

# VIII. COMMENTS RECEIVED ON DRAFT REPORT

## A. INTRODUCTION

According to CEQA Guidelines, a Final Environmental Impact Report consists of: (1) a revision of the Draft EIR; (2) a list of persons, organizations, and public agencies commenting on the Draft EIR; (3) the comments and recommendations received on the Draft EIR; and (4) the responses made to significant environmental points raised.

This section consists of an alphabetical list of persons, organizations and agencies from which comments on the Draft EIR were requested, followed by copies of the actual comments received. The next section is made up of paraphrases of the comments, and responses to the significant environmental points raised.

## B. PERSONS & ORGANIZATIONS FROM WHICH COMMENTS WERE REQUESTED AND TESTIMONY TAKEN - DWDO EIR

	<u>Comment Page</u>	<u>Response Page</u>
<b>1. GOVERNMENTAL AGENCIES</b>		
<u>Federal</u>		
U.S. Army Corps of Engineers	NC*	---
U.S. Bureau of Alcohol Tobacco & Firearms	NC	---
U.S. Fish & Wildlife Service (November 13, 1989)	B-5	B-222
<u>State</u>		
State Clearinghouse (November 13, 1989)	B-9	B-223
Native American Heritage Commission (October 26, 1989)	B-11	B-223
State Air Resources Board	NC	---
State Dept of Conservation	NC	---
State Dept of Fish & Game - Yountville (November, 7 1989)	B-12	B-224
State Dept of Food & Agriculture (October 26, 1989)	B-16	B-226
State Dept of Health - Sacramento	NC	---
State Dept of Health Services	NC	---

State Dept of Transportation - District 4	NC	---
State Dept of Transportation - District 10	NC	---
State Dept of Veteran Affairs	NC	---
State Division of Water Rights	NC	---
State Highway Patrol	NC	---
State Historic Preservation Office	NC	---
State Waste Management Board	NC	---
State Water Resources Control Board	NC	---

### Regional

ABAG	NC	---
Bay Area Air Quality Management District	NC	---
Central Valley Regional Water Quality Control Board (November 20, 1989)	B-17	B-227
Metropolitan Transportation Commission	NC	---
San Francisco Bay Regional Water Quality Control Board	NC	---
Solano County	NC	---
Sonoma County	NC	---

### Cities and Towns

City of Calistoga (November 9, 1989)	B-18	B-227
City of St. Helena (November 13, 1989)	B-22	B-229
City of Napa	NC	---
City of Vallejo (November 6, 1989)	B-27	B-233
Town of Yountville	NC	---

### Local Districts

American Canyon County Water District	NC	---
American Canyon Fire Protection District	NC	---
Napa Co Flood Control & Water Conservation District	NC	---
Napa Co Mosquito Abatement District	NC	---
Napa Co Resource Conservation District	NC	---
Napa Sanitation District	NC	---

County Depts

Napa County Administrators Office	NC	---
Napa County Agricultural Commissioner's Office	NC	---
Napa County Assessor's Office	NC	---
Napa County Board of Supervisors	NC	---
Napa County Conservation, Development & Planning Commission	NC	---
Napa County Conservation, Development & Planning Department (November 13, 1989)	B-28	B-233
Napa County Cooperative Extension	NC	---
Napa County Counsel's Office	NC	---
Napa County Environmental Management Dept (November 13, 1989)	B-32	B-240
Napa County Fire Dept (November 13, 1989)	B-39	B-252
Napa County Public Works Dept	NC	---
Napa County Sheriff's Dept	NC	---

## 2. PRIVATE ORGANIZATIONS &amp; INDIVIDUALS

Conservation Organizations

California Native Plant Society	NC	---
NAPAC (November 12, 1989)	B-41	B-253
Napa Landmarks (November 7, 1989)	B-44	B-261
Napa-Solano Audubon Society	NC	---
Sierra Club - Napa Group (November 9, 1989)	B-46	B-263
United Napa Valley Associates (November 10, 1989)	B-48	B-267

Business Organizations

Napa Co Farm Bureau (November 10, 1989)	B-51	B-271
Napa Co Grape Growers Association (November 10, 1989)	B-51	B-271
Napa Valley Vintners Association (November 10, 1989)	B-51	B-271

Private Parties

Asbill, Roger (November 13, 1989)	B-60	B-280
Atchley, Marvin (November 2, 1989)	B-62	B-282

Davis, Francine (November 12, 1989)	B-65	B-283
Dickenson Peatman & Fogarty -	B-66	B-286
Robert Mondavi Winery (November 13, 1989)		
Domaine Chandon (November 13, 1989)	B-71	B-295
Flora Springs (November 8, 1989)	B-72	B-296
Foote, June (November 10, 1989)	B-75	B-300
Gaw, Van Male & Smith (November 13, 1989)	B-76	B-300
Hetland & Hansen (November 14, 1989)	B-79	B-303
Jenkins, Bill (October 24, 1989)	B-83	B-305
Kate's Vineyard (November 7, 1989)	B-85	B-306
Kent Rasmussen Winery (October 25, 1989)	B-87	B-308
Kirlin, Anne (October 18, 1989)	B-89	B-308
Kirlin, Anne (November 8, 1989)	B-91	B-309
Kirlin, John (November 7, 1989)	B-93	B-310
Markham Vineyards (November 10, 1989)	B-95	B-313
Marvin, Monica - La Croix Blanche Winery (November 13, 1989)	B-98	B-316
Marvin, Monica - Whitehall Lane Winery (November 13, 1989)*	B-106	B-325
Merlion (October 18, 1989)	B-108	B-327
Newlan Vineyards & Winery (November 11, 1989)	B-110	B-329
Olney, John (November 9, 1989)	B-112	B-331
O'Malley, Peter (November 8, 1989)	B-116	B-336
Perricelli, Clair (November 1, 1989)	B-117	B-336
Rodeno Robertson & Associates (November 13, 1989)	B-118	B-337
Schlegel, Walter (October 21, 1989)	B-124	B-347
Smith, Paul (November 13, 1989)	B-126	B-348
Steltzner Vineyards (November 13, 1989)	B-144	B-355
Sullivan, Roche, & Johnson -	B-151	B-362
Heldfond & Evers (November 10, 1989)		
Summit Engineering, Inc. (November 9, 1989)	B-154	B-365
Tofanelli, Pauline (November 13, 1989)	B-163	B-374
Tofanelli, Vince & Nancy (November 7, 1989)	B-166	B-375
Vierra, George (October 24, 1989)	B-167	B-375
ZD Wines (November 10, 1989)	B-170	B-376

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\* No comment received.



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Fish and Wildlife Enhancement  
Sacramento Field Office  
2800 Cottage Way, Room E-1823  
Sacramento, California 95825-1846

In Reply Refer To: 1-1-90-TA-45

November 15, 1989

Napa County Conservation  
Development and Planning Dept.  
Office of Special Projects  
Attn: William L. Selleck  
1195 Third Street, Room 210  
Napa, California 94559-3092

Dear Mr. Selleck:

We appreciate this opportunity to provide comments to the Napa County Conservation, Development, and Planning Department (Napa County) on issues discussed in the Draft Environmental Impact Report for the Napa County Winery Definition Ordinance (Winery Definition Ordinance EIR).

1 We recommend that Napa County consider including the general locations where the federally endangered California freshwater shrimp is known to occur on Figure 8 of your draft Winery Definition Ordinance EIR. This shrimp has been reported from the Napa River in the vicinity of Calistoga, and it occurs in the Huichica Creek tributary.

2 We recommend that our enclosed informative statements concerning "take" of federally listed species be edited into your text on pages 23, 35, and 38 of your draft EIR.

3 In reviewing the Winery Definition Ordinance, we have concerns for the increasing demands being placed by the wine and grape industry on the watersheds in Napa County. We recommend to Napa County that it include the California freshwater shrimp in the legend to Figure 8 of the draft Winery Definition Ordinance EIR and depict the general Napa River area around Calistoga, and the general Huichica Creek area near state highway 12 as locations for this sensitive animal species. We believe this graphic disclosure of this endangered shrimp's whereabouts is necessary because many new winery and grape vineyard water appropriation applications are being filed in the vicinity of shrimp habitat. In addition, a winery vineyard recently caused a severe erosion sediment impact on shrimp habitat along Huichica Creek. We believe our concerns for shrimp habitat will be served by an increased industry awareness of the geographic areas where this animal occurs in Napa County. We have enclosed for your department's information a map of Huichica Creek highlighted with yellow marker pen. The highlighted area depicts prime shrimp habitat.

If you have questions regarding this written statement, please telephone Keith Taniguchi of my staff at (916) 978-4866.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wayne S. White". The signature is written in a cursive, somewhat stylized font.

Wayne S. White  
Field Supervisor

Enclosures

Section 9 of the Endangered Species Act of 1973, as amended (Act), prohibits the "take" of a federally listed endangered species by any person. As defined in the Act, take means ". . .to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" is further defined as an act that actually kills or injures an endangered species. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or shelter (50 CFR § 17.3). The term person is defined to mean "an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State, or any entity subject to the jurisdiction of the United States." Section 10 of the Act prohibits the "incidental take" (defined as taking that is incidental to, but not the primary purpose of, an otherwise lawful activity) of a listed species without a permit.

If a Federal agency is involved with the permitting, funding, or carrying out of this project, then initiation of formal consultation between that agency and this office pursuant to Section 7 of the Act would be required. Such consultation would result in a biological opinion rendered by the Service that addresses anticipated effects of the project to listed and proposed species and could authorize a limited level of incidental take.

If a Federal agency is not involved with the project, and federally listed species may be taken as part of the project, then an "incidental take" permit pursuant to Section 10(a) of the Act should be obtained. The issuance of a Section 10(a) permit by the Service is contingent upon development by the applicant of a satisfactory conservation plan for the listed species that would be affected by the subject project or action. Such a conservation plan must specify: (1) the anticipated impacts of the project resulting from the proposed taking of listed wildlife species, (2) the mitigation and monitoring the project proponent will take to alleviate the impacts of the taking, (3) alternative actions to such taking that were considered, (4) why these alternatives were not employed, (5) funding that will be provided to implement the mitigation measures and attendant conservation plan, and (6) additional measures that the Service may require as necessary or appropriate. The Service may issue an incidental take permit if it determines that: (1) the taking will be incidental, (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking, (3) the applicant will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided, (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the subject species in the wild, (5) the applicant will ensure that other measures required by the Service will be provided, and (6) the plan will be implemented. All affected property owners or lessees that are party to an approved conservation plan would be authorized, upon the issuance and pursuant to the terms and conditions of the Section 10(a) permit, to take the designated threatened or endangered species incidental to otherwise lawful activities.

