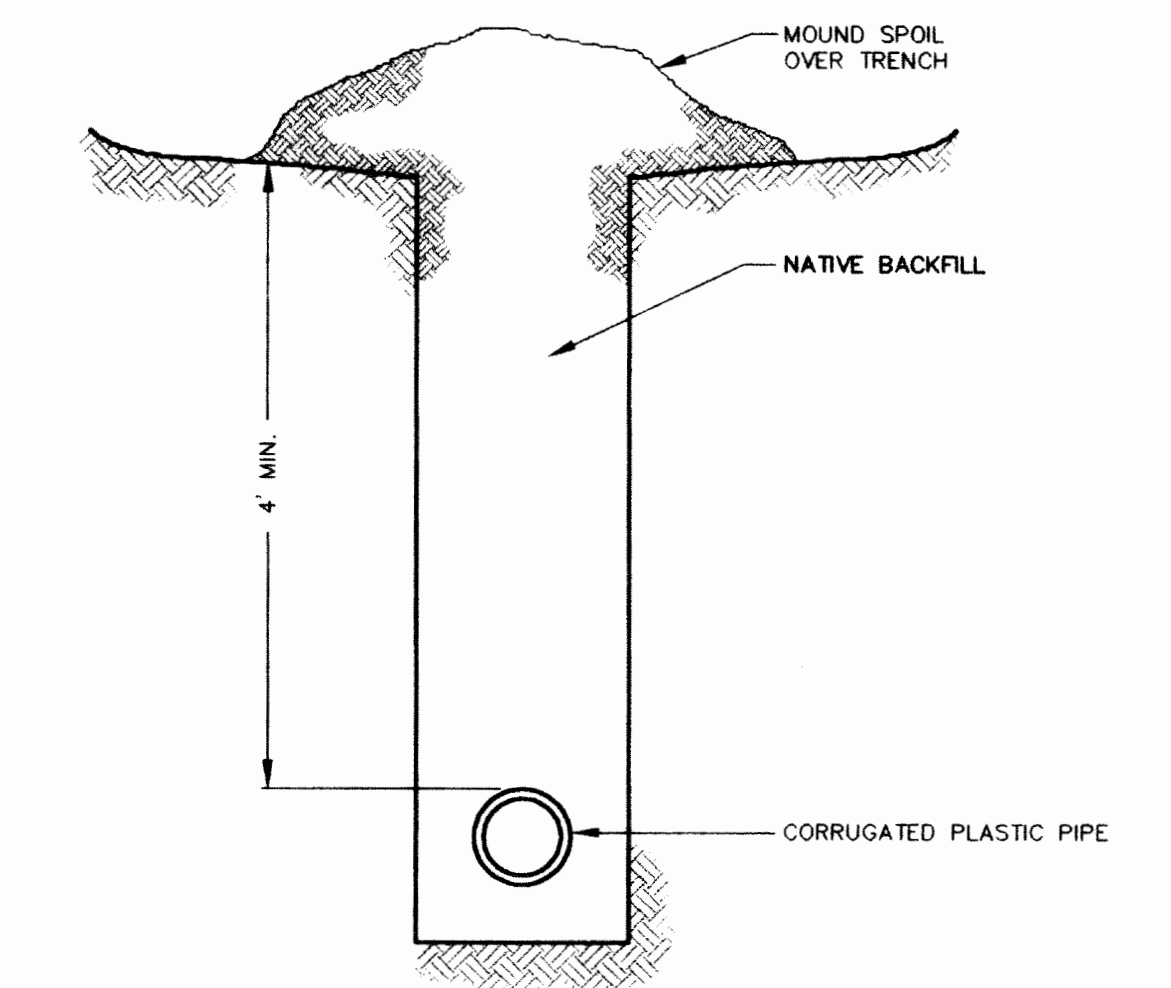
5 STRAW BALE DIKE INSTALLATION
N.T.S.



