

“M”

Public Comment received  
between: 5/2/25 at 2:00  
p.m. and 5/6/25 at 1:30 p.m.

**From:** [Jim Brown](#)  
**To:** [Ringel, Matthew](#)  
**Subject:** Harcross Winery Project/hearing on May 7, 2025 9 a.m.  
**Date:** Tuesday, May 6, 2025 8:26:15 AM

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Matthew,

My wife and I own the property at 6517 Dry Creek Road, which is just up the hill from the proposed winery project. We have owned the property since 2005, suffered a complete loss of all structures in 2017, and have since rebuilt our house. We also have farmed 2.5 acres of grapes on the property every year since we purchased the property. We are concerned about the impact of the proposed winery on the aquifer and also about the increased traffic, and we ask that those issues be considered more thoroughly before any project is approved.

Based on the submissions, the operable well on our property is well within the aquifer recharge area and will be directly impacted by any increased useage of the aquifer, especially a commercial use as is contemplated by this project. We have never had more than 5 GPM produced from the well on our property. We have been able to survive the drier years because of the amount of water storage that we have and our location on the hill. It is very difficult to accept that OEI determined that Well No. 1 on the proposed project will produce 25GPM. We join in the request that further study be done with a more rigorous testing protocol and that it be done during the summer months when the aquifer is most impacted. Even if there is acceptance of well flow of 10 GPM, we ask that approval for the winery be based on the more rigorous study and, perhaps reduce the production allowed at the winery and reduce the number of visitors that are allowed at the property. It is tremendously unfair to the other property owners to allow such a potentially significant impact on what is already a barely sufficient aquifer.

We are also concerned about the increase in traffic over the Trinity Road, Dry Creek Road, and Oakville Grade corridor. Over the last many years there has already been a significant increase in traffic, and it does not seem responsible to allow the additional impact that this project will have on the traffic. There has been an increase in the number of accidents on the hill, injury (and a death) to cyclists, and a dramatic increase in the number of "near misses" due to drivers who are reckless or just unfamiliar with the roads. Adding the additional traffic for employees, vendors, and guests to a commercial winery project is not justified under these circumstances.

We appreciate the consideration of our concerns about the project and ask that the Planning Commission either deny the winery permit portion of the application, significantly scale back the project, or simply require further study of the impact of the project on the aquifer and the traffic increase. We understand that others have raised or will raise additional environmental impact concerns, and we join in their requests for limitations and further study.

Jim Brown  
415-706-9068 (mobile)

**From:** [MeetingClerk](#)  
**To:** [Ringel, Matthew](#); [Parker, Michael](#); [Anderson, Laura](#); [Hawkes, Trevor](#)  
**Cc:** [Ramirez Vega, Angelica](#)  
**Subject:** FW: Water Audit California Comment Letter - Harcross - Planning Commission May 7, 2025  
**Date:** Monday, May 5, 2025 2:39:59 PM  
**Attachments:** [20250502 Water Audit Harcross comment letter.pdf](#)  
[image001.png](#)

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Good afternoon,

Please find Water Audit public comment for Harcross.

Kindly,



**Alexandria Quackenbush**  
Administrative Secretary II  
Planning, Building, & Environmental Services  
Napa County  
Phone: (707) 253-4417  
1195 Third Street, Suite 210  
Napa, CA 94559  
[www.countyofnapa.org](http://www.countyofnapa.org)

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**From:** Valerie Stephan <[vstephan@waterauditca.org](mailto:vstephan@waterauditca.org)>  
**Sent:** Friday, May 2, 2025 6:17 PM  
**To:** MeetingClerk <[MeetingClerk@countyofnapa.org](mailto:MeetingClerk@countyofnapa.org)>  
**Cc:** Water Audit California <[legal@waterauditca.org](mailto:legal@waterauditca.org)>  
**Subject:** Water Audit California Comment Letter - Harcross - Planning Commission May 7, 2025

[External Email - Use Caution]

Attached please find Water Audit California's comment letter re the Planning Commission May 7, 2025, hearing, Agenda Item 7A. BASIL AND ROBIN ENAN / HARCROSS WINERY / USE PERMIT P23-00105-UP, VIEWSHED P25-00031, AND AGRICULTURAL EROSION CONTROL PLAN P23-00325-ECPA

Please confirm receipt and thank you,

Valerie Stephan  
Paralegal/Researcher

**WATER AUDIT CALIFORNIA** - *A California Public Benefit Corporation*  
952 School Street #316, Napa, CA 94559 / phone: (707) 681-5111

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# WATER AUDIT CALIFORNIA

A PUBLIC BENEFIT CORPORATION

952 SCHOOL STREET #316 NAPA CA 94559

VOICE: (707) 681-5111

EMAIL: GENERAL@WATERAUDITCA.ORG

May 2, 2025

To Napa County Planning Commission

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

RE May 7, 2025

Agenda Item 7A. BASIL AND ROBIN ENAN / HARCROSS WINERY / USE PERMIT P23-00105-UP, VIEWSHED P25-00031, AND AGRICULTURAL EROSION CONTROL PLAN P23-00325-ECPA ("Application")

To whom it may concern:

Water Audit California ("Water Audit") is a public benefit corporation with a mission to protect the public trust. The following comments are submitted on its own behalf, and in the public interest.