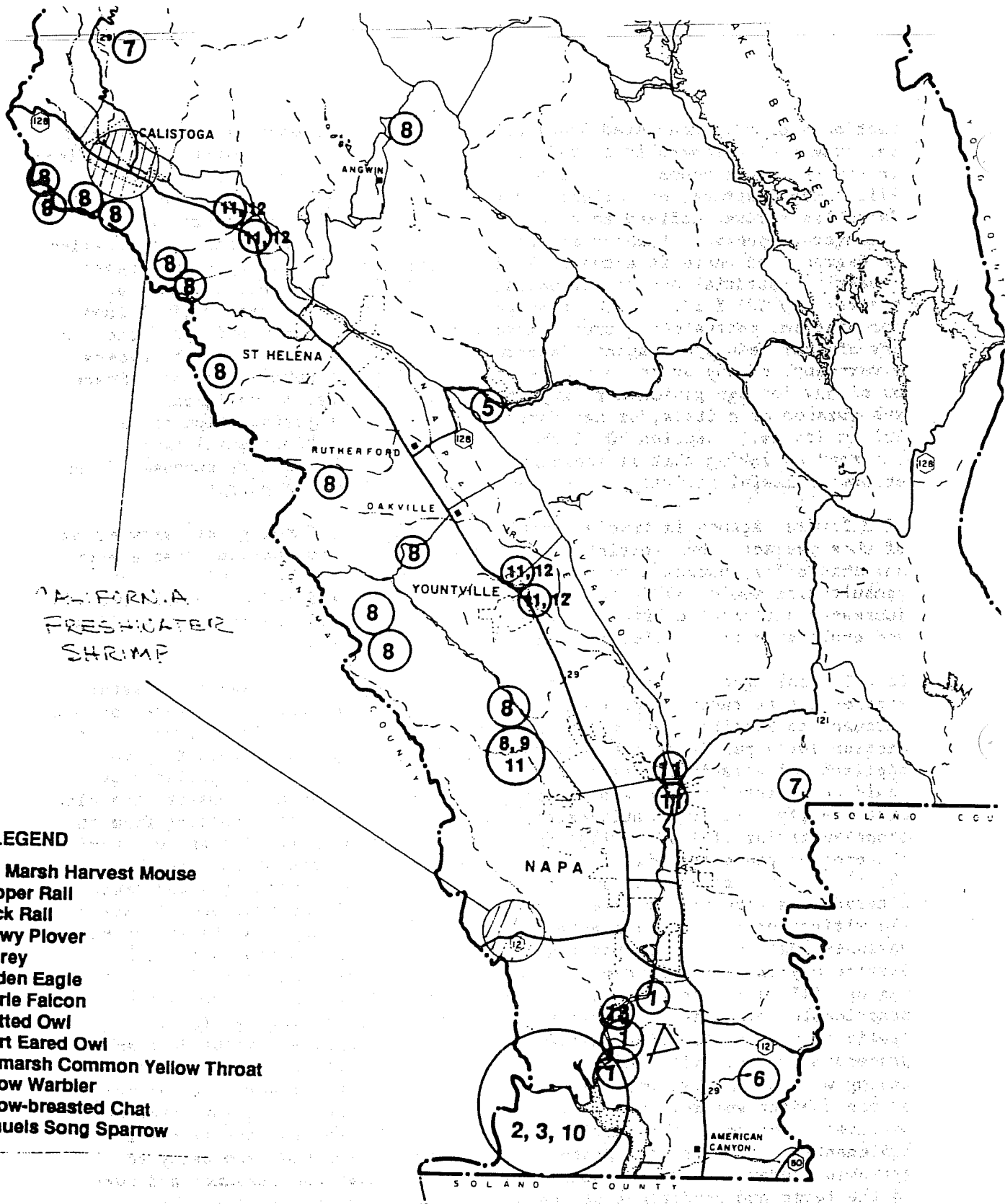


FIGURE 8

WINERY DEFINITION ORDINANCE  
DRAFT EIR

Source: LSA

1 MILE IN MILES



LOCATIONS OF SENSITIVE ANIMAL SPECIES IN NAPA COUNTY



## OFFICE OF PLANNING AND RESEARCH

1400 TENTH STREET  
SACRAMENTO, CA 95814

November 13, 1989

William L. Selleck  
Napa County  
1195 Third Street, Room 210  
Napa, CA 94559Subject: Draft Winery Definition Ordinance  
SCH# 89062722

Dear Mr. Selleck:

4 The State Clearinghouse has submitted the above named draft Environmental Impact Report (EIR) to selected state agencies for review. The review period is now closed and the comments from the responding agency(ies) is(are) enclosed. On the enclosed Notice of Completion form you will note that the Clearinghouse has checked the agencies that have commented. Please review the Notice of Completion to ensure that your comment package is complete. If the comment package is not in order, please notify the State Clearinghouse immediately. Remember to refer to the project's eight-digit State Clearinghouse number so that we may respond promptly.

Please note that Section 21104 of the California Public Resources Code required that:

"a responsible agency or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency."

Commenting agencies are also required by this section to support their comments with specific documentation.

These comments are forwarded for your use in preparing your final EIR. Should you need more information or clarification, we recommend that you contact the commenting agency(ies).

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact Loreen McMahon or Nancy Mitchell at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

A handwritten signature in dark ink, appearing to read "David C. Nunenkamp".

David C. Nunenkamp  
Deputy Director, Permit Assistance

Enclosures

cc: Resources Agency

NOTICE OF COMPLETION AND ENVIRONMENTAL DOCUMENT TRANSMITTAL FORM

See NOTE below  
SCH # 59062722

1. Project Title: DRAFT WINERY DEFINITION ORDINANCE

2. Lead Agency: Napa County

3a. Street Address: 1175 Third St - Rm 211 3b. City: Napa

3c. County: Napa 3d. Zip: 94550 3e. Phone: (707) 253-4416

4. County: Napa 4a. City/Community: City/County of Napa

4b. Assessor's Parcel No.: NA 4c. Section: NA 4d. 4-11 N MDSM 4e. 2-7W MDSM

5a. Cross Streets: NA 5b. For Rural, Nearest Community: NA

6. Within 2 miles: a. State: CA b. County: Napa Co. c. City: Napa d. SP Railroad & Napa River, Napa Valley, Putah Creek, & numerous smaller drainage ways

7. General Plan 7a. General Plan Update 7b. General Plan Amendment 7c. General Plan 7d. Advisory 7e. Specific Plan 7f. Community Plan 7g. Redevelopment 7h. Reserve 7i. Land Division (Subdivision, Parcel Map, Tract Map, etc.) 7j. Use Permit 7k. Water Right Plan 7l. Conservation 7m. Other Zoning Ordinance Amendment

8. Supplement/ Subsequent EIR (Prior SCH No.) 8a. Supplement 8b. Subsequent 8c. Other

9. Other 9a. Other 9b. Other 9c. Other 9d. Other 9e. Other 9f. Other 9g. Other 9h. Other 9i. Other 9j. Other 9k. Other 9l. Other 9m. Other 9n. Other 9o. Other 9p. Other 9q. Other 9r. Other 9s. Other 9t. Other 9u. Other 9v. Other 9w. Other 9x. Other 9y. Other 9z. Other

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## NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 288  
SACRAMENTO, CALIFORNIA 95814  
(916) 322-7791

RECEIVED

October 26, 1989

OCT 27 1989

Mr. William Selleck  
Napa County Conservation-  
Development and Planning Department  
1195 Third Street, Room 210  
Napa, California 94559-3092

NAPO CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT

re: Draft EIR - Wine Definition Ordinance

Dear Mr. Selleck:

After reviewing the Draft EIR the Native American Heritage Commission submits the following comments for your consideration. Native American cultural resources are a part of California history and are adversely effected with increasing frequency during the rapid growth in all parts of the state. They are a resource which cannot be repaired or replaced, once impacted.

5 Due to the presence of many known and recorded archaeological sites in that region, the likelihood of discovering previously undetected cultural resources is a possibility which should be addressed in any type of environmental document. One recommendation, since the Winery Definition Ordinance, upon acceptance, will be used as a tool to standardize and simplify future environmental studies, that CEQA Appendix K, be included as part of the Final EIR. The California Environmental Quality Act, Appendix K, deals with the discovery of archaeological sites and the procedures to follow. It also contains the instructions to follow when human remains are found during any phase of development.

6 The Native American Heritage Commission has prepared a pamphlet for use by lead agencies, planners, developers and property owners. It provides an easy-to-read breakdown of the California Codes pertaining to Native American human remains and their disposition. I have included a copy of this brochure for your information.

If you have any questions or need additional information, please contact this office.

Sincerely,

*William Anthony Johnson*  
William Anthony Johnson  
Staff Analyst

Enclosure

## DEPARTMENT OF FISH AND GAME

POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500



November 7, 1989

Mr. Jeffrey Redding, Director  
Napa County Department of Conservation,  
Development, and Planning  
1195 Third Street, Room 210  
Napa, CA 94559

Dear Mr. Redding:

Department of Fish and Game personnel have reviewed the Napa County Winery Definition Ordinance (DWDO), Draft Environmental Impact Report (DEIR 60) and have the following comments, in addition to those included in our letter of September 22, 1989. (copy enclosed)

- 7 1. Water Quality - New sources or increases in winery waste discharges have been identified as a potential threat to the Napa Sanitation District operation. Any increase in waste loading or flow from winery operations must not compromise the ability of the District to meet its NPDES permit requirements.

- 8 The mitigation listed on page 3 for construction of wineries on hillsides should be amended to more adequately address the need for appropriate erosion control measures. To be effective, erosion control plans must be developed and implemented by October 15 of any year for hillside wineries and wineries within 300 feet of streams. Plans should locate on topographic maps all areas to be seeded and mulched, sediment basins and other soil retention structures, and drainage features leading to streams. Plans should meet or exceed standards suggested by the Association of Bay Area Government in their Manual of Standards for Erosion and Sediment Control Measures.

- 9 2. Vegetation and Wildlife - The discussion on vegetation and wildlife on pages 3 and 4 of the DEIR are inadequate. Specific mitigation measures suggested will not "completely mitigate" identified impacts as stated. Much more extensive problem identification and mitigation measures are warranted including buffers between development (e.g. roads, paved surfaces) and streams. We recommend that there be a setback of at

Mr. Jeffrey Redding

-2-

November 7, 1989

10

least 100 feet from the top of the streambank or other sensitive wildlife habitat area. We further recommend the buffer strip be part of a riparian easement, and the boundaries of the easement be surveyed and recorded prior to development of new wineries.

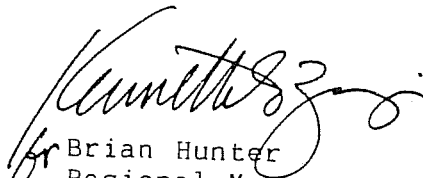
The map of the locations of sensitive plant communities in Figure 6 should be revised to include riparian vegetation communities, one of the most valuable types of vegetation in Napa County.

11

3. Seventy-five Percent Napa County Source Rule - Whether mandated by labeling laws and marketing considerations or by the DWDO, this has the potential for accelerating the production of Napa County grapes. In light of the scarcity of vineyard land, it accelerates the development of hillside vineyards.

If you have any questions regarding these comments, please call Frank Gray, Fishery Biologist, at (707) 944-5531; or Michael E. Rugg, Associate Water Quality Biologist, at (707) 944-5523.

Sincerely,

  
for Brian Hunter  
Regional Manager  
Region 3

Enclosure

cc: Mr. Phil Blake  
U. S. Soil Conservation Service

September 22, 1989

Mr. Jeffrey Redding  
Acting Director  
Napa County Department of Conservation,  
Development and Planning  
1195 Third Street, Room 210  
Napa, CA 94559

Dear Mr. Redding:

12 Department of Fish and Game personnel have reviewed the request for comments on the Draft Winery Ordinance, dated August 11, 1989. The ordinance is environmentally unacceptable in that it does not directly address impacts to fish and wildlife populations and populations resulting from development and operation of wineries. An ordinance should be developed which includes items such as standards for erosion control, requirements for setbacks for riparian vegetation areas, and mitigation for lost wildlife habitat. These standards should be required for both vineyards and wineries.

In our enclosed letter dated August 2, 1989, we list items that should be included in the Wine Industry Growth Analysis Project (SCH 89062722). The items identified in the Draft Environmental Impact Report (DEIR) should be used as a guide to the development of an ordinance governing vineyard and winery development.

Standards should be imposed through an ordinance rather than on a case-by-case basis. The ordinance should require that written erosion and sediment control plans be submitted for review, approval, and be implemented for all new wineries and vineyards where the potential for soil erosion exists. The ordinance should require an assessment of project impacts upon fish and wildlife populations and habitat. A plan should be required that will avoid impacts where possible, and mitigate them to a level of insignificance when unavoidable.

Mr. Jeffrey Redding

- 2 -

September 22, 1989

If you have any questions regarding these comments, please call  
Mr. Frank Gray, Fishery Biologist, at (707) 944-5531.

