

“F”

Appellant Supplemental Information



WATER AUDIT CALIFORNIA

A PUBLIC BENEFIT CORPORATION
952 SCHOOL STREET #316 NAPA CA 94559
VOICE: (707) 681-5111
EMAIL: GENERAL@WATERAUDITCA.ORG

January 6, 2025

To: Napa County Board of Supervisors
1195 Third Street, Ste. 310
Napa, CA 94559

Submitted via email to: Laura.Anderson@countyofnapa.org,
Chris.apallas@countyofnapa.org, mckayla.mcmahon@countyofnapa.org,
Clerkoftheboard@countyofnapa.org, anglin@htralaw.com, anne.cottrell@countyofnapa.org

Re: Water Audit California Additional Written Information

On behalf of Appellant Water Audit California ("Water Audit"), we provide the following additional information in support of Water Audit's appeal.

In initial supplemental comments, Hillwalker observes that "this project is extremely small, with minimal development." While perhaps true, the statement is irrelevant. There is no provision to exempt small developments from proper review. Perhaps there should be, but there is not. Exemption from compliance is a policy matter beyond this proceeding.

The applicant seeks to conflate the "lead agency" with the "trustee agency." The distinction is that while the former may do the work, the latter makes the decisions. A lead agency may not supplant the trustee agencies' decisions. Napa County and PBES are not trustee agencies with jurisdiction over natural resources. (e.g. *COA continues to cite Responsible Agency as PBES, lists no Responsible Party, mixes up LSA Stream and Riparian Habitat CDFW language.*)

1. "Minor errors," such as misstatement of AP numbers, can have substantial ramification in the future. In this instance, the error omitted review of approximately one-mile of driveway that encroaches on the riparian way. Further, the omission of easements could result in the actual landowners being bound in a proceeding that they had no knowledge of or

opportunity to be heard. That situation may not occur, but there is no evidence in the record of notice or concurrence. Applicant mis-numbered the second access APN 034-110- 059 as -029. Omitted from review is the third access parcel 034-100-043.

As a result, CDFW commented 'It's not clear that the Project has considered impacts to the stream and riparian habitat resulting from the driveway modifications and tree removal. Please be advised that the stream and adjoining riparian habitat is subject to CDFW jurisdiction and Fish and Game Code 1602 et. seq, notwithstanding seasonality of flows.'

2. It is irrelevant that no one else complained. This statement is analogous to an individual being stopped by a police officer for speeding in a school zone arguing: "But no one else complained!" Likewise, it is irrelevant that Water Audit did not "meet with the project planner." Water Audit's comments were before the Planning Commission, and they were ignored. Again, the problem is process, not project.
3. Water Audit did not assert that there was no Water Availability Analysis ("WAA"). We stated that the WAA had not been posted to the Clearinghouse, and therefore the trustee agencies were unable to review it. See attached.

Also attached is a composite of three USGS maps of the project area that shows the project is less than 1,500 feet from three (3) designated watercourses. This too is capable of remediation.

4. Water Audit did not assert that the Planning Commission decision needs be reversed, but rather that it should be revised to conform to the facts. That conduct was open to the Commission at the time of hearing and remains open to the Applicant now.
5. The number of wells is also arguably irrelevant, but for the requirement for Tier 2 review of proximate wells and springs, and Tier 3 of wells proximate to watercourses. Such review may reveal no issues, or it may raise flags. In the former situation the project can proceed, in the latter case adjustments may have to be made. Until the "Tier" analysis is performed any opinion on either side is speculation. See introductory comment above.
6. Agenda Packet Water Availability Analysis omits:
 - a. Well completion reports
 - b. Disregards WAA use guidance i.e. 7,000 gal wine calculated at 3 gallons instead of County 7 gallons, Marketing at 5 gallons instead of 15 gallons,
 - c. Allowance for landscaping or pool/pool house.
 - d. Characteristics of the aquifer system, alluvial or hard rock geology.
 - e. Related aquifer properties.
 - f. Evaluation of potential connectivity between wells and spring.
 - g. Tier 2 spring interference.
 - h. Wastewater disposal reserve.