## WATER AVAILABILITY ANALYSIS

The WAA appeared to be thorough and in conformity with ordinances. Tier 3 performed, and consultant determined low pumping rate (less than 10gpm) will cause no injury, and not interconnected because there is clay between surface water and aquitard. Includes 18 Well Completion Reports, and well location map.

## CURRENT PROJECTS FOLDER

Well done.

Two Folders: documents organized in a folder that were submitted to State Clearing House and documents organized in a folder for the hearing to allow consistency of review.

## USE PERMIT

No Significant Streams Map

No USGS Topo Map

No Adjoining Neighbors List or Assessor Parcel Page (packet page 125 and 149.)

Site Plan identifies project well is right in the center of flowline of an ephemeral stream (packet page 460.)

*Conditions of Approval do not currently require installation of a regulated small public water system. The Conditions should be in accord with state requirements.*

## CEQA

The uploaded documents to the State Clearing House included the water related studies, and a single Regulatory Agency letter from CDFW. The Summary of Electronic Submission includes reviewing agencies USFW and CDFW. The Notice of Completion included all appropriate reviewing agencies.

The CDFW comment was created April 8, 2025. It has not been uploaded to the agenda as of the drafting of this comment letter. (see attached) Recommended mitigation provides two biological mitigation measures: Northern Spotted Owl, and Bat Tree Habitat Assessment and Surveys. Both include "Timing: Prior to Ground Disturbance" and "Responsible Party: Project Applicant." The regulator's recommendation also strikes County language regarding the Spotted Owl.

The Conditions of Approval do not include mitigation measures for the Bat Tree Habitat Assessment and Surveys. (COA 6.12.a)

## CONDITIONS OF APPROVAL

NO Public Works Groundwater Memorandum. The Public Works Department manages groundwater resources. (Excerpted Public Works webpage exhibits attached)  
The Planning, Building, and Environmental Services (PBES) is not authorized to determine or manage groundwater, or its monitoring program.

COA appends Memorandum from Planning Division Engineering stating it has "reviewed the revised Water Availability Analysis..." and "has been evaluated based on information provided by the applicant, project location, and available geologic and

hydrologic information and has determined the WAA to be complete and reasonable. Engineering concludes the WAA is technically adequate..." (packet page 106) [*The Planning Division Engineering evaluation is not equivalent to the required Public Works' determination.*]

#### COA 4.9 GROUND WATER MANAGEMENT - WELLS

Omits "joint implementation from Public Works." For comparison, see: Anthem Winery: "joint implementation from Public Works." (see attached)

Conditions of Approval omits language limiting water extraction to certain acre-feet based on recharge of the site. It omits a Groundwater Demand Management Program.

#### **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 state<sup>1</sup> have “a duty to consider the public trust interest<sup>2</sup> when making decisions impacting water that is imbued with the public trust,”<sup>3</sup> and merely complying with CEQA does not discharge that duty.<sup>4</sup>

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 public trust.”<sup>5</sup> Thus, compliance with public trust duties is not discretionary, it is obligatory.

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<sup>1</sup> *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).

<sup>2</sup> The Napa River and its tributaries, and the fish within those water ways, are protected public trust resources.

<sup>3</sup> *Id.* at 863.

<sup>4</sup> *Id.* at 868.

<sup>5</sup> *Nat'l Audubon Soc'y v. Superior Ct.* (1983) 33 Cal. 3d 419, 426.



As Napa County is a legal subdivision of the state, it must deal with the trust property for the beneficiary's<sup>6</sup> 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.

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

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<sup>6</sup> i.e. people of California

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



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



April 28, 2025

Matt Ringel, Planner III  
Napa County  
1195 Third Street  
Napa, CA 94559  
[Matthew.Ringel@countyofnapa.org](mailto:Matthew.Ringel@countyofnapa.org)

Subject: Harcross Winery and Vineyard, Use Permit #P23-00105-UP, Initial Study/Mitigated Negative Declaration, SCH No. 2025040340, Napa County

Dear Mr. Ringel:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from Napa County (County) for the Harcross Winery and Vineyard, Use Permit #P23-00105-UP (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

CDFW is submitting comments on the IS/MND to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

### **CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

### **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Basil & Robin Enan (Property Owners)

**Objective:** The Project involves the construction of a new winery with an annual production capacity of 5,000 gallons per year and will include the following:

- Construction of a new 8,496-square foot (sq. ft.) winery facility;
- Removal of 0.5 acres of woodland habitat, and the planting and preservation of 1.5 acres of woodland canopy on the Project parcel;

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- Excavation of approximately 5,780 cubic yards of spoils associated with the construction of structural pads;
- Driveway expansion and construction to meet commercial standards, landscaping, and other improvements associated with wineries;
- Earthmoving and grading activities that include vegetation and tree removal, soil ripping (maximum depth of 48 inches), grading of approximately 500 cubic yards of cut and fill for land contouring, rock removal, disking, and the development or erosion control measures; and
- Temporary erosion control measures that include cover crop, straw wattles, erosion control blankets, and application of straw mulch.