Sincerely,

~~COPY~~ ~~ORIGINAL~~ ~~SENT~~ ~~TO~~ ~~MR. HUNTER~~

Brian Hunter  
Regional Manager  
Region 3

FG/LW/sab

Enclosure

cc: Mr. Phill Blake  
District Conservationist  
U. S. Soil Conservation Service

Mr. Ed Crawford  
c/o Regional Water Quality Control Board, Sacramento

Mr. Steven R. Ritchie  
Executive Officer  
Regional Water Quality Control Board, Oakland

bc: Gray, Botti, Swanson, Buckmann

# Memorandum

To : Loreen McMahon  
State Clearinghouse  
Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, California 95814

Date : October 26, 1989

Place : Sacramento

From : Department of Food and Agriculture --1220 N Street, P.O. Box 942871  
Sacramento, CA 95814-0001

Subject : SCH No. 89062722 -- Napa County Winery Definition Ordinance

The California Department of Food and Agriculture (CDFA) has reviewed the Draft Environmental Impact Report (DEIR) concerning the above referenced project which would involve defining wineries and associated uses. The CDFA has the following comments and recommendations for the project.

13

Adoption of this ordinance would introduce non-agricultural uses in Agricultural Resource and Agricultural Watershed areas. These uses are inconsistent with Napa County General Plan objectives to "ensure the long term protection and integrity of those areas identified in the General Plan as agricultural open space or undevelopable..." (page 18 DEIR). The ordinance would also reduce the Napa County General Plan Agricultural Land Use Intent from 40 acres to 10 acres.

The CDFA recommends that the project include all mitigation measures stated in the Land Use (Agricultural Resources) section of the DEIR. If the project does not include these mitigation measures, the CDFA prefers the No Project Alternative.

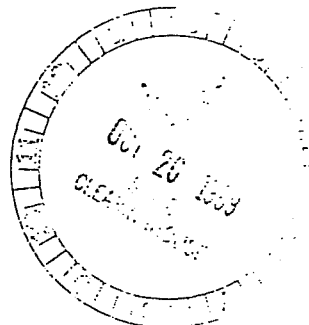
The CDFA supports the right of local agencies to develop and implement land-use policy in its area of influence, but also wants to assure that agricultural land is not prematurely and irreversibly lost due to development which is not accurately assessed for environmental impact.

Sincerely,

*Donna McIntosh*

Donna McIntosh  
Graduate Student Assistant  
Agricultural Resources Branch (916) 322-5227

cc: Napa County Agricultural Commissioner  
California Association of Resource Conservation Districts





CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD—  
CENTRAL VALLEY REGION3443 ROUTIER ROAD  
SACRAMENTO, CA 95827-3098

20 November 1989

Mr. William L. Selleck, Planner III  
Napa County Conservation Development  
and Planning Department  
1195 Third Street, Room 210  
Napa, CA 94559-3092

WINERY DEFINITION ORDINANCE, DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR 60), NAPA  
COUNTY

14

We reviewed the draft EIR and supplemental information dated October 1989.

We believe that the draft EIR is adequate if the mitigation measures set forth in the excerpt from the master environmental assessment are included and implemented.

Please contact me at (916) 361-5652 if you have any questions.

A handwritten signature in cursive script, appearing to read "Edwin Z. Crawford".

EDWIN Z. CRAWFORD  
Area Representative

EZC:gs

# CITY OF CALISTOGA

*In Beautiful*



*Napa Valley*

1232 WASHINGTON STREET • CALISTOGA, CALIFORNIA 94515 • (707) 942-5188

November 9, 1989

RECEIVED

William L. Selleck  
Napa County Conservation Development  
and Planning Department  
Office of Special Projects  
1195 Third St. - Rm 210  
Napa, CA 94559

NOV 13 1989

NAPA COUNTY  
DEVELOPMENT & CONSERVATION

On behalf of the City of Calistoga I submit the following comments on the Draft Winery Definition Ordinance EIR.

## General Comments

Since the establishment of the Agricultural Preserve in Napa County there has been a rapid and unanticipated increase in the number of wineries. In addition, market demand has resulted in the wineries diversifying their business practices into non-agricultural areas. This has caused numerous environmental impacts that were not originally anticipated.

15

The Draft Winery Definition Ordinance (DWDO) attempts to address some of these problems. However, as discussed in the DEIR, it has failed in several instances. Of particular concern to the City of Calistoga is the legalization of non-agricultural activities in the Agricultural Preserve and the reduction of allowable parcel size from 40 acres to 10 acres.

Since its inception the cities in Napa Valley have supported the intent, goals and policies of the Agricultural Preserve as set forth in the Napa County General Plan. The cities have backed this support with the return of a portion of their sales tax to the county.

The guiding principle of the Agricultural Preserve has always been to preserve agriculture, and concentrate urban uses in existing urban areas. What we now find is that non-agricultural uses such as restaurants, culinary schools, public events, jazz concerts, exhibits, retail

sales, etc. are growing in number. The DWDO would legalize much of this activity.

- 16 It appears that the philosophy which originally guided the Agricultural Preserve has been maligned. It now needs to be reexamined and articulated in light of changing market demands. A consensus needs to be reached between the county and the cities so that there is proper understanding of respective roles and obligations. It would seem logical, therefore, to reach a consensus, perhaps through an amendment to the general plan, and then consider a comprehensive ordinance dealing with the winery issue. While this is being accomplished, the interim measure, as proposed in the DEIR should be enacted. This would limit winery approvals to nine a year. An additional provision should be added to prohibit new non-agricultural uses associated with wineries during this interim period.
- 17

With respect to the DEIR the City of Calistoga supports the Environmental Superior Alternative, as it more closely reflects the original intent and philosophy of the Agricultural Preserve in which the wineries are located. Of particular concern to the City are the analyses and mitigation measures addressing land use, water resources, traffic, and visual/aesthetic resources. The proposed mitigation measures need to be incorporated, where practical, into a new draft winery ordinance for public review and comment. The DEIR, itself, concludes that is the only alternative which meets the spirit and intent of CEQA.

18

#### Specific Comments

- 19 The City of Calistoga believes that the DEIR should analyze potential environmental impacts of any proposed regulations from the "Base Case" and not just from the existing regulations or "No Project" alternative. This way the true impacts of the proposed project can be determined.

Accordingly, there are two areas in which the DEIR failed to adequately discuss direct, indirect and cumulative impacts; and, to propose mitigation measures to lessen the potential significant environmental impacts.

#### Housing Impacts:

- 20 The Land Use Projections Summary -Table 1 forecasts that the DWDO would result in 4000 new permanent and 1000 seasonal jobs over the base case by the year 2010.

If one were to assume that there are 1.2 employed persons per household in Napa County (Source: ABAG Projections 87),

then the above labor force would create the demand for approximately 3333 housing units. This is 166 units per year through the year 2010.

Of greater significance is the likelihood that the majority of these individuals would have low to moderate incomes as defined by HUD. Affordable housing units would have to be provided by the cities, in keeping with the Agricultural Preserve intent of keeping urban uses in the urban areas.

The 1000 seasonal works also create unique housing needs of which the DEIR also does not adequately discuss.

There are mitigation measures which could lessen these housing impacts:

1) All new wineries and winery expansions, including accessory structures, should pay an in-lieu housing fee to the Napa County Housing Authority to assist the county and cities to provide affordable housing. This fee should be based on a job creation/housing demand ratio and be charged on a building square foot basis.

2) New vineyards and additions to existing ones should provide seasonal labor camps that meet state and county requirements. If it is deemed impractical to provide the camps, as determined on a case by case basis, an in-lieu payment should be paid to the Napa County Housing Authority to support affordable housing projects in the county and cities.

Community Services/Public Safety:

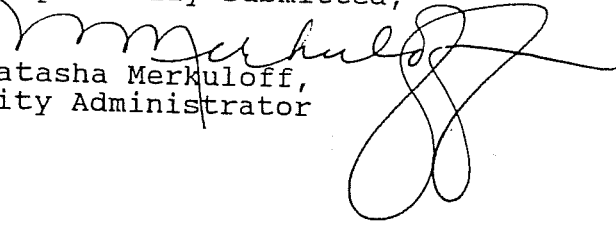
21

Creation of 3333 new households over the next twenty years could result in an additional 8065 persons in the county. This assumes there would be 2.42 persons per household (Source: ABAG Projections '87).

This could create a significant impact on certain cities in terms of demand for water, sewer, public safety, and educational services. While it is impossible to predict where these workers will locate, Calistoga and St. Helena have long suffered under water and wastewater service limitations. The DEIR needs to address these indirect and cumulative impacts, should the growth trend set forth in the DWDO and requisite general plan amendments is followed.

Thank you for the opportunity to comment.

Respectfully submitted,

  
Natasha Merkuloff,  
City Administrator

cc: City of St. Helena  
Town of Yountville  
City of Napa  
County of Napa



CITY HALL, 1480 MAIN STREET  
ST. HELENA, CALIFORNIA 94574  
(707) 963-2741

November 13, 1989 (FAX before noon)

Mr. Jeffrey Redding  
Napa County Conservation, Development and Planning Department  
Room 210  
1195 Third Street  
Napa, CA 94559

Dear Jeff:

On September 12th, the St Helena City Council approved sending the comments on the Draft Winery Definition Ordinance which were included in my September 13th letter to you. The main points of that letter were:

- A. The winery definition (Sec. 12047) is good.
- B. The regulation of accessory uses (Sec. 12067) and promotional activities (Sec. 12070, et seq.) is inadequate.
- 22 C. Uses allowed by use permit (Sec. 12202) are overly broad and ambiguous.
- D. Allowing existing wineries 18 months to establish additional accessory uses (Sec. 12202 (i)) seems discriminatory.
- E. The percentage coverage allowed (Sec. 12423) may be excessive.

Please inform the Commission/Board that on November 9th the St Helena City Council and Planning Commission met in joint session and adopted the following comments/recommendations regarding the WINERY DEFINITION ORDINANCE DEIR:

The City's general comments are as follows:

- 23 1. The Draft Ordinance won't act to implement its stated purposes.
- 24 2. Development allowed by the Draft Ordinance would add to the list of complaints about traffic and water use impacts of existing and future wineries.
- 25 3. Either the cumulative impact of promotional activities requires more analysis (particularly as to traffic, water supply, and sewage disposal).

Ordinance should be amended to reduce the potential impacts of promotional activities. It appears the Draft Ordinance will encourage larger wineries, whose expanded promotional activities will compete with each other in a manner to increase tourism.

- (26) 4. Generally, the Draft Ordinance signals a trend towards commercialism which undermines the concept of agricultural preservation and open space protection in areas in the Napa County General Plan designates as "Agricultural Resource" or "Agriculture Watershed and Open Space".
- (27) 5. Until they address traffic, the County shouldn't allow more wineries on Highway 29 north of Yountville.
- (28) 6. Wineries which are of a scale and character similar to processing plants should be located in industrial areas.
- (29) 7. Wine warehousing should not be allowed in Agricultural zones.
- (30) 8. Where a winery site is less than 40 acres, the preponderance of grapes that winery uses should be grown on the site.
- (31) 9. Controls on promotional activities should be tightened.
- (32) 10. The threshold number for requiring permits for promotional activities should be reduced, and the distinction between "public" and "private" activities should be eliminated because it's unenforceable.
- (33) 11. Please note the attached Resolution 86-40, which states the long-held position of St Helena and other upvalley communities in opposition to strip commercial development of Highway 29 between Yountville and Calistoga.

The City also wishes to make the following specific comments:

- (34) 12. Setbacks along Highway 29 should be greater than 150'.
- (35) 13. There should be more specificity to the threshold for determining "adequacy" of water supplies (DEIR, p. 3).
- (36) 14. There should be greater emphasis on vanpooling and traffic-reduction mechanisms (DEIR, p. 5).
- (37) 15. Air quality Mitigation Measures (DEIR, p. 7) should add a paragraph on recycling by-products of waste disposal.

- (38) 16. The County should ensure that seasonal housing is provided for the seasonal workforce (Supplemental Information Transmittal, p. 8).
- (39) 17. Recycling of winery by-products should be increased (Supplemental Information Transmittal, p. 8).

Thank you for the opportunity to comment.

