

RUTHERFORD WINERY
Appeal by Water Audit California

P19-00126 and P23-00145

Legal standard of consideration

Negative declarations are allowed only in cases where “the proposed project will not affect the environment at all.”

Citizens of Lake Murray v. San Diego (1989)
129 Cal.App.3d 436, 440.

This application is part of the Use Permit
Compliance Program.

Transcript page 3

Planning decisions are intended to benefit the whole community

All commissioners are charged with acting in the public interest.

The commission is tasked with advocating for the best interests of all community members regarding land use and development policy and projects.

On the other hand, “Let’s make a deal.”

CHAIR WHITMER:

“So, I have traditionally, and continue to be concerned about the compliance program that we not only bring people into compliance, but we then give them additional entitlements along with that. That’s kind of been my stance from the very beginning, and I don’t see a reason to change it today.”

Transcript 36:18

At the end of several minutes of very confused conversation:

COMMISSIONER PHILLIPS:

“This is why we don’t horse trade.” *Transcript 46:24*

Napa County Resolution No. 2018-164:

Deadline of 2:00 p.m. on March 29, 2019, for all landowners who wish to apply for a permit to voluntarily remedy their violations.

Napa Ordinance 18.124.020 – Application:

Application for a use permit shall be made to the commission in writing on a form prescribed by the director and shall be accompanied by plans, elevations and other appropriate information, graphic depictions, necessary to show details of the proposed use.

Staff report page 10, Parcel History

December 2018 – Very Minor Modification.

To recognize work that had been done to convert office space into hospitality, production for food and production space to office use. Operational components out of compliance.



A Tradition of Stewardship
A Commitment to Service

FILE # 18-00452

COUNTY OF NAPA
PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES
1195 Third Street, Suite 210, Napa, California, 94559 • (707) 253-4417

VERY MINOR/MINOR MODIFICATION APPLICATION FORM

FOR OFFICE USE ONLY

ZONING DISTRICT: _____ Date Submitted: 12.28.2018
TYPE OF APPLICATION: Very Minor Modification Date Published: _____
REQUEST: _____ Date Complete: _____

TO BE COMPLETED BY APPLICANT

(Please type or print legibly)

PROJECT NAME: Rutherford Ranch Winery (Round Hill Cellars)
Assessor's Parcel #: 030-300-030-000 Existing Parcel Size: 17.37 acres
Site Address/Location: 1680 Silverado Trail S. St. Helena CA 94574
Property Owner's Name: Marko B. and Theo Zaninovich
Mailing Address: 1680 Silverado Trail S. St. Helena CA 94574
Telephone #: (661) 792-3151 Fax #: () - _____ E-Mail: mbzaninovich@sonviewvineyards.com
Applicant's Name: Morgan Zaninovich
Mailing Address: 1680 Silverado Trail S. St. Helena CA 94574
Telephone #: (707) 968-3211 Fax #: () - _____ E-Mail: Morgan.Zaninovich@RutherfordWine.com
Status of Applicant's Interest in Property: Vice President
Representative Name: Katherine Philippakis
Mailing Address: 899 Adams St. Suite G St. Helena CA 94574
Telephone #: (707) 967-4000 Fax #: () - _____ E-Mail: KPhilippakis@fbm.com

I certify that all the information contained in this application, including but not limited to the information sheet, water supply/waste disposal information sheet, site plan, floor plan, building elevations, water supply/waste disposal system site plan and toxic materials list, is complete and accurate to the best of my knowledge. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.

Marko B. Zaninovich 12/24/18 Signature of Property Owner Date
Morgan Zaninovich 12/21/18 Signature of Applicant Date
MARKO B. ZANINOVICH Print Name _____ Print Name

TO BE COMPLETED BY PLANNING, BUILDING AND ENVIRONMENTAL SERVICES

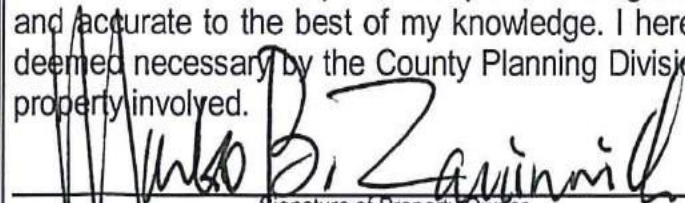
Application Fee \$ 4090.37 Receipt No. 132961 Received by: [Signature] Date: 12/28/2018