- i. Wet and dry year data.
 - j. Site map, Well Completion Reports.
 - k. Low pumping considerations.
 - l. Current Operations.
 - m. Public works review.
7. Agenda packet misstates access: "Primary Road a Deadend? No." In fact the parcel is accessed by single ingress/egress.
8. The CEQA Notice of Completion Reviewing Agencies checklist shows only CDFW. There was no review sought from, inter alia USFWS, Fire, Archeological/Historical, Traffic or Cities.

Conclusion

For all of the reasons set forth herein and those set forth in the Appeal Packet, we urge the Board to grant this appeal.

Respectfully,



William McKinnon
General Counsel Water Audit
California Direct: 530.575-5335

Hillwalker Vineyards Winery Use Permit #P23-00101-UP, Exception to the NCRSS, and Use Permit Exception to the Conservation Regulations P23-00239-UP

Summary

SCH Number

2024070222

Lead Agency

Napa County

Document Title

Hillwalker Vineyards Winery Use Permit #P23-00101-UP, Exception to the NCRSS, and Use Permit Exception to the Conservation Regulations P23-00239-UP

Document Type

MND - Mitigated Negative Declaration

Received

7/5/2024

Present Land Use

AW (Agricultural Watershed)/Agriculture, Watershed and Open Space (AWOS)

Document Description

Request for a new 7,000 gallon per year winery to allow the following:

1) conversion of a 1,500 sq. ft. residential cave to a commercial cave for wine production and storage; 2) conduct visitation activities in an existing unenclosed 298 sq. ft. covered patio area and allow on-site consumption in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5 (AB2004-Evans Bill); 3) allow tours and tastings by appointment with a weekly maximum of 113 visitors; 4) allow a marketing program of 12 marketing events per year with up to 45 guests per event; 5) up to two (2) fulltime and three (3) part-time employees; 6) hours of operation between 10 a.m. and 6 p.m. Monday through Sunday; 7) conversion of the existing pool house restroom (80 sq. ft.) to an accessible restroom; 8) provide on-site parking for 7 vehicles including an accessible parking space and an electric vehicle charging station; and, 9) installation of a 2,500-gallon hold and haul tank for winery process wastewater.

Contact Information

Name

Wendy Atkins

Agency Name

Napa County Staff Contact

Job Title

Planner II

Contact Types

Lead/Public Agency

Address

1195 Third Street
Napa, CA 94559

Phone

(707) 259-8757

Email

wendy.atkins@countyofnapa.org

Name

Kevin Morrison

Agency Name

Owner

Job Title

Applicant

Contact Types

Project Applicant

Address

405 Alexander Avenue
Larkspur, CO 94939

Phone

(415) 509-4739

Email

kmo@hillwalkervineyards.com

Location

Coordinates

38°21'10.8"N 122°23'38.4"W

Counties

Napa

Regions

Unincorporated

Cross Streets

Mount Veeder Road and Mt. Veeder School Rd.

Zip

94558

Total Acres

20.46

Jobs

4

Parcel #

043-110-047-000

State Highways

None

Railways

None

Airports

None

Schools

None

Waterways

Pickle Creek, Dry Creek, Redwood Creek, Carneros Creek

Township

6N

Range

5W

Section

22

Notice of Completion

State Review Period Start

7/5/2024

State Review Period End

8/5/2024

State Reviewing Agencies

California Department of Forestry and Fire Protection (CAL FIRE), California Department of Parks and Recreation, California Department of Transportation, District 4 (DOT), California Department of Water Resources (DWR), California Native American Heritage Commission (NAHC), California Natural Resources Agency, California Regional Water Quality Control Board, San Francisco Bay Region 2 (RWQCB), Office of Historic Preservation, State Water Resources Control Board, Division of Drinking Water, State Water Resources Control Board, Division of Drinking Water, District 3, California Department of Fish and Wildlife, Bay Delta Region 3 (CDFW)

State Reviewing Agency Comments

California Department of Fish and Wildlife, Bay Delta Region 3 (CDFW)

Development Types

Commercial (Winery Use Permit)(Sq. Ft. 1878, Acres 0.043, Employees 5)

Local Actions

Use Permit, Exception to the Napa County Road & Street Standards

Project Issues

Agriculture and Forestry Resources, Biological Resources

Public Review Period Start

7/6/2024

Public Review Period End

8/4/2024

Attachments

Draft Environmental Document [Draft IS, NOI_NOA_Public notices, OPR Summary Form, Appx,]