**Location:** The Project is located at 6476 Dry Creek Road, Napa, CA 94558; Assessor's Parcel Number 027-530-006-000; at approximately 38.41015°N, -122.45941°W; Napa County.

## REGULATORY REQUIREMENTS

### California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. **The Project has the potential to impact northern spotted owl (*Strix occidentalis caurina*), State listed as threatened, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065.). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

### Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections

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protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and included in **Attachment 1** Draft Mitigation Monitoring and Reporting Program, CDFW concludes that an MND is appropriate for the Project.

***MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?***

***And,***

***Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?***

### **Mitigation Measure Related Impact Shortcoming**

#### **COMMENT 1: Northern Spotted Owl**

**Issue:** The IS/MND concludes that nesting northern spotted owl habitat occurs within 0.25 miles of the Project area, and Part A of Mitigation Measure BIO-1 includes a preconstruction survey for nesting northern spotted owl in accordance with *U.S. Fish and Wildlife Service (USFWS) Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012, in accordance with Section 9 (*Surveys for Disturbance-Only Projects*). However, Section B of BIO-1 states that "The preconstruction survey shall be conducted no earlier than 14 days prior to when vegetation removal and ground disturbing activities are to commence..." This is inconsistent with Section 9 of the protocol survey above, which states that "Therefore, a one-year six visit survey can apply to smoke or noise-disturbance only actions" (Section 9, page 17). This includes six visits which should be spaced at least seven days apart (page 13), generally should be spaced evenly throughout the nesting season, and should have at least three visits prior to June 30 (also page 13). Therefore, implementing Part B

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of Mitigation Measure BIO-1 with surveys being done no earlier than 14 days in advance of Project activities would not satisfy the requirements of Section 9 of the above protocol and may not detect nesting northern spotted owl.

**Specific impacts and why they may occur and be significant:** Incomplete northern spotted owl survey methods could cause false negative survey results, resulting in inadvertent Project audio or visual disturbances to nesting northern spotted owl, nest abandonment, and loss of eggs; or reduced health and vigor and loss of young, thereby substantially reducing the number of the species. Northern spotted owl is CESA listed as a threatened species and is also listed under the federal Endangered Species Act (ESA), and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active NSO nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

**Recommended Mitigation Measure:** To reduce impacts to northern spotted owl to less-than-significant and comply with Fish and Game Code section 3500 et seq. and CESA; CDFW recommends revising Mitigation Measure BIO-1 with following deletions in strikethrough and additions in **bold** to reduce impacts to less-than-significant.

- A) ~~Prior to the commencement of vegetation removal and earth-moving activities associated with the project~~ **Prior to the commencement of Project construction activities occurring between March 15 and July 31 each year,** the owner/permittee shall conduct a pre-construction survey for Northern Spotted Owls (**NSO**). The survey shall be prepared by a qualified biologist (defined as knowledgeable and experienced in the biology and natural history of local avian resources with the potential to occur in the vicinity of the Project site) within suitable habitat located within 0.25-miles of Project activities. The preconstruction survey shall follow the U.S. Fish and Wildlife Service (USFWS) *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012, in accordance with Section 9 (Surveys for Disturbance-Only Projects) of the survey protocol.
- B) The preconstruction survey shall **include a one-year, six visit survey that covers all NSO habitat within 0.25 mile from the Project area, unless otherwise approved by CDFW in writing,** ~~be conducted no earlier than 14 days prior to when vegetation removal and ground disturbing activities are to commence~~ and shall be provided to the Napa County Planning, Building, and Environmental Services (PBES) Department's Planning Division and the CDFW for review prior to commencement of work. Any recommendations provided by CDFW, including but not limited to establishment of no disturbance buffers, seasonal restrictions on heavy equipment use and operations, or subsequent surveys shall be implemented in accordance with CDFW recommendations.

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**If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and shall also consult with USFWS pursuant to the federal ESA.**

### **Environmental Setting Related Impact Shortcoming**

#### **COMMENT 2: Roosting Bats**

**Issue:** The IS/MND does not address potential impacts to roosting bats including pallid bat (*Antrozous pallidus*), California Species of Special Concern (SSC), resulting from the removal of 0.5 acres of woodland including 20 oak trees, three manzanita/madrone, one fir, one bay, and one pine (IS/MND page 7).

**Specific impacts and why they may occur and be significant:** If potential impacts to special-status bats are not assessed and mitigated, Project activities could result in substantial reduction of the number of an SSC (for more information about SSC, see: <https://wildlife.ca.gov/Conservation/SSC>).

**Recommended Mitigation Measure:** To reduce impacts to special-status bats to less-than-significant, CDFW recommends that the MND incorporates the following mitigation measure.