Yours truly,

*Tony*  
Tony McClimans, City Planner

Attachment: Resolution 86-40

C: City Council  
Planning Commission  
City Administrator  
County Referral File



**RESOLUTION NO. 86-40****A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF ST. HELENA OPPOSING FURTHER STRIP  
COMMERCIAL DEVELOPMENT ALONG STATE  
HIGHWAY 29 BETWEEN YOUNTVILLE AND CALISTOGA**

WHEREAS, the City Council of the City of St. Helena adopted Resolution No. 81-30 on November 24, 1981;

WHEREAS, said Resolution stated that Highway 29 between Yountville and Calistoga was the scenic corridor of the upper Napa Valley;

WHEREAS, said Resolution stated that Highway 29 between Yountville and Calistoga was being travelled at a near capacity rate;

WHEREAS, said Resolution stated their belief that further strip development along Highway 29 between Yountville and Calistoga would further impact the scenic beauty and traffic problem;

WHEREAS, said Resolution stated their opposition to any further strip commercial development along Highway 29 between Yountville and Calistoga;

WHEREAS, numerous strip commercial developments, including but not limited to wineries, have been approved and constructed along Highway 29 between Yountville and Calistoga since November 1981;

WHEREAS, the Napa County General Plan, as adopted on June 7, 1983, contains a Scenic Highways Element which states that "...scenic corridors are a great natural resource and must be protected for future generations";

WHEREAS, said Scenic Highways Element defines a "corridor" as "...the area of land generally adjacent to and visible from the highway which requires protective measures to insure perpetuation of its scenic qualities";

WHEREAS, said Scenic Highways Element contains a policy that "(n)ew development projects located within view of a scenic corridor should be subject to site and design review to ensure such development does not destroy the scenic quality";

WHEREAS, said Scenic Highways Element contains a policy that "(a)ccess and commercial development along scenic highways should be limited to prevent strip commercial development";

WHEREAS, said Scenic Highways Element contains a policy that "(e)nvironmental assessment should evaluate if a scenic corridor or viewshed would be impacted and if warranted, mitigations should be developed"; and

WHEREAS, the Napa County Zoning Ordinance provides that developments must have only a minimum setback of 90 feet from the centerline of Highway 29 (Section 12501), with the exception of Rutherford and Oakville, where developments must have a minimum setback of 60 feet from the centerline of Highway 29 (Section 12510(b));

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of St. Helena respectfully requests that the Planning Commission and Board of Supervisors of the County of Napa seriously consider St. Helena's continuing opposition to further strip commercial development along Highway 29 between Yountville and Calistoga and take the necessary and proper steps, including but not limited to increasing the minimum setback requirement, to preserve the existing priceless scenic corridor for future generations; and

BE IT FURTHER RESOLVED that the City Council of the City of St. Helena respectfully urges the Town of Yountville and the City of Calistoga, as well as the Napa County League of Municipalities, to take a companion position and to forward such to the Planning Commission and Board of Supervisors of the County of Napa.

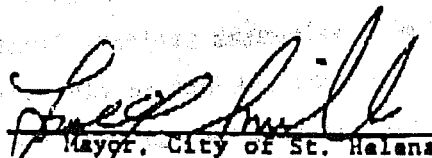
PASSED AND ADOPTED at a Regular Meeting of the St. Helena City Council held on the 27th day of October, 1986, by the following vote:

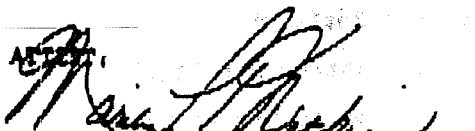
AYES: Councilmen Eldridge, Brown, Hunter, Mayor Smith

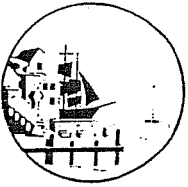
NOES: None

ABSTAIN: None

ABSENT: Councilman Whiting

  
Mayor, City of St. Helena

  
City Clerk



# CITY OF VALLEJO

COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

NOV 8 1989

NAIPA COUNTY  
DEVELOPMENT

November 6, 1989

Mr. William L. Selleck  
Office of Special Projects  
Napa County Conservation,  
Development & Planning Department  
1195 Third Street, Room 210  
Napa, CA 94559

SUBJECT: DRAFT EIR FOR THE WINERY DEFINITION ORDINANCE

Dear Mr. Selleck:

40 The City of Vallejo Planning Division has reviewed the above document, and has only one comment. We request that the Final EIR identify what impacts (if any) on the SR 29/37 and SR 37/Fairgrounds Drive intersection and the I-80/American Canyon Road interchange will result from the implementation of this ordinance. We suspect there will not be any impacts; but, if there are, the Final EIR should also include appropriate mitigation measures.

Thank you for the opportunity to participate in the environmental review process for this project.

Sincerely,

ANN MERIDETH  
Chief of Planning

pllt60v

RECEIVED

NOV 13 1989

# INTER-OFFICE MEMO



NAPEER CONSERVATION  
DEVELOPMENT PLANNING DEPT.

To: James H. Hickey, Director of Special Projects  
From: Jeffrey Redding, Director *JR*  
Subject: Comments on Draft EIR for Winery Definition Ordinance  
(DEIR-060)  
Date: November 13, 1989

The Department has completed its review of DEIR-060 relating to the Winery Definition Ordinance. The comments are divided into two categories: general comments relating to format, etc; and comments relating to substantive issues discussed in the EIR.

## General Comments

- 41 1. All pages should be numbered to facilitate public discussion;
- 42 2. It is recommended that mitigation measures be numbered so that specific measures can be quickly identified;
- 43 3. It is recommended that the consultant examine maps and other graphics for clarity. For example, figure 3 relating to winery location is not readable.
4. References should be given in the form of footnotes or other citations when factual conclusions are made. To take just a few examples:
  - 44 a. In discussing impacts on Vegetation and Wildlife (pg. 35), the consultant states, "... the riparian woodland present along the Napa River is the third most valuable in California." What is the source of this conclusion?
  - 45 b. In discussing Winery and Visitor Facility Forecasts (pg. 26), facts relating to number of employees, building coverage etc. are quoted yet the specific reference in the EPS and Agland Forecasts are not provided so that the reader can review the source of these facts to ensure their veracity;

- 46 c. Relative to Water Resources (pg. 34), the consultant concludes that "Napa County relies primarily on surface water storage for municipal, industrial and agricultural; uses." A source document should be footnoted.
- 47 5. Some mitigation measures are stated in the mandatory "shall"; others are in the permissive "should". If impacts are identified, then mitigation measures are obligatory.
- 48 6. The consultant has not made clear the relationship between the mitigation measures contained in the Cumulative Impacts section and the standard mitigation measures utilized by the County to reduce the impacts of winery-related development. The County mitigation measures should be included in the EIR and the consultant should specifically indicated the relationship between the two. Copies of these measures are available from the Department.

#### Comments on Impact Specific Discussion

##### II. Project Description--Location

- 49 The consultant has reached conclusions about project impacts in the opening section about project location (last sentence, pg. 9); this discussion should be relocated.

##### E. Technical Description

- 50 2. Seventy-Five Percent (75%) Napa County Source Rule  
The consultant should be advised that new wineries are not permitted within the commercially-zoned areas of Napa County.

##### III. Effects Not Found To Be Significant

##### A. Effects Not Involved

- 51 2. Net Public Cost Increases  
Although the effect may not be significant, the workload of the Department can be expected to increase if the allowance for four (4) public promotional events per winery is retained. The requirement that an administrative permit be obtained for each event will impact the Planning Division as well as the Departments of Environmental Management, Public Works and Forestry.

- 117 3. The recommended mitigation measures for Water Resources (pg. 3) do not seem to completely mitigate the impact, as the consultant says. The use of supplemental water sources could also have cumulative impacts, both by allowing additional growth and by causing depletion of resources. How will this be monitored and mitigated?
- 118 4. The impacts identified under Vegetation & Wildlife (pg.3) do not include a discussion of the cumulative impact of loss of non-agricultural vegetation and wildlife habitat. Therefore, we do not believe that the recommended mitigation measures fully mitigate the impact.
- 119 5. Generally, we are supportive of the recommended mitigation measures for Visual/Aesthetic Considerations, however we feel that alternatives to the establishment of a design review board need to be considered. For example, if a design review board is not politically desirable, design professionals could interact in the planning process upon recommendation of the Planning Commission.
6. We suggest the following changes to the mitigation measures for Traffic (pgs. 4 & 5):
  - 120 The new impacts that may result from the implementation of #4 (Free right and left turn pockets should be provided with the improvements) should be identified - i.e. loss of vegetation for road widening.
  - 121 The meaning of #5 - "Development limitations and restrictions need to be implemented to limit growth for wine-related activities in the County" needs to be specific.
  - 122 We are very supportive of measures #8 (The DWDO shall be amended to only allow promotional events for charitable purposes) and #9 (The County shall set a cap on any promotional event to not exceed 500 participants for each event per day). At some point, given that the source of the impact is not relevant, shouldn't the County consider applying the same restrictions to all businesses in the AP or AW, not just wineries? This would more completely mitigate the impact of traffic upon agricultural areas.
  - 123
  - 124 7. We feel that there needs to be more information provided on the impacts of eliminating the small winery exemption and on the elimination of the 18 month "grandfather clause". What are the ramifications of not having either mechanism in place, and what are some alternatives? Could there be a use permit process for existing and new small wineries that is more flexible than the process for large wineries, but with much greater limitations as to their allowed uses? Is there a mechanism which will allow existing winery uses to obtain legal conforming status, but which would not extend the same uses (particularly tours and tastings) to new wineries?
  - 125
  - 126 8. The Mitigated DWDO Alternative (pg. 72) needs much more clarification. Measure #1 (Amend the DWDO to prohibit any non-agricultural use to be permitted in the Agricultural Resource or agricultural Watershed zones) needs a better definition of non-agricultural.

127 Measure #4 (Cause all illegal uses to be abated or consider legalization through a determination of General Plan consistency, and issuance of a County Use Permit) needs to be more fully explained. How would this work?

128 Measure #5 (Find appropriate mechanisms to implement those mitigation measures associated with the MEA) is too passive. Requiring a study is not a mitigation measure.

129 9. The Interim Measure (pg. 73 - allowing nine new wineries, or expansions of existing wineries, per year ) needs more definition. What are the impacts that justify this? What are other options? Shouldn't something like this be regulated by size of winery or production capacity? The impacts of nine new large wineries per year would be much greater than the impacts of the expansion of nine small wineries.

130 Additionally, we think it would be appropriate for the EIR to discuss the ramifications of over-regulation and under-regulation of the wine industry, by government, on the preservation of agricultural land. In other words, at what point does over-regulation make the wine industry not viable, and therefore threaten agricultural land (i.e. if it is found to be more viable to convert the land to other uses)? At the other end of the spectrum, at what point does the viability of the industry through the proliferation of too many uses ( the result of under-regulation) threaten the protection of agricultural land?

131 There has been discussion in connection with the 75% grape source rule that it has no impact. This needs clarification. How can it have no impact? Without this rule, a winery may bring most, or all of its fruit to a Napa Valley address (within the AP or AW zone) from out of county. This winery could be very large have innumerable environmental impacts on county resources, e.g., water, roads, air, etc.

The consultant may have been misled in this belief by reliance upon the perception that the AVA designation "Napa Valley" commands higher prices. However, it ignores the attractiveness of a mere Napa Valley address to a great many wineries which currently process out of county fruit. These wineries evidently believe that the address is more important than the appellation of origin.

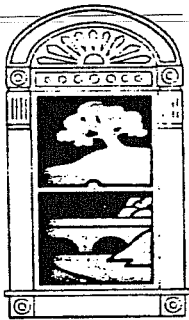
We appreciate having the opportunity to comment on this very important document. The EIR is a key part to making any new ordinances effective in the future preservation of agricultural lands in Napa County.

