

## **Attachment H**

PLL's response to revised  
MND



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On behalf of Preserve Lodi Lane, I provide comments on the Revised Mitigated Negative Declaration (“MND”) for the Revised Duckhorn Vineyards Winery Use Permit Major Modification #P19-00097-MOD (“Project”). Based on the evidence presented in Preserve Lodi Lane’s appeal, comments herein, and in the appeal and comments submitted by Water Audit, an environmental impact report (“EIR”) should be prepared for the Project.

### **I. Requirement for Recirculated MND**

The Project was revised to slightly reduce the winery facility and production space, but also to include the construction of a new groundwater well. The January 2024 Water Availability Assessment (“WAA”) for the Project identifies for the first time that to comply with County water usage requirements, the Project will need to reclaim at least 4.65 acre feet of water per year for irrigation use. (WAA p. 7.) The WAA also discloses the need for a new public water system to serve the proposed production facility. (WAA p. 4.) New information has also recently been disclosed to the public that a massive levee was constructed on the east bank of the Napa River on the Project site. CEQA requires recirculation of the MND due to the identified substantive project revisions and new information made available “after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption.” (Guidelines, §15073.5.) The County prepared a revised MND and all comments on this revised document must be part of the administrative record for the Duckhorn Project and can be used to present grounds for noncompliance with CEQA. (Pub. Resources Code, §21177, subd (a).)

### **II. The County Should Send Revised Project Back to the Planning Commission.**

The Planning Commission is the County’s decision-making body for major modification of use permits, such as the one required for the Project, with the Board of Supervisors having only appellate authority. (County Code §18.124.130.H.) The County’s Local Procedures for Implementing the California Environmental Quality Act provide that the Planning Commission is responsible for adopting the MND when it is the decision-making body. (Section 301, incorporated by reference: <https://www.countyofnapa.org/DocumentCenter/View/3341/CEQA-Guidelines-PDF?bidId=>.) The Project should be sent back to the Planning Commission for consideration of the Revised MND and the substantive project revisions consistent with the County’s Code and Implementing Procedures, and with recent precedent for the proposed Benjamin Ranch Project.

### **III. An EIR is Required for the Duckhorn Project.**

The Revised MND and initial study for the Duckhorn Project fails as an informational document and thus violate CEQA because they wholly fail to address traffic safety and geometric

hazard impacts associated with the Project. (*Ctr. for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal. App. 4th 1156, 1170.) Preserve Lodi Lane previously provided detailed personal observations of existing traffic hazards that would be exacerbated by the increased traffic levels from the Project and the addition of tanker trucks to hazardous intersections, with additional information included in their comments below that provide substantial evidence to support a fair argument that the Project may have significant traffic hazard impacts (*Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 735) and may exacerbate existing hazardous conditions. (*California Building Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 388.) There are existing hazards for pedestrians and cyclists along Lodi Lane, and the Project will exacerbate those existing hazards.

The Revised MND relies on outdated traffic studies that are 5 to 10 years old, no longer addressing the Project's impacts as compared to existing conditions or cumulative impacts as required by CEQA. An undisclosed number of the approximately 20 wineries within a one-mile radius of Lodi Lane have proposed and/or have had approved permit modifications for significant expansions since the last traffic study was prepared. (See Preserve Lodi Lane comments.) Since Preserve Lodi Lane filed its appeal, additional winery projects have been proposed in the area, including the Battuello Vineyard Microwinery Use Permit. The Revised MND fails to address the cumulative traffic and traffic safety impacts of the Project, in particular the cumulative impacts with the Inn and the Abbey project that is now moving forward after a significant delay and thus fails to comply with CEQA's requirements. (Guidelines, §15064, subd. (h)(1).) Cumulatively considerable environmental effects require a mandatory finding of significance. (Guidelines, §15065, subd. (a)(3).)