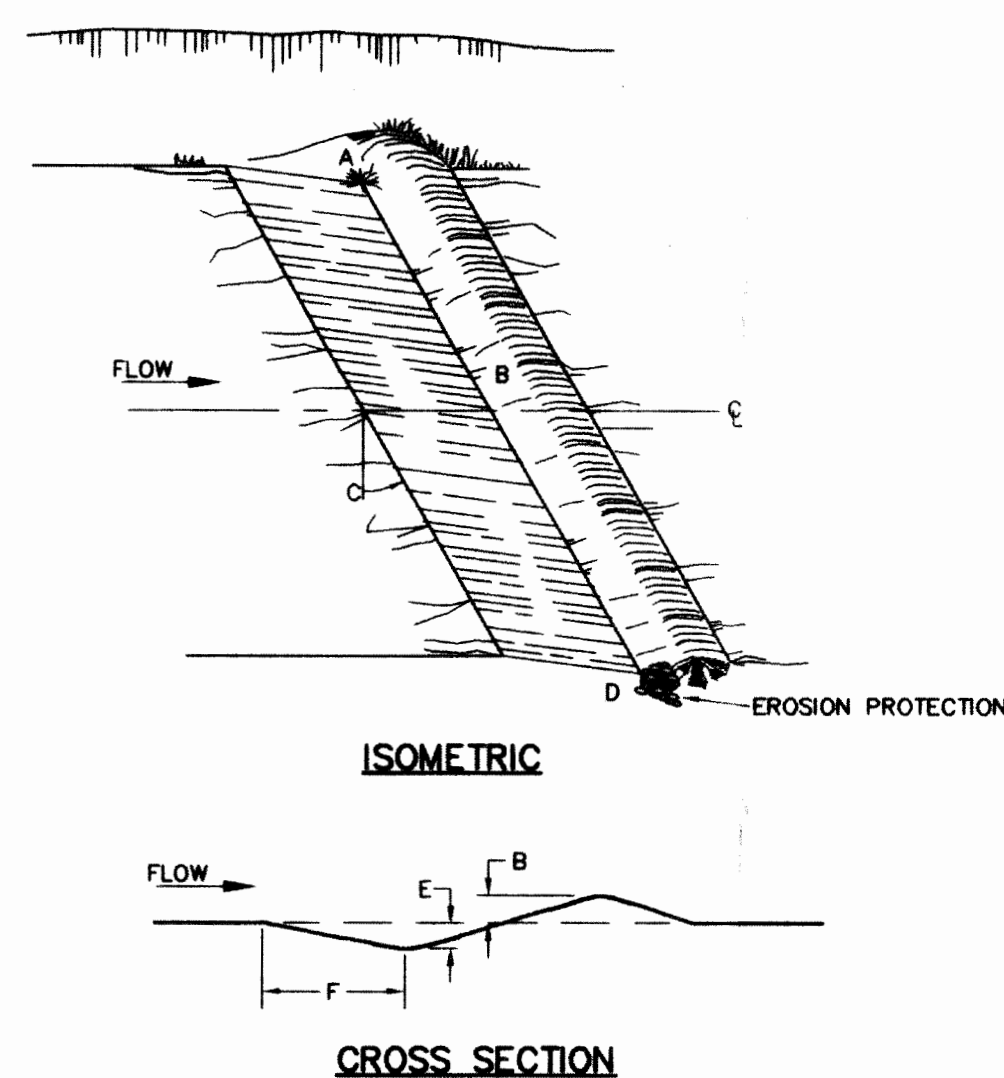
2 CUTOFF COLLAR
N.T.S.



3 DIVERSION DITCH TYPICAL X-SECTION
N.T.S.



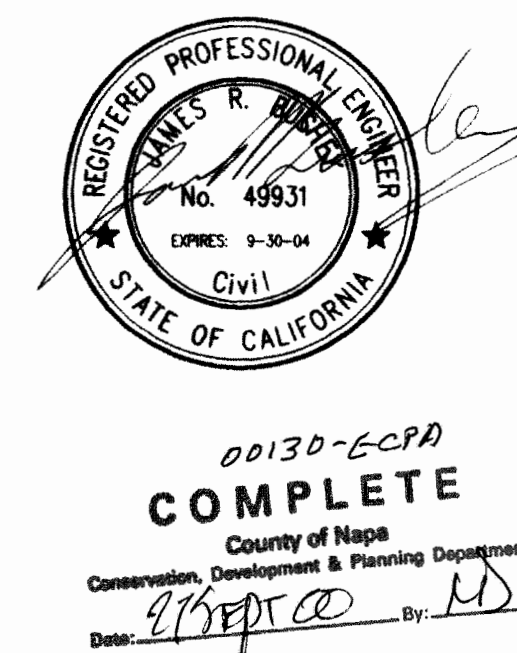
4 SURFACE DRAINAGE PIPELINE
N.T.S.



- NOTES:
1. WATERBAR CONSTRUCTION FOR LITTLE OR NO TRAFFIC. SPECIFICATIONS ARE AVERAGE AND MAY BE ADJUSTED TO CONDITIONS.
 2. A. TIE-IN TO BANK.
 3. B. CROSS DRAIN BERM HEIGHT 4 TO 6 INCHES ABOVE THE ROAD.
 4. ANGLE DRAIN 30 TO 45 DEGREES DOWNGRADE WITH ROAD CENTERLINE, C.
 5. D. DRAIN OUTLET OUT 8 TO 16 INCHES INTO ROADBED.
 6. E. DEPTH 4 TO 6 INCHES.
 7. F. 3 TO 4 FEET.

