

## Mount Veeder Stewardship Council

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www.mtveederstewardshipcouncil.org

October 17, 2014

Mark Luce, 2014 Chairman  
Napa County Board of Supervisors  
County Administration Building  
1195 Third Street, Suite 310  
Napa, CA 94559

Re: Appeal of the November 6, 2013 Decision by the Napa County Planning Commission on the Woolls Ranch Winery Use Permit No. P13-00187  
Hearing Scheduled for October 21, 2014

Dear Chairman Luce and Board of Supervisors:

The Mount Veeder Stewardship Council submits the following letter in Opposition to the Woolls Ranch Winery Use Permit Application currently pending before the Napa County Board of Supervisors, and urges the Board of Supervisors to deny the Winery Use Permit Application.

The goal of the Mount Veeder Stewardship Council is to ensure that the rich biodiversity and rural quality of life in the private and public lands of the Mount Veeder watershed are respected, conserved and protected for future generations. Based upon our review of the Woolls Ranch Winery Use Permit Application and subsequent submittals, it is our opinion that the project will harm lands within the Mount Veeder watershed area.

### **The Proposed Number of Visitors to the Winery is Excessive**

The number of proposed visitors to the winery, listed in the application as 60 per day, 7 days a week, for 52 weeks a year, for a total of 21,840 guests, in addition to the marketing events is excessive. The marketing events are listed as four per month with maximum of 30 guests at each event, two per month with a maximum of 100 guests at each event and also four events per year with a maximum of 200 guests at each event.

Based upon the use permit application submitted by Woolls Ranch, they are requesting to be allowed to have daily guests of 21,840 plus 1,120 additional guests at the listed marketing events. They also requested to participate in the wine auction, which does not appear to be included in the number of visitors.

Mark Luce, 2014 Chairman  
Napa County Board of Supervisors  
October 17, 2014  
Page 2

To characterize 22,960 visitors per year, at this rural winery location, plus a wine auction event, as not being a significant impact to the environment is absolutely astonishing. Clearly 22,960 guests at this location, will create a significant impact to the environment.

### **The Traffic Survey is Flawed**

The traffic survey which was submitted on behalf of the project was flawed. First, the traffic survey failed to adequately consider traffic which would be using Redwood Road. The traffic survey looked primarily at Mount Veeder Road, even though most of the traffic would be arriving at the proposed winery location using Redwood Road. Given the fact that if traffic was coming from Mount Veeder Road, those vehicles would have to travel the entire length of Mount Veeder Road, the traffic survey is flawed. The accident rates should have used rates from Redwood Road, which is the more likely way which visitors would reach the proposed location. It is much more likely that traffic will travel the 4.5 miles from Highway 29, along Redwood Road, rather than take the circuitous route of traveling 3.2 miles from Highway 29 up Oakville Grade Road to Dry Creek Road, then 0.5 miles to Mount Veeder Road, plus an additional 12.0 miles twisting and turning up and then back down Mount Veeder Road, for a total distance of 15.7 miles from Highway 29, when vehicles can just travel 4.5 miles from Highway 29, along Redwood Road, to the driveway of the proposed project, which is located at the intersection of Redwood and Mount Veeder Roads. The traffic survey should have provided data based upon vehicles traveling along Redwood Road and not just Mount Veeder Road.

### **The Amount of Traffic Which Would be Generated By the Project is Significant**

Traffic along Mount Veeder and Redwood Roads is already significant. The size of the winery, and the number of proposed visitors will significantly increase traffic on Redwood Road and Mount Veeder Roads.

Between July 10, 2013 and September 30, 2013, Woolls Ranch hauled 1,748,000 gallons of water for the vineyard located on its property. See Exhibit A attached hereto and incorporated herein by reference. The summer of 2013 was not yet considered to be a drought year and yet the vineyard needed additional water, which had to be hauled from a location in Napa.

Since there is clearly not enough water for the vineyard, Woolls Ranch will be required to haul additional water for the winery portion of the project. The projected water use for the winery is 1.71 acre/feet per year or 557,209 gallons of water per year.

If that water has to be hauled, using a truck with a 2,000 gallon water capacity, this will result in approximately 278.6 additional trips, per year, along Redwood Road, by a large water truck

loaded to capacity. The amount of wear and tear to the county road, by such a large and heavy vehicle, is significant. It does not appear that the applicant considered any hauling of water, in its application, causing the application to be defective.