**Bat Tree Habitat Assessment and Surveys.** Prior to any tree trimming or removal, a qualified biologist shall conduct a habitat assessment for bats, unless otherwise approved in writing by CDFW. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree trimming or removal and shall include a visual inspection of potential roosting features of trees to be removed (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. If the presence of bats is presumed or documented, trees may be removed only: a) using the two-step removal process detailed below during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.

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## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>

## ENVIRONMENTAL DOCUMENT FILING FEES


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (See Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Nicholas Magnuson, Environmental Scientist, at (707) 815-4166 or [Nicholas.Magnuson@wildlife.ca.gov](mailto:Nicholas.Magnuson@wildlife.ca.gov), or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
692D021D81CA4F7  
Erin Chappell  
Regional Manager  
Bay Delta Region

**Attachment 1:** Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse No. 2025040340



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## ATTACHMENT 1

### Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM BIO-1	<p>Mitigation measure BIO-1: Minimize potential indirect impacts to Northern Spotted Owl</p> <p><del>Prior to the commencement of vegetation removal and earth-moving activities associated with the project</del>  <b>Prior to the commencement of Project construction activities occurring between March 15 and July 31 each year</b>, the owner/permittee shall conduct a pre-construction survey for Northern Spotted Owls (<b>NSO</b>). The survey shall be prepared by a qualified biologist (defined as knowledgeable and experienced in the biology and natural history of local avian resources with the potential to occur in the vicinity of the Project site) within suitable habitat located within 0.25-miles of Project activities. The preconstruction survey shall follow the U.S. Fish and Wildlife Service (USFWS) <i>Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls</i>, dated (revised) January 9, 2012, in accordance with Section 9 (Surveys for Disturbance-Only Projects) of the survey protocol.</p> <p>The preconstruction survey shall <b>include a one-year, six visit survey that covers all NSO habitat within 0.25 mile from the Project area, unless otherwise approved by CDFW in writing</b>, <del>be conducted no earlier than 14 days prior to when vegetation removal and ground-disturbing activities are to commence</del> and shall be provided to the Napa County Planning, Building, and Environmental Services (PBES) Department's Planning Division and the CDFW for review prior to commencement of work. Any recommendations provided by CDFW, including but not limited to establishment of no disturbance buffers, seasonal restrictions on heavy equipment use and operations, or subsequent surveys shall be implemented in accordance with CDFW recommendations.</p>	Prior to Ground Disturbance	Project Applicant

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	<b>If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal ESA.</b>		
<b>MM BIO-3</b>	<p><u>Bat Tree Habitat Assessment and Surveys.</u> Prior to any tree trimming or removal, a qualified biologist shall conduct a habitat assessment for bats, unless otherwise approved in writing by CDFW. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree trimming or removal and shall include a visual inspection of potential roosting features of trees to be removed (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. If the presence of bats is presumed or documented, trees may be removed only: a) using the two-step removal process detailed below during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.</p>	Prior to Ground Disturbance	Project Applicant

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About Us | Napa County, CA

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countyofnapa.org/1646/About-Us

Create a Website Account - Manage notification subscriptions, save form progress and more.

Website Sign In

Roads

Airport

Animal Shelter

Flood District

Other Services

Home » Departments » Public Works » About Us

About Us

Organizational Chart

- Public Works Department Organizational Chart (PDF)

Animal Shelter

- Adoptions
- Licenses
- Lost pets
- Volunteer opportunities

Natural Resources

- Groundwater
- Milliken-Sarco-Tulocay (MST) Project
- Recycling/Waste Management
- Water Conservation
- Watershed Information

Buildings & Grounds

- Administration Building
- Airport
- Health and Human Services Campus
- Hall of Justice
- Libraries
- South Campus
- Other County Offices and Facilities

Roads & Bridges

- 416 miles of road
- 6,907 signs
- 88 electronic signs
- 3,284 culverts
- 162 bridges
- 105 streetlights
- 4 intersection traffic signals
- 442 guardrails totaling approximately 22.6 miles

Flood Control

- Napa Flood Project
- Napa River Restoration
- Watershed Maintenance/Operations

Services

- County Surveyor
- Fleet Operations
- Stormwater Management

Mission

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.

Vision

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.

Core Values

- Accountability and Transparency
- Fiscal Responsibility
- Integrity
- Service
- Teamwork

Contact Us

Steven E. Lederer

Director of Public Works

Email Steven Lederer

Leigh Sharp

Deputy Director, General Services

Email Leigh Sharp

Juan Arias

Deputy Director, County Engineering

Email Juan Arias

Public Works

Email the Public Works Department

Physical Address

1195 Third Street

Suite 101

Napa, CA 94559

Directions

Phone: 707-253-4351

Fax 707-253-4627

Hours

Monday - Friday

8 a.m. - 5 p.m.