The Project must also achieve no net increase in water usage because it exceeds the County's current groundwater use criteria of 9.7 acre-feet/year for the site, but the Revised MND fails to disclose that use of reclaimed water is required to do so. Without reclaimed water, the Project would have a significant water use impact, but the Revised MND does not impose mitigation that establishes how the Project will avoid this significant impact or whether a reclaimed water system would have impacts. (Guidelines, §15126.4, subd. (a)(1)(D).) Without analysis of how a project would eliminate impacts "[c]ompliance with the law is not enough to support a finding of no significant impact under the CEQA." (*Californians for Alternatives to Toxics v. Department of Food & Agriculture* (2005) 136 Cal.App.4th 1, 17.) Assumption of water reduction without disclosing how improperly "compress[es] the analysis of impacts and mitigation" and thus "disregards the requirements of CEQA." (*Lotus v. Depart. of Transportation* (2014) 223 Cal.App.4th 645, 656.) The Revised MND also fails to include the baseline condition of the existing levee on the Project site. (Guidelines, §15125, subd. (a).)

Sincerely;  
  
Amy Minter

### **Preserve Lodi Lane Comments on Duckhorn Project**

The traffic studies used to validate the MND were conducted at points in time that by definition, exclude the required present-day CEQA cumulative traffic impact assessment:

Traffic Count – **2017**; Lodi Lane Traffic Count – **2019**; Silverado Trail/Lodi Lane Collision Count – **2014-2019**; Harvest Traffic Count – September **2017**; Traffic Growth Factor Count – **2015-2017**; Trip Generation Report – **2019**; Vehicle Miles Traveled (VMT) – **2018**

Since 2015, a significant number of some 20 wineries within 1 mile of the Project site applied for and were granted use permit modifications for increases in gallonage; physical production facilities; hospitality facilities; number of wine tasting and food pairing patrons; employees; and parking facilities. All approvals after 2017 were not included in the CEQA-mandated cumulative traffic study.

Duckhorn documented in its MND that 18 of the 20 wineries within 1 mile of Lodi Lane serve approximately 5,000 visitors a week during the primary wine-tasting season between March and October, both arriving and leaving in 2,500 vehicles (2 occupants); 10,000 vehicles a month; or 80,000 vehicles annually. The 2017 Duckhorn traffic study estimated that approximately 1,000 vehicles a week utilize Lodi Lane, or 52,000 yearly. To this aggregate 132,000 vehicles must be added approximately 20,000 vehicles (2 occupants) of the proposed Inn at the Abbey guests at Lodi Lane at State Route 29 (70 percent occupancy of proposed 79 rooms); 7,000 Wine Country Inn (one single family home from the proposed Inn at the Abbey) guest vehicles of approximately 14,000 annual guests in 29 rooms at the 70 percent occupancy rate; and the Duckhorn-estimated 45,000 vehicles (2 occupants) of some 90,000 plus annual wine tasting guests.

To the now 184,000-vehicle total must be added:

- 1) Thousands of daily patrons of the proposed Inn at the Abbey rooftop terrace; bar and lounge; restaurant; conference center; spa, pool and fitness facility; and Freemark Abbey wine tasting facility;
- 2) Employees of Inn at the Abbey, Wine Country Inn, and Duckhorn Portfolio;
- 3) Wine tanker and semi-trucks supporting the proposed Duckhorn Portfolio 52,000 feet plus wine production factory; and
- 4) Service and delivery trucks supporting the wine tasting and food pairing hospitality services.

A 2017 W-Trans traffic study of SR Route 29 calculated that nearly 5 million vehicles cross the Lodi Lane tee-intersection annually.

Despite the fact that rural Lodi Lane is used daily by local residents and Wine Country Inn guests to walk, run, bicycle—confined to its narrow east and west-paved lanes due to the absence of usable shoulders—the Duckhorn traffic study concluded that a pedestrian and cyclist pathway would “not be appropriate.” The exponential increase in vehicular traffic, particularly tanker and semi-trucks supporting the Duckhorn wine production facility, will make Lodi Lane unsafe for all pedestrian, runner, and cyclist use in perpetuity.

A striped left-hand turn lane for the original Duckhorn Winery at the tee-intersection of Lodi Lane and Silverado was approved by Napa County public works decades before Duckhorn Portfolio assumed ownership, but was rejected as part of their MND application.

A material structural geometric hazard continues to be unaddressed in the MND. Drivers coming north on Silverado Trail from the City of St. Helena at 40 miles per hour emerge from a blind curve approximately 170 feet from Lodi Lane that takes approximately 3 seconds at 40 miles per hour to reach on a two-lane road without safe shoulders.