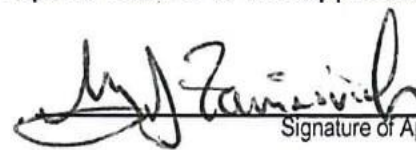
The indices of authenticity:

FILE # A8 - 00452

NAPA
ENVIRONMENTAL SERVICES
Napa, California, 94559 • (707) 253-4417
PERMIT APPLICATION FORM

I certify that all the information contained in this application, including but not limited to the information sheet, water supply/waste disposal information sheet, site plan, floor plan, building elevations, water supply/waste disposal system site plan and toxic materials list, is complete and accurate to the best of my knowledge. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.

 12/24/18
Signature of Property Owner Date
MARIKO B. ZANINOVICH
Print Name

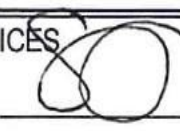
 12/21/18
Signature of Applicant Date

Print Name

TO BE COMPLETED BY PLANNING, BUILDING AND ENVIRONMENTAL SERVICES

Application Fee \$ 4090.37

Receipt No. 132961

Received by: 

Date: 12/28/2018

Napa Ordinance 18.124.020 - Application.

Application for a use permit shall be made to the commission in writing on a form prescribed by the director and shall be accompanied by plans, elevations and other appropriate information, graphic depictions, necessary to show details of the proposed use.

(Ord. 511 § 1 (part), 1976: prior code § 12801)

Staff report page 11

Parcel History

- March 27, 2018 – MAJOR Modification P19-00126.
NO APPLICATION (or checklist) IN THE AGENDA PACKAGE OR ON CEQA.
- Use permit exception P23-00145 was opened in 2022 for the applicant to recognize and maintain physical improvements within the 45-foot setback that are out of compliance.

P19-00126

-

Intentionally blank.



A Tradition of Stewardship
A Commitment to Service

FILE # _____

NAPA COUNTY
PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES
1195 Third Street, Suite 210, Napa, California, 94559 • (707) 253-4417

APPLICATION FOR USE PERMIT
EXCEPTION TO CONSERVATION REGULATIONS

FOR OFFICE USE ONLY

ZONING DISTRICT: _____ Date Submitted: _____
TYPE OF APPLICATION: _____ Date Published: _____
REQUEST: _____ Date Complete: _____

TO BE COMPLETED BY APPLICANT

PROJECT NAME: Round Hill Cellars D.B.A. Rutherford Wine Company
Assessor's Parcel #: 030-300-030-000 Existing Parcel Size: 17.37
Site Address/Location: 1680 Silverado Trail S. St. Helena CA 94574
Property Owner's Name: Marko B. and Theo Zaninovich
Mailing Address: 1680 Silverado Trail S. St. Helena CA 94574
Telephone #: (707) 943-5251 Fax #: () - _____ E-Mail: _____
Applicant's Name: Morgan Zaninovich
Mailing Address: 1680 Silverado Trail S. St. Helena CA 94574
Telephone #: (707) 948-3211 Fax #: () - _____ E-Mail: _____
Status of Applicant's Interest in Property: _____
Representative Name: Jay Turnipseed
Mailing Address: 1680 Silverado Trail S. St. Helena CA 94574
Telephone #: () 948-3243 Fax #: () _____ E-Mail: Jay.Turnipseed@RutherfordWine.com

I certify that all the information contained in this application, including but not limited to the information sheet, water supply/waste disposal information sheet, site plan, plot plan, floor plan, building elevations, water supply/waste disposal system plot plan and toxic materials list, is complete and accurate to the best of my knowledge. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, including the right of access to the property involved.

[Signature] _____ Date _____
Morgan Zaninovich
[Signature] _____ Date 3/10/2022
MARKO B. ZANINOVICH

TO BE COMPLETED BY PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES

Application Fee Deposit: \$ _____ Receipt No.: _____ Received by: _____ Date: _____

First application
for environmental
remediation made
In 03.2022

Appeal documents are not in accord with the planning agenda package.

CURRENT PROJECT Rutherford Appeal P23-00208 12 files Attachment E - Conservation Regulations Table and Graphic Planning...