(except legal holidays)

Directory

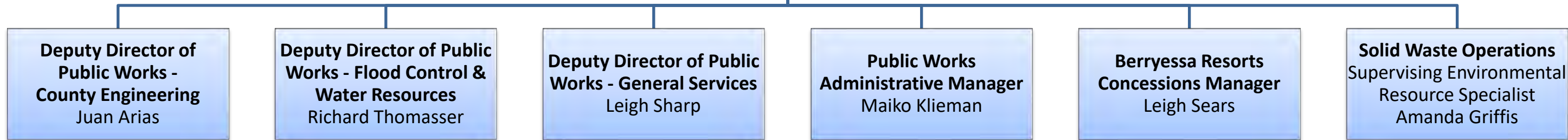
Leave a message

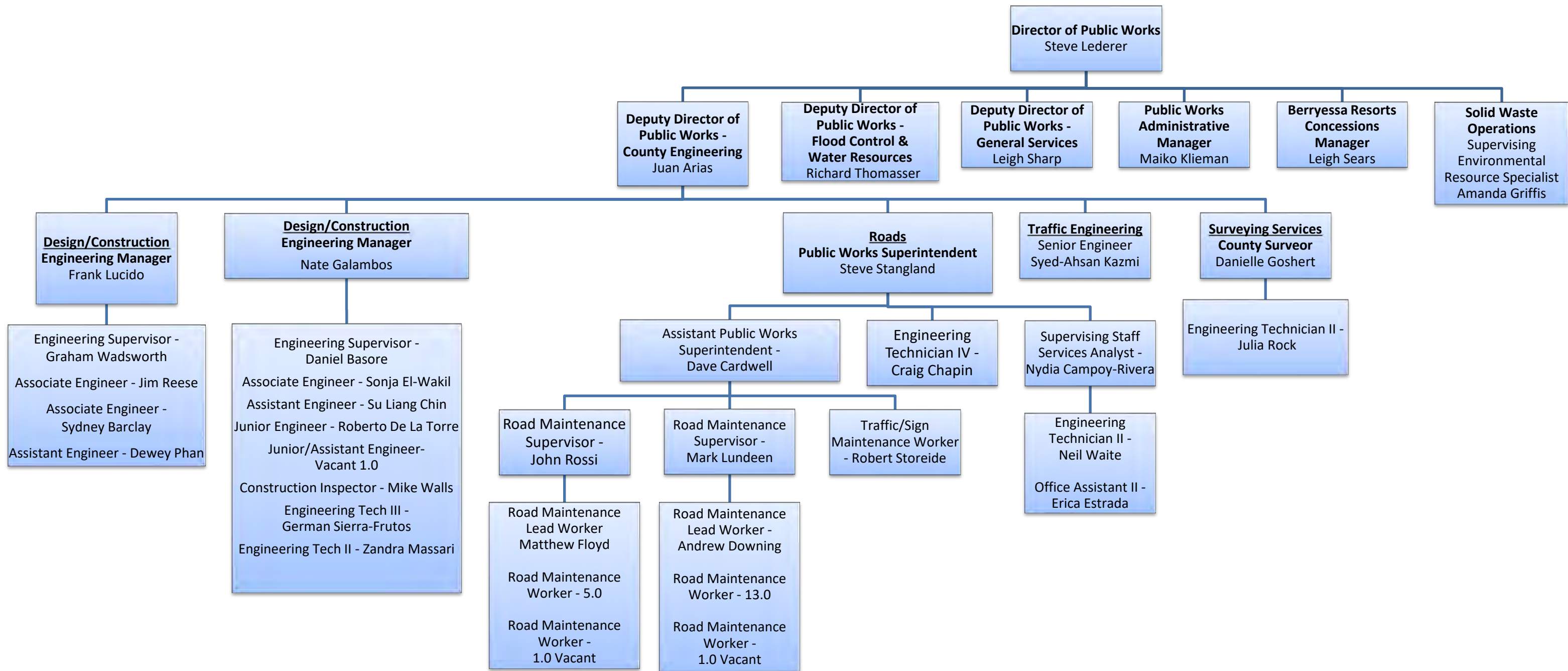
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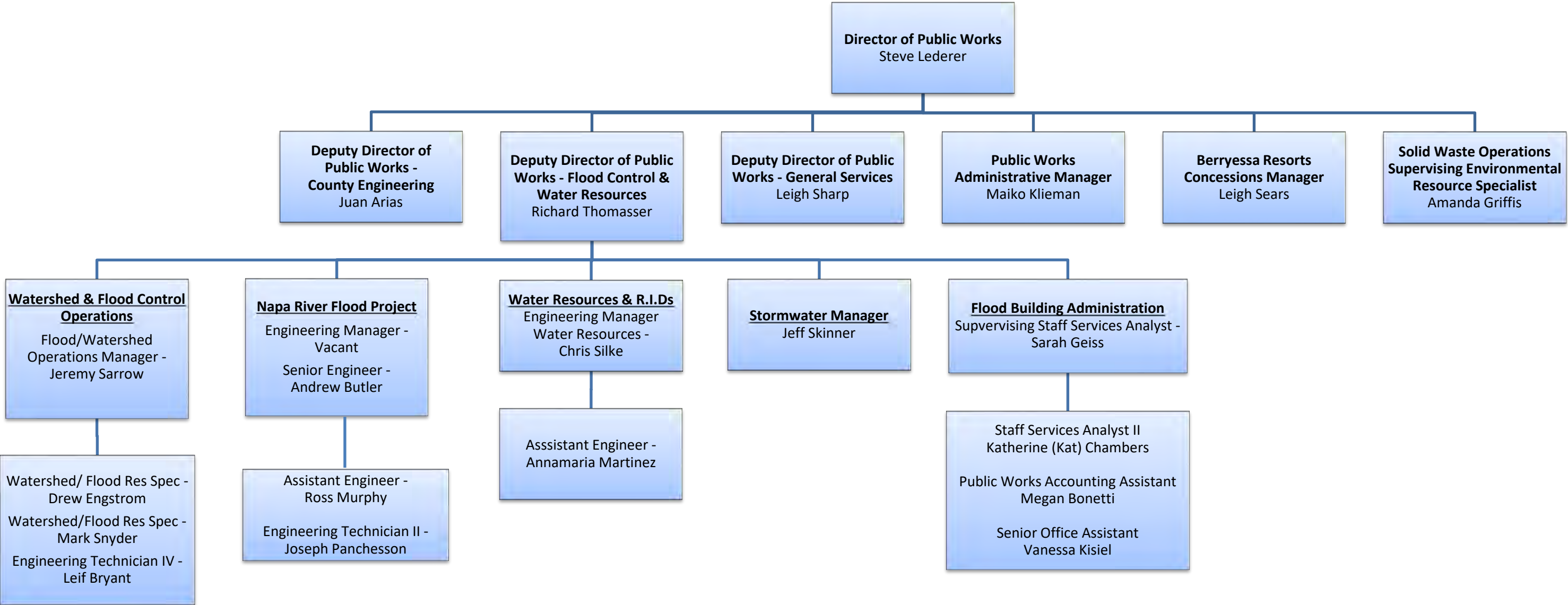
Google Translate