In addition, the traffic created by the number of proposed guests, listed in the application as 60 per day, 7 days a week, for 52 weeks a year, for a total of 21,840 guests, in addition to the additional 1,120 visitors at the listed marketing events, for a total number of visitors per year of 22,960 is excessive.

The failure of the use permit application and proposed traffic analysis to consider the hauling of water, not only for the vineyard, but also for the proposed winery indicated that the application is clearly defective, in that it will have a significant impact on the environment.

Furthermore, the number of vehicle trips to accommodate the 22,960 visitors per year, at this rural location, plus a wine auction event, is clearly a significant impact to the environment.

#### **The Line of Sight Leaving the Driveway and Entering Redwood Road Is Inadequate**

A vehicle, leaving the project driveway cannot see the recommended 250 foot distance south along Redwood Road, due to a curve in Redwood Road, immediately south of the driveway. This creates a dangerous condition for both traffic traveling north or south on Redwood Road, as well as any vehicle exiting the driveway.

The fact that the proposed 60 visitors per day, or 420 visitors per week, plus several large events per year, with guests entering and leaving the winery, on a roadway without an adequate line of sight, will cause accidents on Redwood Road. The County should not approve the project until this issue has been adequately addressed. Accidents on this rural roadway, immediately adjacent to Redwood Creek is yet another significant impact to the environment.

#### **The Project Will Negatively Effect the Fish in Redwood Creek**

The project assumes that there will be work along the driveway entrance. Any such work along the driveway will cause sedimentation of Redwood Creek, and also allow asphalt or other petroleum products to enter into Redwood Creek. The driveway for the Woolls Ranch winery project is located less than 75 feet from Redwood Creek.

Fish and Game Code section 5650(a) states in pertinent part that:

it is unlawful to deposit in, permit to pass into, or place where it can pass into the

waters of this state any of the following: (1) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance. [...] (6) any substance or material deleterious to fish, plant life, or bird life.

Fish and Game Code section 5650.1 makes a violation of section 5650 a civil penalty, and for each person who violates section 5650 said person is subject to a civil penalty of not more than twenty five thousand dollars (\$25,000) for each violation.

Any slumping along the driveway to the Woolls Ranch property, as well as any work to cut back the bank along the driveway, to address line of sight issues, will allow sediment to flow into Redwood Creek which runs adjacent to Redwood Road and said driveway. The introduction of sediment into the creek will cause the creek to become cloudy and in turn, the Napa River to have an increased sediment load and to be cloudy as well.

The fish which live in Redwood Creek and the Napa River are sight feeders. When the waters in the creek and river are filled with sediment, the fish cannot see their food. This is a condition which, pursuant to section 5650(a)(6), is a substance or material which is deleterious to fish. The County failed to address any of these concerns in its proposed Negative Declaration for this project.

Furthermore, pumping of wells on the project property will cause additional dewatering of Redwood Creek, thereby harming the fish in the creek. The dewatering of the creek will decrease the habitat available to fish in Redwood Creek. Redwood Creek is a creek in which the endangered Chinook Salmon and steelheads spawn. Decreasing the volume of water in the creek, which is already seriously low this year, due the drought, will cause the creek to no longer act as habitat for the Chinook Salmon and steelheads. No where in the proposed Negative Declaration, is this situation discussed. The impact to the endangered Chinook Salmon and steelheads is a significant impact to the environment which is unacceptable.

**The Proposed Negative Declaration Assumes that Woolls Ranch Has an Easement Across Simpson Property for a Winery, Yet It Has No Such Easement Across Simpson Property**

The proposed Negative Declaration does not adequately address the fact that the owners of the Woolls Ranch property do not have an easement across the Simpson property for winery purposes. Rather than presume that the easement issue does not exist, the proposed Negative Declaration should have, as a condition precedent, a requirement that the applicant resolve and procure a legal right of access prior to the issuance of any use permit.

### **The Project Fails to Consider Several Water Related Concerns**

Currently, the State of California is experiencing one of the most significant droughts in the State's recorded history.

Between July 10, 2013 and September 30, 2013, which is a time period of 82 days, Woolls Ranch hauled 1,748,000 gallons of water to its property to allow it to adequately water its vines. See Exhibit A.