County of Napa PC 2023-00217M AGENDA PACKET BUTHERFORD RANCH

1. Attachment E Conservation Regulations Table and Graphic Planning Commission Approval

2. Conservation Regulations Table

3. ENLARGED EXISTING 1-8000 AREA PLAN

4. ENLARGED PROPOSED AREA PLAN

5. 227

6. 228

7. 229

8. APPENDIX A

9. 230

10. 231

11. EXISTING 8000 AREA PLAN

12. PROPOSED AREA PLAN

1-11

1-12

PLANNING COMMISSION HEARING – JUNE 21, 2023
RECOMMENDED CONDITIONS OF APPROVAL

PROPOSED REVISED CONDITIONS

1.0 PROJECT SCOPE

The permit encompasses and shall be limited to:

- 1.1 Approval of an exception to the Napa County Conservation Regulations (County Code Chapter 18.108), in the form of a Use Permit in order to allow the following new improvements which encroach into minimum stream setback of 45 feet from top of bank of the on-site unnamed blue line stream required pursuant to Napa County Code (NCC) Section 18.108.025(B):
 - a. Install two (2) water tanks to be located approximately 42 feet from the top of bank, encroaching approximately three (3) feet into the setback (Being relocated from the current location approximately 1.5 feet from the top of bank);
 - b. Removal of 15 unpermitted improvements located within ~~in~~ the stream setback: four (4) ~~two~~ water tanks, a pergola, a greenhouse, part of the concrete pad on the east side of the stream near the parking area, a tool shed, and an insulated container, above ground surge tank for process wastewater transfer pump, pump house for process wastewater transfer, concrete pad and retaining wall for storage and equipment, access drive to the northern parking area and equipment, portions of the fence along the vineyard and northern parking area within the setback, and portions of the northern parking area (dirt and gravel) within the setback.
 - c. Restoration and revegetation of areas where improvements are removed. Proposed planting includes live oak, valley oak coyote bush, toyon, and native grasses; and
 - d. Recognition and continued use of the unpermitted pump house on the north side of the stream.
- 1.2 Approval to modify an existing 1,250,000-gallon winery (production of 250,000 gallons and 1,000,000 gallons bulk wine received), previously approved under Use Permit #U-198384 and subsequent modifications #U-90-33; #93459-MOD; #95307-MOD, to allow the following:
- 4.3 MARKETING
 - a. Type 1
 1. Frequency: 20 times per year
 2. Maximum number of persons: 40
 3. Time of Day: 10:30 a.m. to 10:00 p.m.
 - b. Type 2
 1. Frequency: 10 times per year
 2. Maximum number of persons: 100
 3. Time of Day: 10:30 a.m. to 10:00 p.m.
 - c. Type 3
 1. Frequency: 6 times per year or month or week
 2. Maximum number of persons: 150
 3. Time of Day: 10:30 a.m. to 10:00 p.m.

Additional Environmental Management Information



A Tradition of Stewardship
A Commitment to Service

Planning, Building and Environmental Services

1195 Third Street, Suite 101
Napa, CA 94559
www.co.napa.ca.us

Main: (707) 253-4471
Fax: (707) 253-4646

David Morrison
Director

Memorandum

DATE: January 5, 2005
TO: All interested parties
FROM: Department of Environmental Management
SUBJECT: Use Permits and Regulated Water Systems

The purpose of this memo is to provide information regarding the current requirements for regulated water system permitting. The Department of Environmental Management has a contract with the State to administer the small water system program. County Code Chapter 13.08 addresses the requirements for local public water systems and includes the definition of a "public water system". This definition states that a public water system is one that is required to be permitted or approved by the Department of Health Services (DHS) Office of Drinking Water or the environmental management director pursuant to the California Safe Drinking Water Act and related laws (which contain selected portions of the Health and Safety Code, Water Code, Business and Professions Code and the California Code of Regulations, Titles 17 and 22). The State regulates the large public water systems and as stated above, this department regulates the small water systems.

The most common new small water system is that serving a winery. During the use permit process, this department reviews the numbers of anticipated visitors and employees and makes a determination if the proposed winery will meet the threshold for a regulated water system. In general, we are looking for either (1) a combined number of peak users (visitors and employees) greater than 25 on a daily basis or (2) the total number of employees equal to or greater than 25. If either of these thresholds is met, the water system will be regulated. If you have questions on whether your proposed project will be regulated as a small water system, you may contact this department as discussed with the district inspector. If you do not meet these thresholds, but will have a regulated kitchen used for food service for marketing events, you will be regulated as a different type of water system. You will need to submit bacteriological quality sample results from your source(s) with your use permit application, but not the full feasibility report as discussed below.