Attachment 2

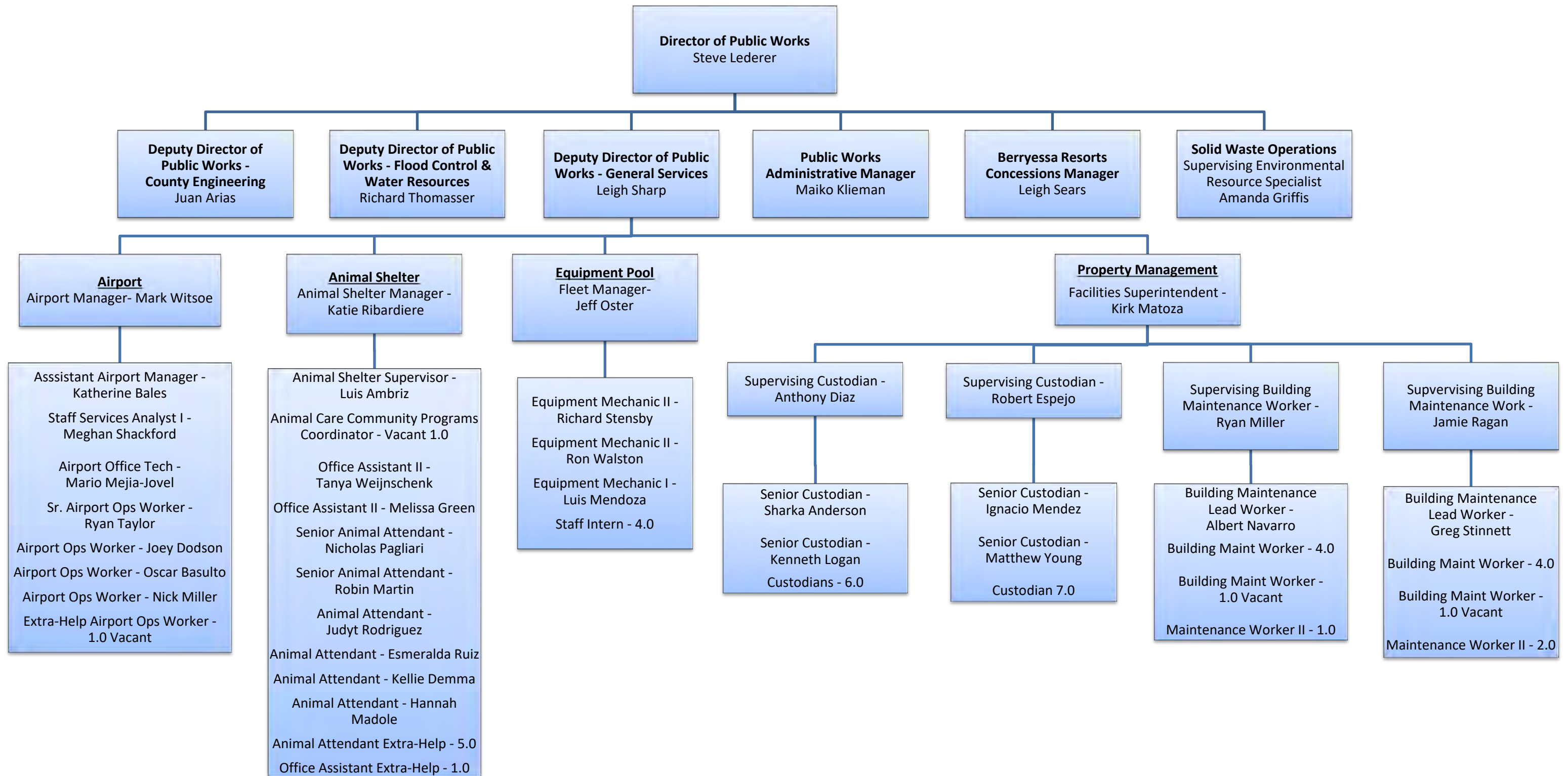
**Director of Public Works**  
Steve Lederer