Ms. Harrington in her letter of November 1, 2013, advises the County that the water source on the Simpson property has been severely compromised as well. The Simpson's have had to haul water four times over the summer of 2013, since their water source has been severely compromised. As set forth in the letter, their water source has been reliable since the mid-1800's, and it has only been since Woolls Ranch installed three deep water wells that the Simpson's water source has becoming compromised, causing them to have to haul water. See Exhibit B.

As set forth in Exhibit C, a letter from Thomas Adams of Dickenson, Peatman & Fogarty, dated October 30, 2013, the well on the Walker parcel suffered a complete failure, and dried up, in August of 2012, due to the pumping of wells on the Woolls Ranch parcel.

It is disturbing that neither the Planning Department nor the Planning Commissioners failed to seriously consider the fact that the Woolls Ranch wells are causing neighboring properties to lose their sources of water.

California Water Code section 106 states "It is hereby declared to be the established policy of this State that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation."

Water Code section 1254 states "In acting upon applications to appropriate water the board shall be guided by the policy that domestic use is the highest use and irrigation is the next highest use of water."

Pursuant to sections 106 and 1254 of the Water Code, the concerns of the Walkers and the Simpsons, losing their domestic water source, is significant, since their water use is domestic, and as such, the highest use of water, and the Woolls Ranch current use of water, for irrigation, which is directly depleting their neighbors water sources, is only the second highest use of water.

The use of water, for a winery, is neither domestic, nor is it irrigation, accordingly, it is a less important use of water, as set forth by the State of California.

Mark Luce, 2014 Chairman  
Napa County Board of Supervisors  
October 17, 2014  
Page 6

Clearly, the Woolls Ranch property does not have enough water to adequately support its existing vineyard operation.

### **Woolls Ranch Hired a Consultant to Determine the Water Availability**

Woolls Ranch had its consultant Luhdorff & Scalmanini prepare a Water Availability Analysis to determine how much water is available on the property.

The first report issued by Luhdorff & Scalmanini is entitled Woolls Ranch Water Availability Analysis and is dated May 12, 2014 (hereinafter the "Draft Report"). In that Draft Report, Luhdorff states on page 42, that there are 15.4 acre feet of water available on the property for the recharge of the vineyard, wells and springs on the Woolls Ranch property.

The final report was issued by Luhdorff & Scalmanini on August 6, 2014, (hereinafter the "Final Report"). In the Final Report, Luhdorff states on page 43, that there are 21.79 acre feet of water available on the property as average annual groundwater recharge.

For no clear reason, the groundwater recharge went from 15.4 acre feet in the Draft Report to 21.79 acre feet in the Final Report.

It is interesting to note that the volume of water is now just enough to allow Woolls Ranch to claim that it has a sufficient amount of water for the existing vineyard and the proposed winery.

### **Water Quality is Substandard and Will Not Support Healthy Vine Growth**

Even if one assumes that Luhdorff made an honest mistake in its Draft Report, and the Final Report is actually the correct volume of water available to the wells on the Woolls Ranch property, the quality of the water is such that it will not support healthy vine growth.

According to the Final Report, the concentrations of boron in the water samples from the Pond Well ranged from 1.9 to 2.7 mg/L, which are in excess of the high limit of boron sensitivity for grape irrigation which is 0.75 mg/L. Accordingly, the water from the Pond Well is unusable for grape irrigation and should not be considered in the water availability calculations for the parcel.

In addition, the levels of arsenic in the water in the Pond Well have high concentrations of arsenic which ranged from 0.008 mg/L on 11.09.07, to 0.049 mg/L on 04.24.14, which is now in excess of drinking water standard of 0.01 mg/L. Accordingly, the water from the Pond Well is unusable for grape irrigation and human consumption and should not be considered in the water availability calculations for the parcel.

## **Cumulative Impacts**

Before any issuance of a Negative Declaration for the Woolls Ranch Winery Use Permit application, applicant and the County must consider how the addition of yet another winery, with more events for visitors, will impact the County as a whole. There has been no such consideration or discussion of how the continued approval of winery after winery will impact the County of Napa. At what point does the County reach a level of saturation of wineries? This analysis should consider all predictable and cumulative impacts such as traffic, noise, waste water, water, air, carbon and quality of life for those of us who call Napa County our home.