If your project will be regulated as a small water system, a water system feasibility report will be required as a completeness item at the time of a Use Permit application. This report will ensure that the proposed project can satisfy the technical, managerial and financial requirements of this department and DHS and must include the information listed on the attached worksheet. There is a good chance that existing wells will not meet the construction requirements for a regulated water system. As such, a new supply will have to be developed. If this is the case, the information provided in the feasibility report must reflect this fact. Prior to issuance of a building permit the new water supply must be developed and full plans for the water system must be submitted to and approved by this department.

New Community and Non-Community Water Systems

Technical, Managerial and Financial Capacity Worksheet (Use Permit Applications and Water System Feasibility Reports)

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

Please address all questions on this worksheet or the information required to the water specialist in the Department of Environmental Management.

Memorandum in Agenda Packet



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

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

(Use Permit Applications and Water System Feasibility Reports)

MEMORANDUM

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

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

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

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

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

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

Current Memorandum

Old standards : New standards

Additional Environmental Management Information



A Tradition of Stewardship
A Commitment to Service

Planning, Building and Environmental Services

1195 Third Street, Suite 101
Napa, CA 94559
www.co.napa.ca.us

Main: (707) 253-4471
Fax: (707) 253-4545

David Morrison
Director

Memorandum

DATE: January 5, 2005
TO: All interested parties
FROM: Department of Environmental Management
SUBJECT: Use Permits and Regulated Water Systems

The purpose of this memo is to provide information regarding the current requirements for regulated water system permitting. The Department of Environmental Management has a contract with the State to administer the small water system program. County Code Chapter 13.08 addresses the requirements for local public water systems and includes the definition of a "public water system". This definition states that a public water system is one that is required to be permitted or approved by the Department of Health Services (DHS) Office of Drinking Water or the environmental management director pursuant to the California Safe Drinking Water Act and related laws (which contain selected portions of the Health and Safety Code, Water Code, Business and Professions Code and the California Code of Regulations, Titles 17 and 22). The State regulates the large public water systems and as stated above, this department regulates the small water systems.

The most common new small water system is that serving a winery. During the use permit process, this department reviews the numbers of anticipated visitors and employees and makes a determination if the proposed winery will meet the threshold for a regulated water system. In general, we are looking for either (1) a combined number of peak users (visitors and employees) greater than 25 on a daily basis or (2) the total number of employees equal to or greater than 25. If either of these thresholds is met, the water system will be regulated. If you have questions on whether your proposed project will be regulated as a small water system, you may contact this department as discussed with the district inspector. If you do not meet these thresholds, but will have a regulated kitchen used for food service for marketing events, you will be regulated as a different type of water system. You will need to submit bacteriological quality sample results from your source(s) with your use permit application, but not the full feasibility report as discussed below.

If your project will be regulated as a small water system, a water system feasibility report will be required as a completeness item at the time of a Use Permit application. This report will ensure that the proposed project can satisfy the technical, managerial and financial requirements of this department and DHS and must include the information listed on the attached worksheet. There is a good chance that existing wells will not meet the construction requirements for a regulated water system. As such, a new supply will have to be developed. If this is the case, the information provided in the feasibility report must reflect this fact. Prior to issuance of a building permit the new water supply must be developed and full plans for the water system must be submitted to and approved by this department.



A Tradition of Stewardship
A Commitment to Service

MEMORANDUM

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

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

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

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

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

Planning, Building & Environmental Services

1195 Third Street, Suite 101
Napa, CA 94559
www.countyofnapa.org

David Morrison
Director

The difference:

In addition to the local requirements, the Water Board requires a water system to also submit a preliminary technical report demonstrating the water system is viable and ensuring the water system has evaluated whether consolidating with another water system is possible. The County must receive concurrence from the Water Board before any related building permits can be issued.

The CDFW is a Responsible and
a Trustee Agency

“A Mitigated Negative Declaration is
more appropriate ...
recommended mitigation measures
should be implemented”

CoA 6.15 g.