Sincerely,



Carol Poole

Executive Director, NAPAC



# NAPA COUNTY LANDMARKS INC.

P.O. BOX 702 NAPA, CALIFORNIA 94559 - (707) 255-1836

RECEIVED

NOV 7 1989

November 7, 1989

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

Napa County Conservation Development  
and Planning Department  
1195 Third St., Room 210  
Napa, CA 94559

RE: Draft EIR on Winery Definition Ordinance

Gentlemen:

We have reviewed the draft winery definition ordinance EIR and offer the following comments as to its adequacy:

## General

- (132) 1. When making references to other sections of the document, it would help to use the page numbers of the referenced material to facilitate locating the material.
- (133) 2. In Section V, Environmental Setting, Potential Impacts, and Mitigation Measures, it is generally shown that the potential impacts have no direct impact and reference is made to cumulative impacts in other sections. A general statement as to why the DWDO will not have direct impacts but will have cumulative impacts would make it easier for the general reader to understand the difference between direct and cumulative impacts.
- (134) 3. What is the timetable for implementing the mitigation measures? Who is responsible for the mitigation monitoring program? The public needs assurance that the mitigation measures will be implemented.

## Specific

- (135) 1. The top of page 54 should be corrected to state that the Historic Resources Inventory was completed in 1978 by Napa County Landmarks and is part of the State Historic Resources Inventory.
- (136) 2. Section IX, References, should also include the Historic Resources Inventory.

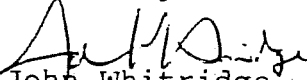


Napa County  
November 7, 1989  
Page 2

137 3. The mitigation measure on page 6 regarding the adoption of an historic preservation ordinance as well as the measure requiring an initial study to identify cultural resources are appropriate measures to identify and protect cultural resources that could be impacted by future winery construction. It might be noted that an historic preservation ordinance would work with the design review ordinance mitigation measure on pages 4 and 63 in that the design review ordinance could include the guidelines for rehabilitation of historic structures, guidelines for new construction and the process for review.

138 At its meeting on November 6th the Board of Directors of Napa County Landmarks supported these mitigation measures that would protect the county's cultural resources with respect to the adoption of a winery definition ordinance.

Sincerely

  
John Whitridge  
President



# SIERRA CLUB

## REDWOOD CHAPTER - NAPA GROUP

P.O. BOX 3784 NAPA, CA 94558

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November 9, 1989

NOV 9 1989

Napa County Conservation  
Development and Planning Dept.  
1195 Third St. Rm. 210  
Napa, CA 94559

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

### Comments on Napa County Winery Definition Ordinance DEIR

The Napa Sierra Club would like to express the following concerns in regard to the DEIR:

#### **Solid Waste**

The report suggests that since wine production levels will not be affected by the project, neither will solid waste generation. This ignores the fact that expansion of winery commercial/promotional activity will put additional pressure on the limited capacity of county landfills. Our two largest landfills have 6-8 years of capacity remaining. Likewise, a substantial impact could be anticipated at the Whitehall Lane recycling facility. General Plan amendments would be required to expand this site and/or to develop an additional landfill. The impacts of expanded winery commercial activity on the capacity of solid waste facilities is not adequately addressed.

#### **Traffic**

The estimate of winery related trip ends does not include trips for transportation of winery pomace to the Whitehall Lane facility. The 1987 Napa County Solid Waste Management Plan estimates that 65% of all winery pomace is composted at this site. The material is trucked at all hours of day during peak tourist season. The estimate also does not include bulk wine transport between wineries. "Custom" contracts for grape processing and bulk wine storage which require shipment of wine by tanker truck are common at Napa Valley wineries. The amount of winery related trip ends is underestimated in the report.

#### **Water Resources**

The report states that groundwater supplies are completely recharged each year. This assumption is based on data which is over 15 years old. Over-draft conditions already exist in some areas of the county. This allows potential aquifer shrinkage. Potential loss of aquifer capacity due to continued winery development in some areas of the county is not addressed in the report.

Allowing continued development of wineries in areas not served by municipal water systems may adversely effect municipal groundwater supplies. Potential impacts to municipal supplies are not adequately discussed.

#### Air Quality

- 144 Discussion of air quality impacts does not consider additional automobile emissions created by winery related traffic increases.

#### Land Use

- 145 Allowing continued loss of agricultural and open space lands to parking lots, effluent ponds, and structures is not consistent with the technical objective of the project. The report should include ways to avoid, not simply mitigate for, these losses.

#### Feasible Alternatives

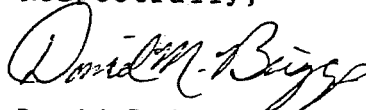
- CEQA requires discussion of a range of feasible alternatives which avoid impacts as well as those that would require mitigation. The project with mitigation does not constitute an alternative to the project. An alternative which would avoid significant impacts by directing additional winery industrial and commercial activity to areas currently zoned for those uses is not presented. The discussion of alternatives is inadequate.

#### Mitigation

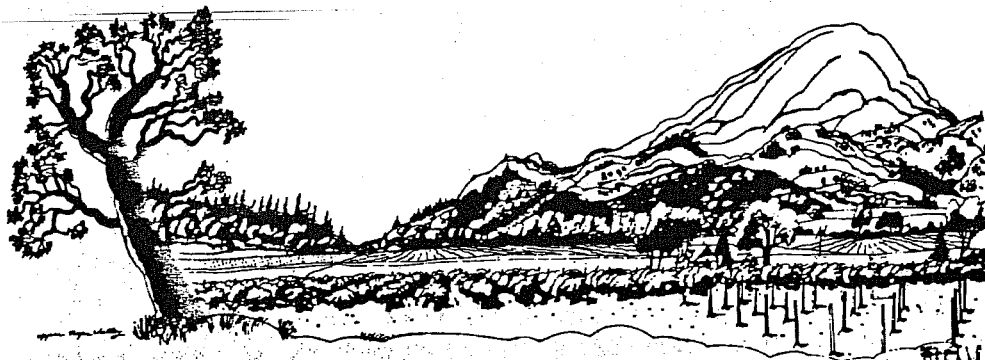
- 148 CEQA requires that significant environmental effects caused by the project should be mitigated to a level of insignificance. The report recommends measures to "partially mitigate" cumulative impacts of traffic and noise (p. 67-68). Alternatives or mitigation measures which would avoid or reduce these impacts to a level of insignificance should be discussed.

- 149 We request that the final EIR consider an alternative which directs future winery development to industrial and commercial zones.

Respectfully,



David Briggs  
Napa Sierra Club  
Executive Committee



12:00 p.m.

VED

NOV 13 1989

## UNITED NAPA VALLEY ASSOCIATES

November 10, 1989

Mr. Jeffry Redding, Director  
Napa County Conservation, Development  
and Planning Department  
1195 Third Street, Room 210  
Napa, CA 94559

Dear Mr. Redding:

By formal action at its meeting on November 8, 1989, the Board of Directors of UNITED NAPA VALLEY ASSOCIATES (UNVA) approved for transmittal to you the following comments on the Draft Environmental Impact Report (DEIR) on the Draft Winery Definition Ordinance (DWDO):

A. As a matter of County policy, UNVA urges the Board of Supervisors to adopt a Winery Definition Ordinance, as reflected in the DEIR, that will protect environmental and agricultural values in Napa County.

(150) B. UNVA endorses the Mitigated DWDO Alternative (Environmentally Superior Alternative) and the Interim Measure proposed in the Draft EIR with the following provisos:

(151) 1. We call attention to the inadequacy of the document in that it does not provide for the mitigation monitoring program required by State law. To insure that the mitigation measures are implemented in a timely and effective manner, at least a draft program or program summary should be part of the EIR. Since the "project" is a County project, who administers the monitoring program? And what is the timetable for adopting the various programs required by the mitigation measures?

(152) 2. UNVA has concern that the Traffic mitigation measures on page 5 requiring free turn lane pockets will have negative impacts of their own, for example: vegetation (tree removal); cumulative pressure to change HWY 29 to four lanes; and the turn lanes becoming a continuous, dangerous, middle third lane on HWY 29.

- 154 3. The mitigation measures should be amended to require the DWDO to define the following:
- a. illegal, non-agricultural uses.
  - b. legal, non-conforming uses where no use permit exists.
  - c. illegal, conforming uses where a use permit exists but is in conflict with the General Plan.
  - d. marketing uses on-site and off-site.
- 155 4. The EIR should clarify and substantiate the conclusion under 5. Public Tours/Tasting Elimination, page 16, that public and private tours and tastings have the same impact.
- 156 5. The EIR should clarify the conclusion on page 72 that the elimination of the small winery exemption would not, over time, have a significant benefit to the County. If the exemption elimination includes the requirement of a use permit for all new and expanded wineries and fewer wineries are built, we believe there will be a net benefit to the County.
- 157 6. The Impact statement B.a. on page 1 should clarify the need for the mitigation measure that requires the DWDO "to require all new wineries to comply with the General Plan criteria of 40 acres."
- 158 7. A new mitigation measure should be added to offer the opportunity to existing small wineries built under the small winery exemption ordinance to obtain a use permit for the purposes of: a) abating all illegal, non-agricultural uses; b) insuring that all health and safety conditions are imposed; c) insuring that future illegal, non-agricultural uses are prevented; and d) insuring that existing small wineries are legal, conforming wineries. The purpose should not include legalization of illegal uses.
- 159 8. The Water Resources Mitigation statement D.3.a. on page 3, should be amended by adding at the end of the sentence the following: "and does not adversely affect nearby existing water supplies."
- 160 9. Since the Napa Sanitation District does not serve any wineries with sewer hookups, explain the Community Services Impact statement 11.a. on page 7. What is the present and projected volume of waste material "delivered" to the NSD by wineries?

C. We believe that a strong winery definition ordinance must include the following mitigations recommended in the Draft EIR:

1. To mitigate land use impacts, such as future illegal, non-agricultural uses, the land use mitigation measures should specifically require that all new wineries and all expansions of existing wineries must have use permits.

2. The mitigation measure that requires the DWDO to be amended to prohibit illegal, non-agricultural uses in the AR and AW areas should apply to all illegal uses at existing wineries as well as new wineries.

Thank you for the opportunity to comment on this draft EIR. We look forward to reviewing the final EIR.

Sincerely,

*Margaret Ann Watson*

Margaret Ann Watson, President

November 10, 1989

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NOV 13 1989

9:46 AM

NAPA COUNTY CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

Napa County Conservation Development  
and Planning Department  
Office of Special Projects  
1195 Third Street, Room 210  
Napa, California 94559

ATTN: William L. Selleck

Subject: Winery Definition Ordinance DEIR 60

Dear Members of the Planning Commission:

The joint Winery Definition Committee of the Napa Valley Vintners Association, the Napa Valley Grape Growers Association and the Napa County Farm Bureau submit the following comments and response to Draft Environmental Impact Report DEIR 60. Any comments on the Master Environmental Assessment Part 3 will be specifically referenced.

I. OVERVIEW OF DEIR

We extend our compliments for the detailed and comprehensive treatment by LSA Associates of all environmental impacts that could foreseeably result from the adoption of the proposed Winery Definition Ordinance. The broad "worst case scenario" analysis ensures the ability of the commission and the Board of Supervisors to modify the ordinance, if necessary, without additional investigation by the consultant.

II. INFORMATION NOT SPECIFICALLY TREATED BY THE DEIR

162

Numerous mitigation measures and a recommendation by the consultant that a policy allowing a maximum of nine new wineries per year until mitigation measures have been adopted (DEIR page 73) is based upon a straight-line growth projection of growth for the past ten years (MEA Part 3, page 5, paragraph 4A). We believe that construction and/or expansion of wineries in the future will be substantially inhibited by increased economic restraints. Some examples are:

- A. Neoprohibitionist endorsed tax increases, including current initiative measure that would increase state wine tax by 12,000%.
- B. Competition from foreign wines, aggravated by unfavorable foreign currency exchange rates.