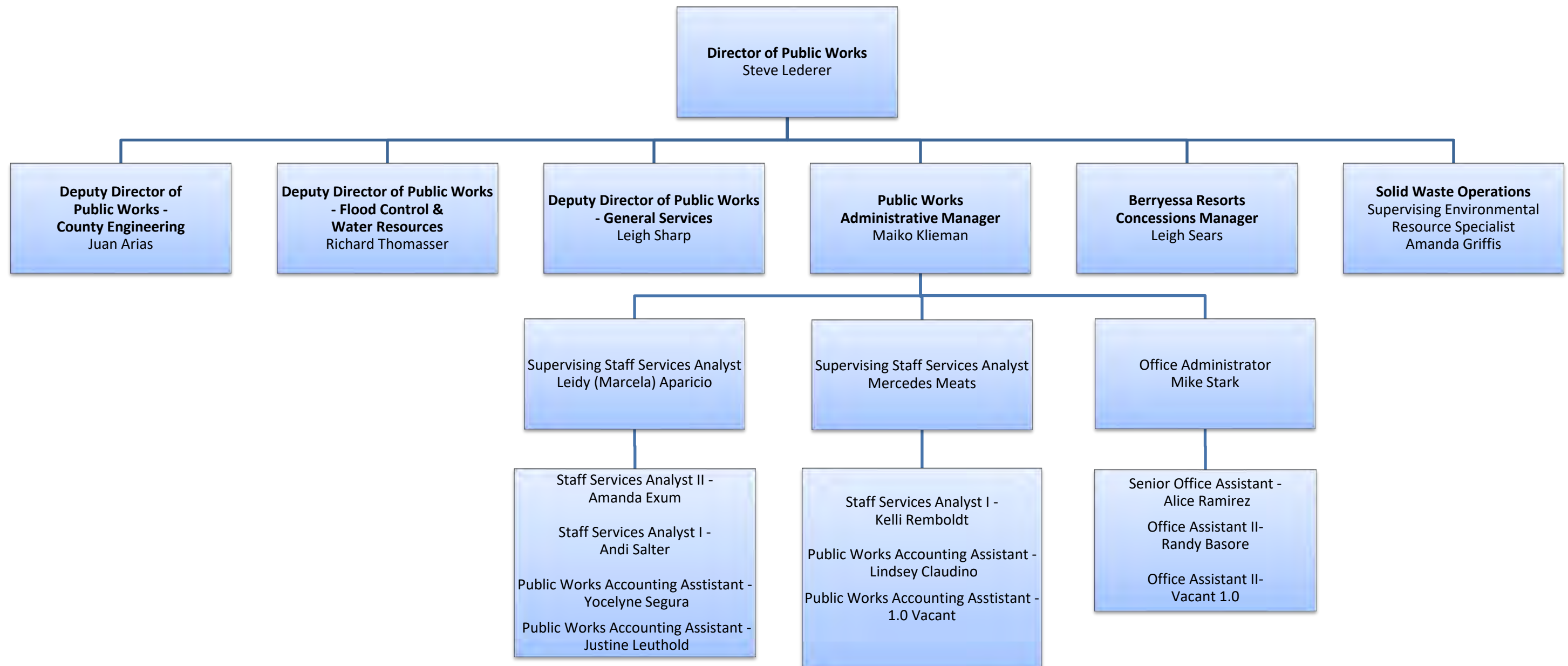




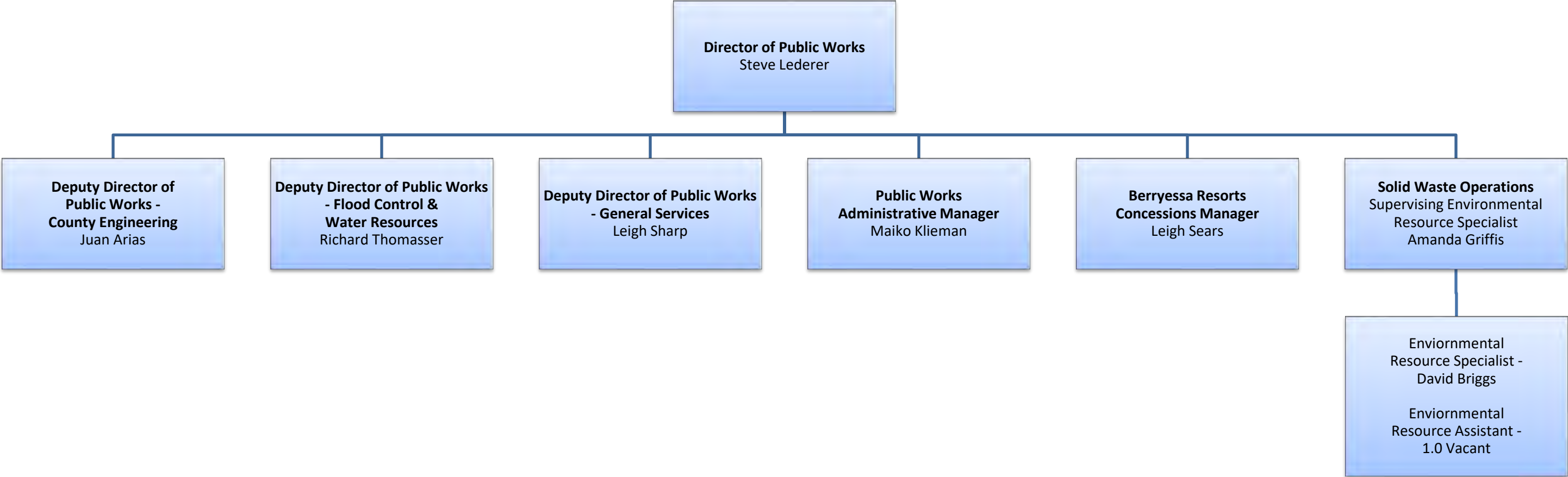












# About Us

## Organizational Chart

- [Public Works Department Organizational Chart \(PDF\)](#)

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**Note:** Purchasing is no longer part of Public Works and is now a division of the County Executive Office.

Select Language



[Google Translate](#)

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County Administration Building

1195 Third Street

Napa, CA 94559

[Contact Us](#)

[Contact the Webmaster](#)

Napa County Public Information Call Center: 707-253-4540

#### 4.9 GROUND WATER MANAGEMENT – WELLS

This condition is implemented by the Planning, Building, and Environmental Services Department:

The permittee shall be required (at the permittee's expense) 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, if the PBES Director determines that substantial evidence<sup>2</sup> indicates that water usage at the winery is affecting, or would potentially affect, groundwater supplies or nearby wells. If data indicates the need for additional monitoring, and if the applicant is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gauge potential impacts on the groundwater resource utilized for the project. Water usage shall be minimized by use of best available control technology and best water management conservation practices.

In order to support the County's groundwater monitoring program, well monitoring data as discussed above will be provided to the County if the Director of PBES determines that such data could be useful in supporting the County's groundwater monitoring program. The project well will be made available for inclusion in the groundwater monitoring network if the Director of PBES determines that the well could be useful in supporting the program.

In the event that changed circumstances or significant new information provide substantial evidence<sup>1</sup> that the groundwater system referenced in the Use Permit would significantly affect the groundwater basin, the PBES Director shall be authorized to recommend additional reasonable conditions on the permittee, or revocation of this permit, as necessary to meet the requirements of the County Code and to protect public health, safety, and welfare.