In conjunction with the building or grading permit application submittal, and prior to initiation of the removal work and restoration plan, **the permittee shall provide evidence** that any required authorizations and/or **permits** from agencies with jurisdiction over Waters of the U.S. or the State, **have been issued or are not required**. Permits include, but may not be limited to, a Section 404 Nationwide Permit from the US Army Corps of Engineers (USACE), or a Section 1602 Lake and Streambed Alteration Agreement (LSAA) from the California Department of Fish and Wildlife (CDFW).

CDFW:

MMRP: Prior to ground disturbance and continuing over the course of the project:

The Project shall consult with CDFW to determine if an LSA notification is required and comply with the LSA Agreement, if issued. As part of the consultation, the Project shall: 1) evaluate if previous installation of structures and fire protection storage pipes, or removal or installation of structures, across and adjacent to the stream impacted or will impact the stream bed, bank, channel, or associated riparian habitat, 2) identify if an LSA notification for the fire protection storage pipes across the stream was previously submitted and the associated notification number, and 3) provide restoration details to CDFW. Based on the consultation, the Project shall submit an LSA notification to CDFW for any activities CDFW determines are subject to notification requirements. The LSA Agreement may include measures to avoid and minimize impacts to special-status species and other wildlife, including, but not limited to, the recommended mitigation measures in this letter and those listed below:

Dr. Graham Fogg

UC Davis

Center for Watershed Sciences

RUTHERFORD Attachment A:

Biological Report and Restoration Plan

RUTHERFORD Attachment G:

Water Availability Plan

Lake Hennessey Storage 1956-2023

Staff Responses to Appeal, Sections 1, 2 and 10

City of Napa well monitoring*

White papers of Moyle, Grantham and Bork

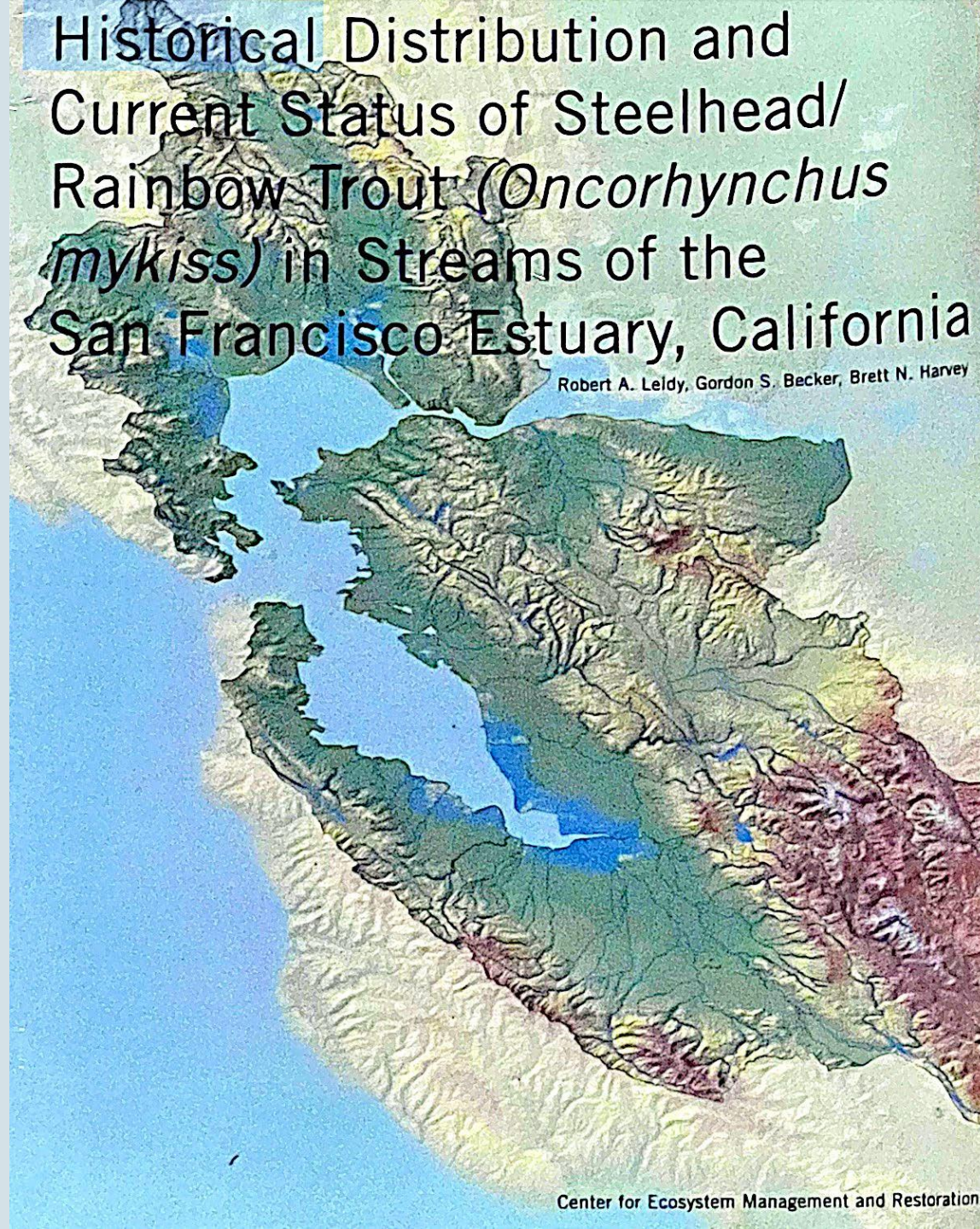
*City of Napa well monitoring only allowed if the Chair's Good Cause Determination is overruled