- C. Increased land values, development costs and production costs that cannot be recouped by increased retail prices in a strong competitive market.
- D. Regulations depressing sales, such as:
  - 1. Warning labels on wine bottles, and warning signs at points of sale.
  - 2. Proposed "public interest" advertising against alcohol consumption, to be funded by excise tax increases.

### III. RESPONSES TO SPECIFIC ASSUMPTIONS, INTERPRETATIONS, AND RECOMMENDATIONS OF CONSULTANT

These responses follow the order in which the consultants addressed the subject matter in the DEIR. Unless otherwise indicated, all page references are to the DEIR.

#### A. Legalization of "Illegal" Uses:

163

At Section B.b. on page 1; Section E on page 14; Section F on page 18; and paragraph A2 on page 29, it is stated that the Draft Winery Definition Ordinance (DWDO) provides a mechanism to legalize existing illegal uses and promote the intrusion of non-agricultural uses into agricultural land. In fact, the finding in Section 2 of the DWDO is only that "activities that were lawful when established should be recognized as legal uses..." The DWDO does not, nor could it, legalize an illegal use. The DEIR does not define illegality. Activities may be illegal under relevant health and safety regulations, such as waste disposal, or they may be illegal because the particular zoning regulation prohibits an activity that is otherwise lawful and may be conducted on an adjacent differently zoned parcel.

The status of many wineries under the County's existing zoning ordinance is uncertain due to the lack of any use permit requirement until 1974 and the variability of use permit provisions issued since 1974. Activities defined by the DEIR as non-agricultural, and therefore illegal, have been routinely permitted by the County for years pursuant to the outdoor festival ordinance. Napa County Code Sections 8020 through 8031. The DWDO recognizes that such activities have been carried on by many wineries for many years under specific County permit approval and should be recognized as legal uses.



What the DWDO does do is provide a mechanism whereby a winery that is not a "public" winery may become one within a limited window of time upon the grant of the appropriate use permit by the County. (Sections 12202(1) and 12232(k).) The DWDO confers no entitlement to a use permit to be a "public winery"; it merely enables the County to issue one in its sole discretion during a transition period. There is no requirement that such a use permit be issued. The purpose of these sections is to allow all wineries, including those desiring clarification of their status as "public" wineries, as well as "private" wineries who want to convert to "public" status, but did not file an application to do so before the moratorium, to be treated equally in the use permit process.

164

B. Reduction of Minimum Parcel Size Below 40 Acres:

The DEIR states at page 1, Section B and page 29, Section A that the DWDO "would effectively reduce the County's General Plan agricultural land use intent from 40 acres to 10 acres." The DWDO makes no change in the 40 acre minimum lot area set forth in Section 12400 of the Napa County Code. The DWDO recognizes the impact of Section 12029 of the Napa County Code which provides that any parcel which was legal or was exempt from any law when established is a legal parcel, and may be used even if it is less than the minimum lot size of the zone. Additionally, Section 12047 of the Napa County Code defining wineries in general does not set any minimum lot size and Section 12048 defining small wineries sets a minimum lot size of four acres. Under the DEIR theory the effective minimum lot size for large wineries for the past decades has been zero and for small wineries four acres. This has not heretofore been alleged to be contrary to the General Plan.

The impact of the DWDO, therefore, is to impose a 10 acre minimum parcel size for new wineries where none exists and to increase the minimum from four acres to ten acres for small wineries, but nothing in the DWDO would allow the creation of a new parcel of less than 40 acres for winery use.

C. Prohibition of Non-Agricultural Uses:

The DEIR defines non-agricultural uses as being public tasting rooms, retail sales of wine not produced by the winery, sale of items that are not wine-related, museums, catering and classes and public promotional events other than wine-related, museums, catering and classes and

public promotional events other than wine-related activities. (Section D on page 2, and Section A on page 31.) The consequences of the definition are significant, for if the use is non-agricultural, mitigation dictates that it be prohibited in the future and abated if presently existing without a use permit. The definition of non-agricultural in the DEIR appears to be internally inconsistent and fails to recognize that agricultural pursuits whether they be vineyards or wineries cannot exist unless the produce can be sold.

165

By stating that public tours and tasting is a non-agricultural use, the DEIR bestows an agricultural status on private tours and tasting. A winery with limited visitor facilities that is open to the public may have less environmental impact than a larger facility that operates a full schedule of private appointments. What is important is the intensity of use, and "public" does not necessarily entail more intensive activity than "private". The DEIR, furthermore, explicitly recognizes that elimination of public tours and tasting will not change the intensive of visitor use (page 16). Clearly, this artificial line defining agricultural and non-agricultural does not further the analysis of the impact of the ordinance.

166

Another activity characterized by the DEIR is the retail sale of wine not produced by the winery. The DWDO limits retail sales to wine produced by the winery except for wine produced for the winery from Napa County grapes or non-table wine produced for the winery from grapes of any source. (Section 12202(g)(5)(c) and 12232(i)(5)(c).) The distinction reflects the important role of bulk wine in the operation of wineries and the DEIR proposed mitigation measures fail to recognize industry needs.

167

Successful marketing of wine is the key to earning the dollars to support the vineyards and the wineries that are the major force in keeping Napa Valley agricultural. A successful wine industry from grower to retail sales is the best insurance against the residential and commercial development pressures surrounding the Valley on three sides. Artificial distinctions between agriculture and non-agriculture only promote a false sense of security for the short term and become self-destructive over the long term. Napa, as are few other counties, is uniquely dependent upon a single industry. All residents apparently agree that the wine industry is proper for Napa County

168

and should be encouraged to remain and to grow. In considering the recommended mitigation measures, the County must take into account that grapes when made into wine change their character as a traditional agricultural commodity and must be marketed as a brand product in competition with other brands in a market that is international in scope. The success of a winery and its ability to maintain the economic viability of agriculture in Napa County depend upon the public perception of its brand as well as the quality of its wine.

D. Winery Exemption Elimination:

169

At page 14, the DEIR concludes that wineries authorized under the small winery exemption may not operate visitor-serving facilities, and that by eliminating the exemption, a new small winery will be able to take advantage of opportunities not presently available. Section 12048 of Napa County Code provides that "a small winery does not conduct public tours, provide wine tastings, sell wine-related items or hold social events of a public nature." Are social events of a public nature necessarily more intense than those of a private nature? This definition would seem to permit private tours which could be more intense than the prohibited public tours. The same artificial distinction has been made here as in earlier sections of the DEIR. The environmental impact results from the intensity of the use, not from the name of the use.

Unless otherwise limited by county regulation, a small winery can conduct essentially the same operations as any other "private" winery. (Section 12202(h) and 12232(j) of the DWDO.) The conclusion that the elimination of the small winery exemption will induce a growth of visitor facilities is unsupported. Quite the contrary, by requiring a use permit for all new wineries, irrespective of size, the County will obtain a degree of regulatory control over new small wineries that does not presently exist.

E. Expansion of Promotional Events:

170

At pages 15 and 58 the DEIR assumes that the result of the DWDO will be to increase promotional events and activities by wineries. The DEIR predicts an increase in facilities such as aerial tramways, art museums, outdoor art displays, cooking schools, concerts, etc. In the growth induction section on page 58 of the DEIR, it is stated that present promotional events are limited to those that benefit non-profit entities and that by removing this limit, the DWDO would allow promotional events for

marketing purposes and profit. The DEIR is incorrect where it states that promotional activities are now limited to non-profit events. There is no such limit in the zoning sections of the code. Only the public outdoor festival permit deals with the subject. In fact, the DWDO will impose limits on such events and increase control of their nature. The DWDO does not make legal what is now illegal. If an existing promotional use is legal, it may be continued; if it requires a use permit and does not have one now, a use permit will have to be obtained.

171

All promotional activities, both public and private, are by definition accessory uses and therefore subject to the constraints in Section 12067 of the DWDO which requires that the accessory uses be subordinate to the main use and clearly incidental to the use, reasonably compatible with other principal uses in the district and cannot change the character of the main use. Section 12405 of the present Napa County Code provides that "uses allowed without a use permit or uses permitted upon grant of a use permit shall include any accessory use." But there is no definition of "accessory" in the present code. What constitutes accessory is "in the eye of the beholder."

The DWDO clearly defines accessory use and further provides for maximum square footage of structures for accessory uses in Section 12421. Section 12071 of the DWDO provides for public promotional activities for charity or community benefit and limits those activities. The DWDO imposes reasoned regulation in an area where there is considerable controversy and inconsistent customs.

172

The statement on page 58 of the DEIR that the DWDO would "create an unlimited capacity for promotional events" is not reflective of the language or the spirit of the DWDO. The DEIR projection arrives at total event-person-days for all wineries based on festival ordinance permits previously issued to a few. The DEIR is in error in asserting that existing wineries will have no limit on the number or size of promotional events that could be sponsored. Pre-1974 wineries are limited to those promotional activities that qualify as legal non-conforming uses. Use permit wineries are limited to what has been authorized by use permit. Wineries that do not secure a use permit authorizing public promotional activities within the window period are limited to private promotional activities (small) unless they secure an

administrative permit for a specific event. Rather than extrapolate event size from events permitted under the festival ordinance, which are exceptional by nature, more realistic projects should be drawn from activities that are more normally conducted by wineries on a regular basis.

F. Expansion of Production and Footprint:

173

At page 17 the DEIR concludes that the DWDO restriction on expansion within the winery development area will be ineffective because it is based on impervious surface and the limit can easily be circumvented by creating temporary impervious surfaces. This does not seem to address environmental impacts so much as it declares that the owners of Napa Valley wineries are dishonest.

174

On the same page it is concluded that because of production expansion limitations in the DWDO wineries on limited size parcels and encouraged to enlarge their visitor-serving facilities as the only way to add new revenue. The DEIR misreads the DWDO as it relates to the working of the industry.

175

If a winery infills the physical footprint of its facilities by more than 20%, it becomes subject to the 75% Napa fruit source requirement as to the expanded production and if the parcel is less than 40 acres, its overall production is limited to 2400 gallons per acre. (Section 12419) So long as a winery stays within 120% of its existing footprint, the DWDO imposes no artificial production capacity limitations, but the winery will still be subject to such site-related capacity limitations as the County may impose in the use permit process. The intent of the DWDO is to encourage wineries to utilize their existing developed area more efficiently and to discourage the conversion of vineyard or other open land for winery expansion.

IV. RESPONSE TO MITIGATION MEASURES PROPOSED BY DEIR

Some mitigation measures have been discussed above. Set forth below are some, but not all, of the mitigation measures that in our view are not based on either demonstrated need or effectiveness.

176

A. In order to mitigate the degradation of water quality, runoff from structures, parking areas and driveways is to be held in detention basins, cleansed of

pollutants, and used for frost protection. (Section 1.D.2. on page 3.) What analysis shows that runoff is sufficiently contaminated to require ponding? What is a winery to do that does not use water for frost protection, or does not have vineyards adjacent to the winery. Why are less intrusive measures such as sweeping paved areas not considered?

177 B. Traffic mitigating measures include the prohibition on pickups and deliveries on weekends and after 4 p.m. on weekdays, the scheduling of employee work hours to avoid travel at 4-6 p.m. on weekdays and 3-5 p.m. on weekends and the institution of car pooling, the limitation of promotional events to charitable purposes, the limitation of promotional events to 500 participants per day, and the change in private winery signage from "Appointment Required for Tours and Tastings" to "Not Open to the Public." There appears to be no statistical justification for these measures. What is the impact on traffic of pickups and deliveries and employee travel during "rush" hours? Why will limiting a promotional activity to charitable purposes impact traffic, since the number of participants, not the purpose of the event, cause the impact? Why would 750 visitors to Spring Mountain wineries on Spring Mountain Day spread out over time and area have greater traffic impact than 500 concert goers arriving over a short period at a single winery? What facts support the determination that traffic will be significantly lessened by signage that is impolite as opposed to polite?