6 WATERBAR FOR VEHICULAR TRAFFIC
N.T.S.

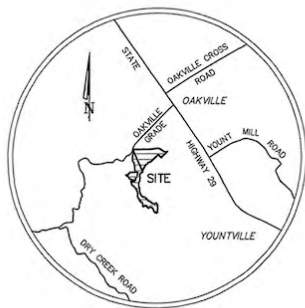
DETAILS ON THIS SHEET:
STANDARD DROP INLET
CUTOFF COLLAR
DIVERSION DITCH
SURFACE DRAINAGE PIPELINE
STRAW BALE DIKE INSTALLATION
WATERBAR FOR VEHICULAR TRAFFIC



VYBORNÝ VINEYARD MANAGEMENT STELLING VINEYARDS EROSION CONTROL PLAN DETAILS				
DESIGN ENGINEER: J. VICENCIO, J. BUSHEY				
JOB NO: 10013301 DWG. NO: 10013301B	SCALE: AS SHOWN	DRAWN BY: LH	DATE: 9-7-00	SHEET: 2 OF: 2

APPLICATION MAP FOR LOT LINE ADJUSTMENT

FOR THE LANDS OF
NICKEL LAND COMPANY
NICKEL VINEYARD COMPANY, LLC
JULY 10, 2013



LOCATION MAP
NOT TO SCALE

IMPORTANT: THIS PLAT IS NOT A SURVEY. IT IS BASED ENTIRELY ON ASSESSOR'S MAPS AND IT IS FURNISHED FOR YOUR CONVENIENCE TO LOCATE THE SUBJECT PROPERTY IN RELATION TO ADJOINING LANDS, HIGHWAYS, ROADS AND STREETS AND NOT TO GUARANTEE ANY FIXED DIMENSIONS, OR ACREAGE. A FIELD SURVEY SHOULD BE PERFORMED PRIOR TO ANY CONSTRUCTION, DEMOLITION, CONVEYANCE OR TRANSACTION.

GENERAL NOTES:

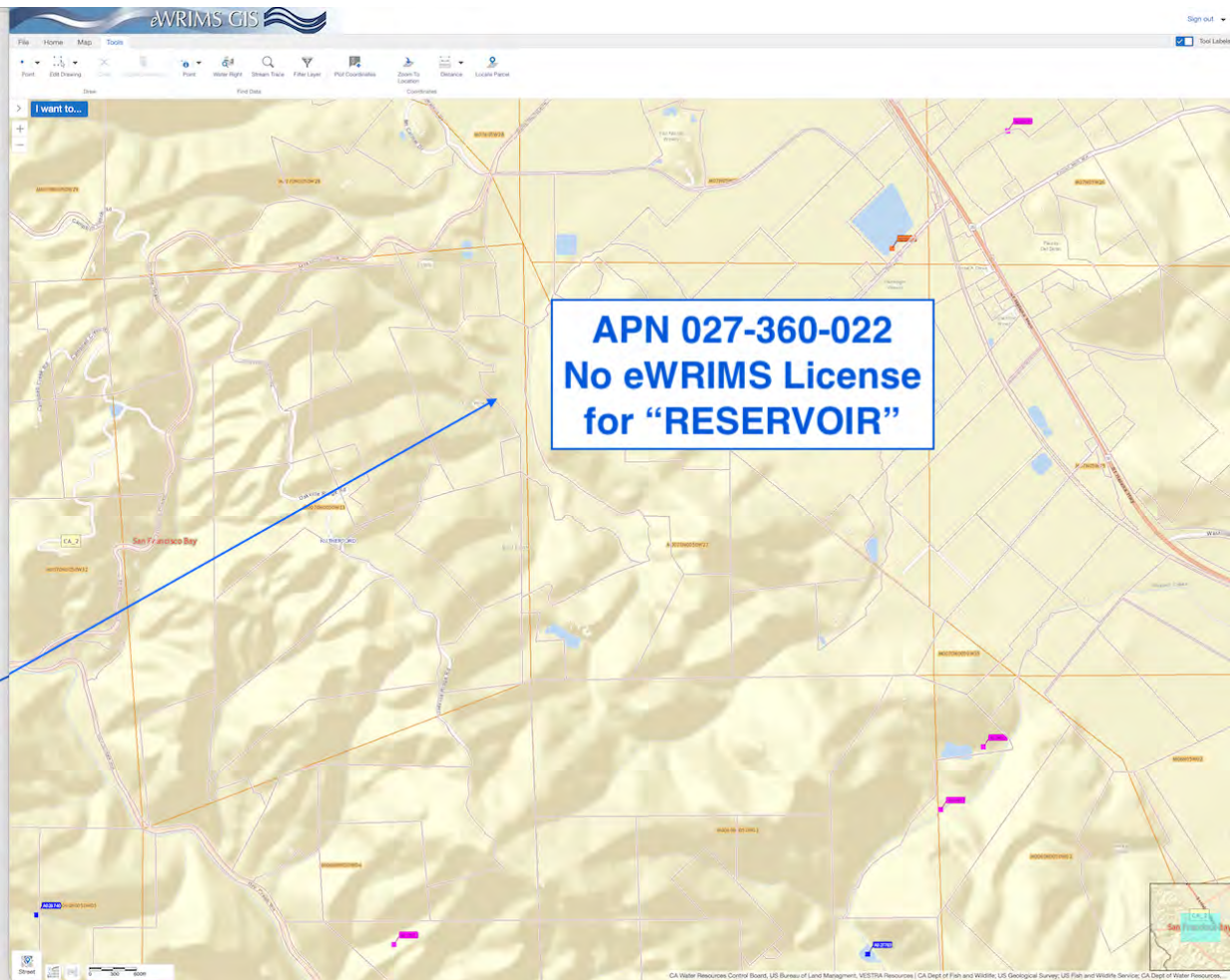
SURVEYOR:	JON WEBB PLS, NEW ALBION SURVEYS, INC., 1113 HUNT AVENUE, ST. HELENA, CA 94574 (707) 963-1217	
OWNERS:	APN 027-360-017 & 027-480-016 NICKEL VINEYARD COMPANY, LLC 1350 ACACIA DRIVE OAKVILLE, CA 94562	APN 027-360-012 NICKEL LAND COMPANY P.O. BOX 327 OAKVILLE, CA 94562
ZONING:	AP & AW	AW
EXISTING LAND USE:	AGRICULTURAL	RESIDENTIAL
PROPOSED LAND USE:	SAME	SAME
EXISTING WATER SOURCE:	RESERVOIR	WELL
PROPOSED WATER SOURCE:	SAME	SAME
EXISTING SEWAGE SYSTEM:	NONE	SEPTIC
PROPOSED SEWAGE SYSTEM:	SAME	SAME
CONTOURS:	DERIVED FROM NAPA COUNTY GEOGRAPHIC INFORMATION SYSTEMS (GIS)	
FLOOD ZONE:	SUBJECT PARCELS ARE NOT WITHIN THE FEMA FLOOD ZONE	
WILLIAMSON ACT CONTRACT:	SUBJECT PARCELS ARE NOT UNDER CONTRACT	