Dr. Robert Leidy

UC Berkeley

US Environmental Protection Agency

Lead author of
definitive study
of steelhead in
the Napa Valley.



Conn Creek:

- Leidy found *O. mykiss* downstream of the reservoir at two locations electrofished in July 1994. Just downstream from Domain Chandon vineyard he caught five *O. mykiss* (78-100 mm FL) with an estimated density at 10 per 30 meters of stream. At the confluence with Rector Creek, he collected two *O. mykiss* (75, 95 mm) and estimated density at 5 fish per 30 meters (Leidy 2002).
- Ecotrust and FONR carried out surveys in tributaries of the Napa River system in July and August 2001. Two Conn Creek reaches were surveyed, and *O. mykiss* were not observed (Ecotrust and FONR 2001).

Conn Creek

Conn Creek drains an area of 60 square miles (DCE 1999). Construction of the Conn Valley Reservoir (Lake Hennessey) in 1945 completely curtailed access to more than eight miles of Conn Creek and numerous tributary streams, including Chiles, Moore, Sage and Fir creeks.

In September 1945, DFG observed large numbers of trout in the upper sections of Conn Creek (Ott 1945). In 1946, DFG noted that a moderately large population of trout, from fingerlings to 200 mm in length, was present in the tributary streams of Conn Valley Reservoir (Murphy 1949). In a May 1947 creel census, DFG found both hatchery and wild *O. mykiss* in the group taken by anglers from the reservoir. However, by 1948, practically no trout were present in the tributary streams (Murphy 1949). The Department of Fish and Game concluded that the trout fishery would not be self-maintaining even in years of “good” flows in spawning streams because of low survival of adults in the reservoir (Murphy 1949).

In February 1959, DFG made a cursory survey of eight sites near road access on Conn Creek upstream of Lake Hennessey. No *O. mykiss* were observed, but residents reported catching small numbers of *O. mykiss* up to 300 mm in length (Fisher 1959a).

In April 1979, DFG electrofished two sites above the reservoir on Conn Creek in relation to an oil spill. Approximately 400 feet upstream of Linda Falls, five *O. mykiss* were caught (131-192 mm FL). Behind the Angwin Fire Station on College Road, another seven *O. mykiss* were collected (95-157 mm). Additional *O. mykiss* were seen at both sites, but evaded capture (Cox 1979).

In September 1988, DFG electrofished two reaches on Conn Creek above the reservoir, near the Rossi Road Bridge. A total of seven *O. mykiss* were caught measuring 55-186 mm in length (Gray 1988a).

The “fair argument” standard requires an EIR if **any** substantial evidence in the record suggests that a project may have adverse environmental impacts; even under circumstances where opposing evidence is offered that supports an agency’s decision.

CEQA Guidelines, § 15064(f)(1)

1. There is a “fair argument” that the project will have a significant environmental effect.
2. The evidence does not support the Findings or Conditions of Approval on stormwater, traffic , public trust or approval process.
3. The CDFW, a Responsible and Trustee Agency, has opined that their supervision, through a Mitigated Negative Declaration and a Mitigated Monitoring and Reporting Program is required to avoid potential environmental injury.
4. The continuing nature of public trustee duties requires continuous monitoring and public reporting of groundwater levels to avoid potential environmental injury.