180 C. Air quality mitigation measures require that waste materials not be stockpiled and that in connection with the field disposal of winery waste, the waste be mixed with soils during applicaiton. Is that recommendation the result of a determination that grape stems, for example, are on air quality hazard in a pile and that pomace poses a threat if not disced in contemporaneously? State-of-the-art exhaust systems are to be maintained; what are they? Too many people in the industry, state-of-the-art is synonomous with that which is unproven, unreliable and expensive.

182 D. Septage (the product from pumping tanks) is to be delivered to the Napa Sanitation District only during winter months and otherwise stored on-site at the winery. There are no facts given to support a finding that this is of any significance considering the large capacity of Napa Sanitation District.

183

- E. Mitigation measures from the Master Environmental Assessment are incorporated in the DEIR by reference. (Section VII on page 71.) Many of these relate to vineyard operations, not winery facilities, and none of them has any application to the DWDO. The DEIR should be revised to delete any reference to them.

V. THE ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The "Environmentally Superior Alternative" recommended by the DEIR (page 72) does not recognize the nature of the industry.

184

- A. The proposal that the DWDO be amended to prohibit non-agricultural uses withstands only cursory examination. What is "non-agricultural?" As previously noted, the DEIR's characterization of agricultural vs. non-agricultural is result-driven, and diverts attention away from the issue of intensity of visitor use, which is properly addressed and regulated through the use permit process.

185

- B. The "18-month grace period" is not a grandfather clause. It allows wineries to apply for "public" winery status before the prohibition takes effect, it does not grant that status. The duration of the window period can be cut back, but fairness dictates that there be such a period.

186

- C. We agree with the proposal that all development or expansion of wineries be subject to a county use permit. This is what the DWDO requires, irrespective of the size of the winery. No modification of the DWDO is necessary.

187

- D. Similarly, no modification is necessary to implement the recommendation that illegal uses be abated if not legalized. We disagree with the suggestion that there is any inconsistency with the general plan, but we concur that uses that are not authorized by existing use permit or one issued as a result of an application filed during the window period or are not otherwise legal non-conforming uses, should be terminated. The DWDO contemplates nothing different.

188

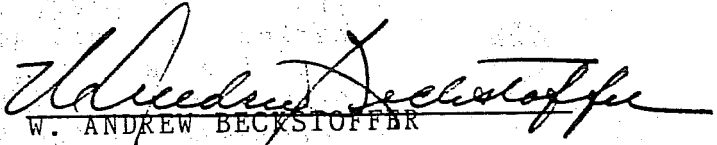
- E. The mitigation measures associated with the Master Environmental Assessment are unrelated to the DWDO and the proposal that they be implemented in connection with the DWDO is inappropriate.

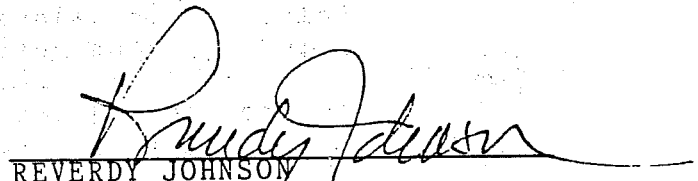
(189)

(190)

F. Lastly, the "Interim Measure" of a growth policy of nine wineries or winery expansions per year pending implementation of the MEA mitigation measures is unsupported by any explanation. Why nine? What about size - are nine small wineries the same as nine large wineries? Why any limit on expansion of production capacity, since that assures a home for fruit? And why tie any limit on winery growth to the implementation of measures that only peripherally relate to wineries? The artificial constraint cannot be justified.

Respectfully submitted,

  
W. ANDREW BECKSTOFFER

  
REVERDY JOHNSON

For the Joint Winery Definition  
Committee of the Napa Valley  
Vintners Association, Napa Valley  
Grape Growers Association and Napa  
County Farm Bureau



ROGER B. ASBILL  
8381 ST. HELENA HWY.  
NAPA, CA. 94558

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NOV 13 1989

12:00 PM

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

TO: NAPA COUNTY PLANNING DEPT.  
OFFICE OF SPECIAL PROJECTS  
C/O WILL SELLECK  
1195 THIRD ST. ROOM 210  
NAPA, CA. 94559

AS A RESIDENT, WHO IS CURRENTLY INVOLVED IN A  
CONFRONTATION TO KEEP AN INAPPROPRIATE WINERY OUT  
OF OUR NEIGHBORHOOD, I WOULD LIKE TO MAKE A FEW  
COMMENTS ON THE DRAFT EIR FOR THE WINERY  
DEFINITION ORDINANCE.

- (191) 1) 40 ACRE MINIMUM PARCEL SIZE SHOULD BE MANDATORY.
- (192) 2) A SCENIC CORRIDOR MUST BE ESTABLISHED ALONG  
HWY 29 AND SILVERADO TRAIL.
- 3) NON-AGRICULTURAL USES, SUCH AS TOURS, TASTING AND  
RETAIL SALES, SHOULD BE EXCLUDED, IN THE FUTURE,  
FROM PRIME AGRICULTURAL LAND.
- 4) PARTICULAR ATTENTION MUST BE PAID TO THE  
DESIGN OF ANY WINERY STRUCTURE TO ASSURE THAT  
IT FITS IN WITH, AND COMPLIMENTS ITS SURROUNDINGS.
- 5) STRINGENT MITIGATING MEASURES MUST BE INVOKED  
TO EASE TRAFFIC IMPACTS.
- (193) 6) SUFFICIENT BUFFERS WILL BE NEEDED TO LESSEN  
NOISE AND ODOR PROBLEMS FOR OCCUPIED DWELLINGS.
- (194) 7) EVERY PROJECT MUST BE SUFFICIENTLY STUDIED (BY  
AN EIR) AS TO ITS EFFECT ON AIR QUALITY AND  
GROUND WATER TO ASSURE THAT IT NOT ADVERSELY  
IMPACT THE ENVIRONMENT.

- (195) 8) EXISTING WINERIES NEED TO BE TREATED THE SAME AS NEW PROJECTS WHEN IT COMES TO EXPANSION, ADDITIONS, AND/OR CHANGES.
- (196) 9) ENCOURAGEMENT SHOULD BE PROVIDED TO LOCATE WINERY PROJECTS AWAY FROM PRIME AGRICULTURAL LAND. INSTEAD LET'S UTILIZE COMMERCIAL AND INDUSTRIAL ZONES FOR WHOLE PROJECTS AND EXPANSIONS TO SALES, TASTING, AND WAREHOUSE STORAGE.
- (197)

PLEASE BE ASSURED THAT I AM GREATLY CONCERNED ABOUT THIS ISSUE. THANK YOU FOR CONSIDERING MY COMMENTS.

Sincerely,  
Roger Asbell

November 2, 1989

NOV 13 1989

MEMORANDUM

FROM: F. Marvin Atchley  
4018 Spring Mountain Road  
St. Helena, CA

12:00 P.M.

TO: Napa Co. Conservation  
Development and Planning Department  
Office of Special Projects  
Attn: William L. Selleck

SUBJECT: Comments on the Draft Winery Ordinance EIR

Land Use:

- 198 1. The Draft EIR statement that the proposed DWDO would reduce the County's General Plan Agricultural Land Use Intent from 40 acres to 10 acres is misleading. This statement exaggerates the effect of the DWDO by creating a vision of the entire county being divided into 10 acre parcels.
- 199 2. The Draft EIR implies, but does not state, that the cumulative negative effects such as increased traffic, water use, pollution and destruction of wildlife will be mitigated by allowing only large new wineries rather than small. No data or arguments are offered to support this allegation.
3. The negative impacts mentioned above are much more likely to occur as the result of large wineries than small. Small, family-owned wineries generally have neither the capital, facilities, nor desire to conduct activities which detract from the quality of life which they seek here.
- 200 4. The DWDO carefully protects the rights of the owner of a vineyard of at least 10 acres who may wish to establish a small winery. It also appropriately ensures that these new small wineries will produce a local product, and not large quantities of wine made from grapes imported from outside the county.

201 I have been a resident of Napa County for more than 20 years, and have been developing a vineyard on a 20 acre property with my own effort. I am restoring a winery and cellar which was established in the 1860s. The Draft EIR ignores the right of a vineyard owner of between 10 and 40 acres to establish a small winery. Without supporting data, they have recommended expansion of larger wineries rather than allow small vineyard owners to produce wine from their own grapes. I submit that the Draft EIR analysis and recommendations on land use is erroneous, that the solutions are simplistic and ineffective, and that they ignore the rights of the group of small vineyard owners.

RECEIVED

NOV 13 1989

11:30 AM

November 12, 1989

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

Napa County Conservation Development & Planning Department  
Office of Special Projects  
Attention: William L. Selleck RE: DEIR 60  
1195 3rd Street Room 210  
Napa, Ca 94559

Dear Mr. Selleck:

At the outset, let me say that the intent of the DWDO as I understand it is to mitigate impacts caused by industry related growth, putting restraints in place, i.e., regulating among other things:

- 1) non-agricultural accessory uses
- 2) number of wineries
- 3) winery development areas and winery production capacities

(202)

Accordingly, I question the conclusion on p.72 of the Draft Environmental Impact Report that the elimination of the Small Winery Exemption (SWE) would not "over time be a significant benefit to the county." This statement is inconsistent with one of the key elements of the Environmentally Superior Alternative recommended by the Draft EIR, namely that all "future development or expansion of existing facilities be subject to a County Use Permit" (also, p.72). The simple logic is that you can't do one thing without the other. In other words, in order to bring all wineries under use permit, you must eliminate the small winery exemption. Bringing all wineries under use permit is acknowledged to be a significant benefit to the County; therefore the elimination of the small winery exemption must also be acknowledged as a significant benefit to the County.

(203)

Furthermore, I would challenge the statement in the DEIR on page 14 that "Wineries under the Small Winery Use Permit Exemption are not permitted to operate visitor-serving facilities." While this is true on the books and the 1980 Ordinance governing small winery exemptions states that these wineries do not "conduct public tours, provide wine tastings, sell wine-related items or hold social events of a public nature," they are nevertheless allowed retail sales, and in effect, are open to the public.

At latest count, there are 61 SWexemptions scattered county-wide (many on unpaved back roads) that have the potential to create, and are creating significant local impacts, particularly in the area of traffic. Tourist-oriented brochures distributed state-wide list many SWexemptions as open for tastings, tours by appointment, and picknicking. Some SWexemptions are even listed as having access for the handicapped. With respect to signage by strict letter of the law (according to County Counsel), SWexemptions have the right to a 10 foot by 10 foot on-site sign, indicating the name of the winery, and that it is open for retail sales. Some SWexemptions already have such signs.

Consequently, the DEIR's conclusion that "in the future a larger percent-

tage of small wineries will have visitor serving facilities" is inadequate because small wineries without use permits are open to the public now and are accomodating visitors. This is good reason for requiring them to have use permits which as I already pointed out is one of the mitigations recommended by the environmental impact report anyway. At least we'll be able to impose environmental standards subject to CEQA and public hearings relative to the actual use. This will help to decrease the significant adverse impacts related to industry growth which are projected by the year 2010 if the mitigations in the Superior Alternative Project are not implemented.

- 204
- 205 Finally, there is no real evidence in the EIR which suggests that the elimination of the SWexemption would diminish the number of small wineries starting up in the Napa Valley. The loss of an economic incentive does not necessarily mean average production capacity will increase. It merely means that the loss of the incentive will limit the number of new wineries (which is a perceived benefit) because entry cost into the market will be higher. There are now 33 small wineries (under 20,000 gals) operating in Napa County under use permits. These wineries (more than half of the 61 operating without use permits) started up on a small scale without opting for the incentive of the SWexemption. We will continue to see them in as great a proportion as we always have.

Granted, it is more difficult to start up when use permits are required. But any business faces this. Because it is more difficult does not mean that we are disadvantaging the small wineries vis a vis the larger wineries. We are in fact treating all businesses equally. Do we have fewer small businesses than large businesses in California or the nation as a whole? I'm not sure that the statistics are in on this one, or even if they were that they would be relevant to the goal at hand, which is to avoid the adverse environmental effects related to industry growth.