#### 4.10 AMPLIFIED MUSIC

There shall be no amplified sound system or amplified music utilized outside of approved, enclosed, winery buildings.

#### 4.11 TRAFFIC

<sup>2</sup> Substantial evidence is defined by case law as evidence that is of ponderable legal significance, reasonable in nature, credible and of solid value. The following constitute substantial evidence: facts, reasonable assumptions predicated on facts; and expert opinions supported by facts. Argument, speculation, unsubstantiated opinion or narrative, or clearly inaccurate or erroneous information do not constitute substantial evidence.

#### 4.9 GROUND WATER MANAGEMENT – WELLS [Also see 4.18(d), 4.20(a), 4.20(c), 6.15(b), 9.9(a) and 9.9(c) for other conditions specific to water supply and use for the winery and residences on the Project Parcels.

This condition is implemented jointly by the Public Works and PBES Departments:

The owner/permittee shall be required (at the permittee's expense) 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, if the PBES Director determines that substantial evidence<sup>1</sup> indicates that water usage at the winery is affecting, or would potentially affect, groundwater supplies or nearby wells. If data indicates the need for additional monitoring, and if the owner/permittee is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gauge potential impacts on the groundwater resource utilized for the project. Water usage shall be minimized by use of best available control technology and best water management conservation practices.

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#### 4.11 TRAFFIC

To the maximum extent feasible, scheduling of reoccurring vehicle trips to and from the site for employees and deliveries shall not occur during peak travel times (Monday through Friday 7:15 AM to 8:15 AM, and 4:30 PM to 5:30 PM; Saturdays and Sundays as defined in COA No. 4.20(b). All road improvements on private property required per Engineering Services shall be maintained in good working condition and in accordance with the Napa County Roads and Streets Standards.

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