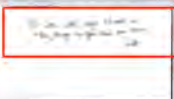
RECEIVED

JUL 12 2013

Napa County Planning, Building
& Environmental Services

SHEET 1 OF 4
LID PROJECT 3392
3392-LLA.dwg

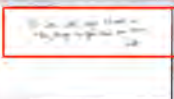








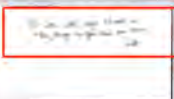








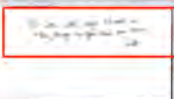








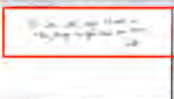








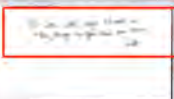








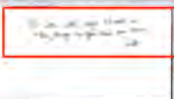








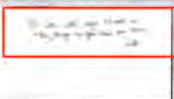








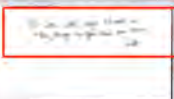








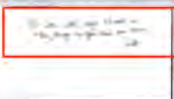








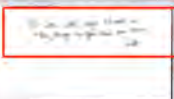








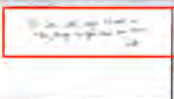








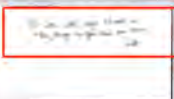








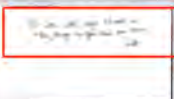








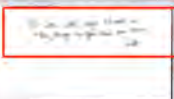








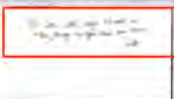








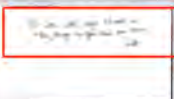








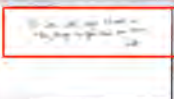








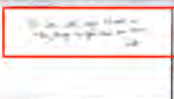








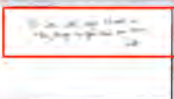








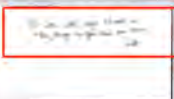








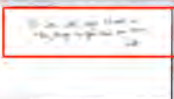








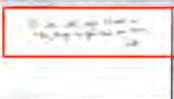








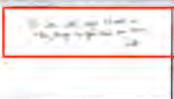








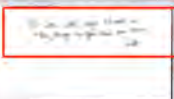








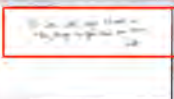








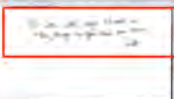








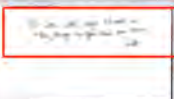








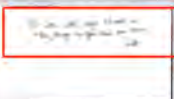








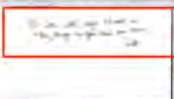








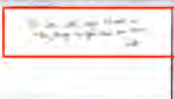








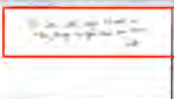








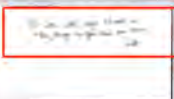








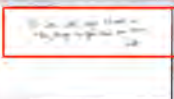








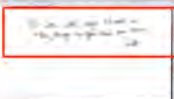








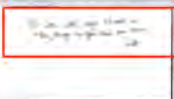


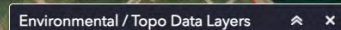












Erosion_Control_Plans_public	
Permit number	00130
File number	2000130
ECP type	Ag Track II Replant
Date applied	2000-09-08
Date approved	2000-06-28
Total project acres	17.00
Block name	
Block acres	17.00
CEQA	

[Zoom to](#) ***

- Layers** 🔍 📄

 - ☒ Erosion Control Plans ...
 -  Ag New Track I
 -  Ag New Track I (THP)
 -  Ag Track I Replant
 -  Ag Track II Replant
 - ☐ Hazmat District ...
 - ☐ Hazmat Spills NON LOP ...
 - ☐ Hazmat Spills LOP ...
 - ☐ Vegetation ...
 - ☐ National Hydrography Dataset Flowlines ...
 - ☐ Calveg ...
 - ☐ Elevation Contour Lines (East County) ...
 - ☐ Elevation Contour Lines (West County) ...
 - ☐ White Elevation Contour Lines (West County) ...
 - ☐ White Elevation Contour Lines (East County) ...
 - ☐ Napa_Valley_Vine_Trail_Public ...
 - ☐ Groundwater Sustainability Agency Boundary ...
 - ☐ Digital Elevation Model ...
 - ☐ Napa County USGS Digital Raster Graphic (DRG) ...
 - ☐ SLOPE ...

 Over 50%
  30 to 50
  15 to 30
  5 to 15
  0 to 5



1230 Pine Street
St. Helena, CA 94574
707.967.9656 Phone
707.963.0771 Fax

July 14, 2025

707.200.9414 Direct
kfalace@buchalter.com

VIA EMAIL

Laura Anderson
Deputy County Counsel
Office of Napa County Counsel
1195 Third Street, Suite 301
Napa, CA 94559
Email: laura.anderson@countyofnapa.org

Re: The Vineyard House Conditions of Approval
Use Permit #P18-00448

Dear Ms. Anderson:

In approximately 1997, Mr. Harlan drilled a well and installed an electrical utility box in the “knoll area” of Mr. Nickel’s property. Mr. Harlan stated that when the well was drilled he believed it was on his property. A subsequent survey demonstrated this was not the case and a lawsuit ensued styled *Harlan v. Nickel et al.*, Napa County Superior Court Number 26-14791.

In addition to other matters considered, the Court considered whether sufficient evidence was presented to establish a good faith improver cause of action. The test for an equitable easement by good faith improver is codified in sections 871.1 through 871.7 of the Code of Civil Procedure.

The matter proceeded to trial and on November 21, 2003, final judgment was entered. In balancing the equities, the Court allowed Harlan to retain ownership rights to the well and associated equipment by finding in his favor as to the good faith improver cause of action. Through the judgment, Mr. Nickel would retain ownership of the property, but Mr. Harlan would own the well and have an equitable easement to access same.

In light of the Court’s findings, the Nickel parcel cannot be compelled to install a meter as the well is the personal property of Mr. Harlan.

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Arizona
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Colorado
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Oregon
Tennessee
Utah
Washington

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Laura Anderson
Deputy County Counsel
July 14, 2025
Page 2

Please let me know if you have any questions.

Very truly yours,

BUCHALTER
A Professional Corporation



Katharine H. Falace
Shareholder

KHF:jg