## **Winery Definition Ordinance**

The 2010 Amendments to the Winery Definition Ordinance allowed food service to be included in the marketing of wine, including food and wine pairings, which was not allowed under the original Winery Definition Ordinance of 1990 (hereinafter the "WDO").

The adoption of the 2010 Amendments to the WDO did not include an Environmental Impact Report, but rather a finding that there would be no significant impact and a Negative Declaration was issued instead.

Given the fact that no Environmental Impact Report was required for the 2010 Amendments to the WDO, Woolls Ranch cannot rely upon the Negative Declaration issued by the County during the adoption of the Amendments to the WDO. Woolls Ranch, prior to the implementation of food service, including food and wine pairings, must prepare an Environmental Impact Report, since the Negative Declaration issued by the County is insufficient regarding this issue.

## **Approval of the Woolls Ranch Winery Use Permit Application Would Set a Bad Precedent for the County**

In the County of Napa, any approval of a use permit application must comply with California law, including the California Environmental Quality Act, and the California Water Code, as well as County policy. As set forth above, the Woolls Ranch Winery Use Permit application fails to comply with CEQA.

The approval of the Woolls Ranch Use Permit application by the Planning Commission raises the question as to whether the Napa County General Plan even contemplates approval of water intensive uses, in this case a winery, in areas in the County which are lacking in water resources, where the vineyard on the subject property must rely on irrigation water to be delivered by trucks,

since, clearly, there is not sufficient water on the property to service the existing vineyard. The Mount Veeder Stewardship Council believes that it does not.

Furthermore, there has been no discussion by either the Planning Department or the Planning Commission, addressing the worst drought in the history of the State of California, and how the drought impacts water availability on the Woolls Ranch parcel, and the neighboring parcels and their domestic water supply.

The core of the 1976 Land Use Element (since protected by Measure J) was an analysis of the “intrinsic suitability” of land for development, which took into account the County’s understanding of water availability, at that time. Since 1976, the County and those of us who live in the County, have a better, but still incomplete, understanding of water use and water availability. There is increased competition for water from springs, streams and wells. Today, even more neighborhoods are suffering the effects of water shortages.

There is a problem with water availability in the Agriculture, Watershed and Open Space (hereinafter “AWOS”) areas, even in years of “normal” rainfall.

The Mount Veeder Stewardship Council does not believe that either the Land Use Element or the Conservation and Open Space Element of the General Plan would support a project that:

- Requires more water than can be found on-site;
- Impacts springs that have flowed adequately for over 100 years;
- Impacts nearby wells;
- Will impact downstream wells;
- Will impact Chinook Salmon and steelhead habitat; and
- Will require trucking water from uncertain sources.

The Mount Veeder Stewardship Council believes that the Woolls Ranch Use Permit approval sets several unfortunate precedents that subsequent applicants could cite, arguing for equal treatment as to:

- Water impacts on neighbors and endangered species;
- Traffic hazards;
- Excess wear and tear on County roads;
- Commercial traffic on easements in the AWOS; and
- Mitigation measures that require grading a non-cooperating neighbor’s property.

The Woolls Ranch Winery Use Permit approval would set the stage for a whole class of



Mark Luce, 2014 Chairman  
Napa County Board of Supervisors  
October 17, 2014  
Page 9

applications, whose cumulative impacts would severely harm the County, its resources, and their neighbors.

The Mount Veeder Stewardship Council objects to the granting of the Woolls Ranch Winery Use Permit Application on the basis that the proposed permitted activity, at that location, would overburden the existing aquifer for water usage on Mount Veeder, impacting numerous nearby residences in violation of the California Water Code.

Furthermore, the availability of water for purchase for this project, from the City of Napa, or Napa County, is potentially unavailable due to the current drought status in California.

The trucking of water, to this proposed winery, in addition to the large number of visitors and several very large events per year, will create additional traffic hazards on Redwood Road and Mount Veeder Road. The entrance to the proposed winery is in a location with limited visibility, which will cause unsafe driving conditions for drivers and bicyclists on Mount Veeder Road and Redwood Road.

Given the lack of adequate mitigation for this project, the impact of the proposed winery is so negatively significant as to warrant denial of the use permit application. The Mount Veeder Stewardship Council respectfully requests that the Board of Supervisors deny the Woolls Ranch Winery Use Permit Application.

Respectfully Submitted.

MOUNT VEEDER STEWARDSHIP COUNCIL

Gary Margadant, President

attachments