Biological Habitat Assessment_LSA_February 3 2024_OCR

PDF

5542 K

Graphics_OCR

PDF

8166 K

Hillwalker Vineyards IS-MND and MMRP_OCR

PDF

4663 K

Northern Spotted Owl Habitat Assessment_LSA_June 10 2024_OCR

PDF

14067 K

Notice of Intent_OCR

PDF

219 K

SCH Summary Form_OCR

PDF

48 K

Notice of Completion [NOC] Transmittal form

Notice of Completion & Environmental Document Transmittal_OCR

PDF

233 K

State Comment Letters [Comments from State Reviewing Agency(ies)]

2024070222_CDFW Comment

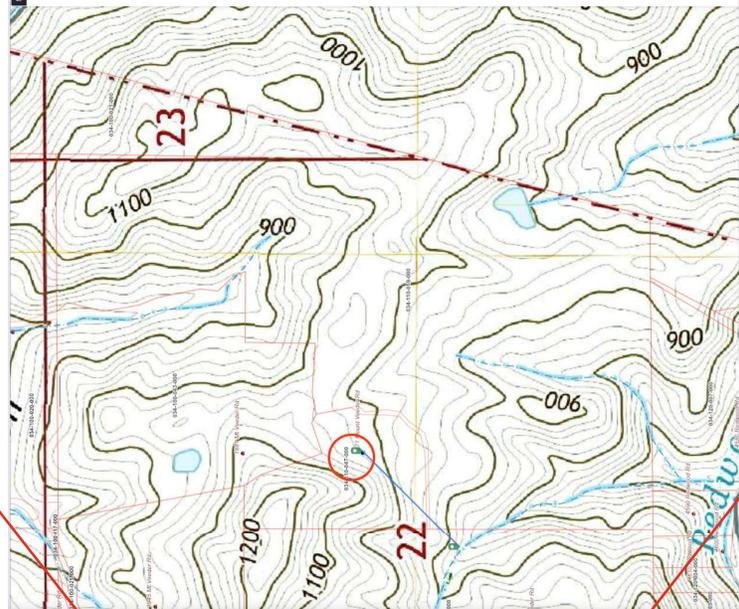
PDF

431 K

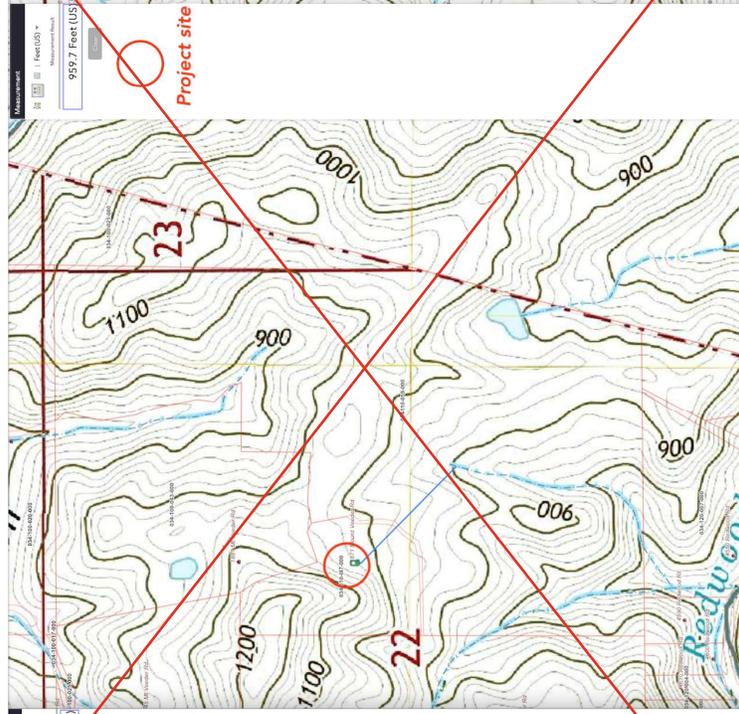
Disclaimer: The Governor’s Office of Planning and Research (OPR) accepts no responsibility for the content or accessibility of these documents. To obtain an attachment in a different format, please contact the lead agency at the contact information listed above. For more information, please visit [OPR’s Accessibility Site](#).

Extrinsic Evidence - Not Part of the Record

○ Project site



○ Project site



○ Project site