- 206 On another but related subject, the DEIR should explain why private tours/tastings are considered agricultural uses (see p.1 by implication, since these uses are not on the list of non-agricultural uses) and public tasting rooms are considered non-agricultural uses. The DEIR states that "private tours and tasting can, and often do, attract as many visitors as public tours and tasting." The proposed signage mitigation "Not open to the Public" distinguishes between private and public tours/
- 207 tastings and is therefore a more adequate description of use. Make it clear that the mitigation relates to this point by placing the problem and its proposed mitigation on the same page in your text. It is an acknowledged fact that visitors get around present signage: "Tours and Tours and Tastings by appointment Only" by simply arriving first and making an appointment afterwards, if necessary.
- 208 Similarly, the term "marketing" needs definition. Private promotional activities in the DWDO "include, but are not limited to, food service,
- 209 seminars and cultural and social events," which is just about everything. Is this all-inclusive definition the reason for your statement that the DWDO would "by incorporating a broad-definition of visitor serving uses

into the Zoning Ordinance ... allow additional visitor-serving uses and promotional events." If so, make this clear. Does this also mean that the Ordinance would allow all legitimized non-agricultural uses to expand beyond their present footprint into the winery development area as defined or as extended in the DWDO?

Thank you for your consideration in allowing me to participate in the public comment process and to enumerate my concerns.

Sincerely,

*Francine Davis*

Francine Davis  
263 Petrified Forest Road  
Calistoga, CA 94515

HOWARD G. DICKENSON  
JOSEPH G. PEATMAN  
WALTER J. FOGARTY, JR.  
DAVID W. MEYERS  
C. RICHARD LEMON  
FRANCIS J. COLLIN, JR.  
DAVID B. GILBRETH  
CHARLES H. DICKENSON  
ANNE M. KIRLIN  
PAUL G. CAREY  
RICHARD P. MENDELSON  
PAUL A. NEUMILLER  
XAVIER A.M. LAVOPIERRE  
CATHY A. ROCHE  
FRANK G. TOLLER

DICKENSON, PEATMAN & FOGARTY  
A PROFESSIONAL LAW CORPORATION  
809 COOMBS STREET  
NAPA, CALIFORNIA 94559-2977  
TELEPHONE 707 252-7122

OF COUNSEL  
JAMES D. BOITANO  
ROGER D. PETERSON

TELECOPIER  
707 255-6876

November 13, 1989

RECEIVED

NOV 13 1989

11:35 AM

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

Napa County Conservation,  
Development and Planning Department  
Office of Special Projects  
Attn: William L. Selleck  
1195 Third Street, Room 210  
Napa, CA 94559

Dear Mr. Selleck:

On behalf of our client, Robert Mondavi Winery, we wish to offer these comments on the Draft Environmental Impact Report (DEIR) covering the Draft Winery Definition Ordinance (DWDO):

- (210) 1. The DEIR does not clearly distinguish between the direct impacts of the project and the cumulative impacts of winery development with or without the project.

We believe the introduction should contain an explanation of direct and cumulative impacts and that all subsequent impacts should be identified as either direct or cumulative. The "Summary" reaction does make this distinction but many readers will not understand the differences unless there is a more complete explanation in the introduction. For example, on p. 21 under "III Effects Found not to be Significant," it appears that the impacts described are direct impacts and not cumulative impacts, and yet this is not explained.

- (211) On p. 26 there is an explanation of direct and cumulative impacts but even that is somewhat misleading because cumulative impacts are tied to the DWDO, when they would more properly be described as the total of all winery development with or without the DWDO.

Secondly, the EIR as written gives the impression that the DWDO is responsible for the cumulative impacts when in fact they would occur with nearly the same intensity under the current regulations.

2. We do not agree that the proposed Winery Development Ordinance is inconsistent with the County General Plan. The DEIR states that the General Plan inconsistencies occur in these areas:

P. 29 under "Impacts": "Adoption of the proposed DWDO would have a significant adverse impact on land use in Napa County. Specifically, the proposed DWDO would:

"1. Effectively reduce the County's General Plan Agricultural Land Use Intent from 40 acres to 10 acres;

"2. Provide a mechanism to either legalize existing illegal uses or permit expansion of non-agricultural uses in the Agricultural Resource and Agricultural Watershed areas."

Regarding 1 above it should be noted that the DWDO does not allow the creation of 10 acre parcels and further does not propose to reduce the minimum lot parcel size from 40 acres to any lesser amount. It merely allows winery related activities to occur on already created parcels of 10 acres or more. This should not and cannot be interpreted as reducing the Agricultural use "intent" from 40 acres to 10 acres. What is being proposed is no different than many other provisions of the current zoning ordinance which allow new development on appropriately zoned legal, non-conforming, vacant parcels.

Regarding number 2 above we would respond that the DWDO does not propose to legalize illegal uses. In order to make more clear our point on this we have proposed amendments to the DWDO which create a mechanism or process to allow uses which are, or will become legal non-conforming to be legal and conforming. To qualify for the process a use must be legal, and non-conforming. An illegal use will not qualify for this process.

Concerning expansion into the Agricultural Resource area we would question why it is that hundreds of new wineries, winery expansions and accessory uses have been allowed into the Agricultural Resource area in the last several years on the basis that such expansion was in fact consistent with the County's current General Plan.

It is suggested that the reason for the determination that the preceding projects were consistent with the General Plan and the reason why they should be seen as consistent with the DWDO is that wineries are considered to be agricultural uses and that uses such as sales and tours and tastings are accessory and



incidental to these agricultural uses.

Your inconsistency interpretation flies in the face of many years of use permit approvals which always contain findings of general plan consistency on this same point. Obviously the Board of Supervisors has interpreted the General Plan to allow wineries with their accessory uses in agricultural areas. We agree that present general plan policies should make a clear statement in line with the Board's longstanding interpretation and suggest that the DWDO be accompanied by a General Plan Amendment to this effect. Specifically, we would suggest an amendment which would make clear the interpretation that tastings, tours and other similar uses are an acceptable accessory use to a winery.

(215) Finally, the point of the DWDO and this draft EIR was to develop a workable definition of a winery and regulations to handle future applications, not to analyze general plan consistency of already existing wineries. If the DEIR must discuss general plan consistency of past projects the obvious mitigation measure is the general plan amendment we suggest above.

(216) 3. The "Abatement" mitigation measure proposed to mitigate the impact of legalizing illegal uses or to permit expansion of new agricultural uses in the Agricultural Resource Area is not necessary.

(217) We note that the proposed Ordinance with the latest revisions cannot be seen as an attempt to legalize illegal uses nor was that the intent of the "Project" draft Ordinance (DWDO). We ask that the third mitigation under Direct Land Use Impacts be eliminated. As written, this measure would require the abatement of duly established wineries under the Winery Exemption provisions and other legal non-conforming wineries would be forced to give up a legally established right which is contrary to the provisions of the U.S. Constitution.

(218) We believe that these land use aspects are not direct impacts of this project, for the simple reason that present regulations against which the "project's" impacts are to be measured are essentially the same as those provided in the DWDO. See table 1, p. 27 for a comparison of various land use factors in the year 2010 "under current regulations" and "Under DWDO." There is no rational connection or nexus between the potential impacts of the draft ordinance and this abatement mitigation measure. The measure therefore cannot be legally imposed.

In conclusion, we would argue that under the land use and cumulative impact description there are no significant adverse impacts of the project and therefore no need for the mitigation

measure proposed.

219 4. The EIR does not discuss the amount of new winery development or expansion which will take place within incorporated cities in Napa County. Specific amounts of projected winery growth are assigned to these cities in the Master Environmental Assessment (MEA). However, the DEIR does not make such a distinction. The effect of this assignment while not necessarily altering traffic impacts will surely reduce impacts upon the County in areas such as general plan consistency, water resources, vegetation, wildlife and visual/aesthetic considerations.

220 5. The Final EIR should provide an environmental analysis of the environmentally superior alternative, Alternative #2, as it has done "with" and "without" the project and for cumulative impacts.

221 6. The DEIR needs to be revised so as to reflect the changes in the DWDO which are contained in the attached documents which were received by the Board of Supervisors on November 7, 1989. This revised DWDO is now the project for which the EIR is being prepared and so the Final EIR should so treat it. The EIR consultant should note in particular that the 18 month grace period has been removed and that there is no procedure proposed which would allow illegal uses to become legal. The primary thrust of the November 7 amendments is to allow uses which existed prior to 1974 and uses which will be made non-conforming by the DWDO a process whereby they can attain a conforming status under the County's zoning regulations. Since these uses legally exist we would find it difficult to assign a significant impact to this change.

7. Growth Inducing Effects. The DEIR on p. 2, under "C. GROWTH INDUCTION," states that the DWDO allows a variety of promotional events not currently allowed, including "for profit events," noting that - "It is possible that these promotional activities will increase the visitor forecast."

222 P. 68 of the DEIR provides a hypothetical case to show how 500,000 event-person-days would be generated. This additional visitor load is not reflected in table 1 nor is there hard evidence that the hypothetical activities will generate any more visitors than would otherwise come to the Napa Valley.

It is not appropriate for the EIR to contain such a statement when there is no evidence presented to substantiate it. The same must be said for the statement on p. 2 under "Growth Induction that" "...visitor growth and secondary growth of visitor-serving commercial may be accelerated." The DEIR does

not present evidence in support of this statement given the comparisons between current regulations and the DWDO presented in Tables 1 and 2, nor is there any evidence presented in the Master Environmental Assessment (MEA) which supports the statements in the DEIR that the DWDO would "...cause more rapid and/or more overall growth than anticipated in the baseline visitor forecast." It is suggested that the hypothetical forecast of promotional events presented in the last two paragraphs on p. 58 of the DEIR be eliminated.

(223) 8. Alternatives. With the determination that the DWDO is consistent with the present general plan and in consideration of the amendments made to the DWDO as recently submitted to the Board of Supervisors, implementation of Alternative 2 will not be necessary. It is, therefore, recommended that the final EIR not contain a recommendation to accept Alternative #2 and that any remaining significant cumulative impacts be addressed in a statement of overriding consideration.

(224) 9. Conclusion. These comments do not include a response to the mitigation measures "associated with MEA" that were distributed as an undated "Supplemental Information Transmittal" a few weeks ago. It is our understanding that these mitigation measures are to be a part of a Program EIR created from the MEA, which will have its own separate EIR process. Furthermore, some of the mitigation measures in the supplement pertain to farming practices and are therefore not related to the "project."

(225) In sum, the DEIR does not ask or answer the obvious question: Given the minimal impacts the DWDO will have as compared to the existing regulations why was an EIR necessary at all?

Very truly yours,

DICKENSON, PEATMAN & FOGARTY



GARY GOUVEA  
Community Planner

GG:ch  
JGP/WINERY.ORD

Domaine Chandon

November 13, 1989

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NOV 13 1989

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

Mr. Jeff Redding  
Director Napa County Planning Commission

RE: DEIRGD WINERY DEFINITION ORDINANCE

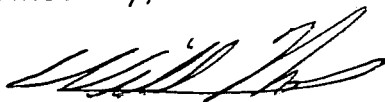
Dear Jeff;

I am disappointed with the DEIRGO. It is not cohesive and has either made assumptions in many places or did not contact the appropriate agency. As examples are.

- (226) PG 33. There are a number of wells in Napa Co. where water is pumped lower than 200 ft.
- (227) PG 34. Surface water. Isn't it more appropriate to use rainfall data than to quote an excellent winemaker?
- (228) PG 35. How was it determined that the Napa River habit is the third most valuable in California?

I'm afraid that this report is an example of the old adage haste makes waste. Napa Valley will not self destruct if the winery moratorium lapses. Lets make sure we have a valid E.I.R. and then move forward.

Sincerely,



Will Nord  
Vice President Viticultural Operations

WN:cb

B-71



1978 W. Zinfandel Lane, St. Helena, California 94574, USA  
Telephone (707) 963-5711 • FAX (707) 963-7518

November 8, 1989

NOV 13 1989

12:00 p.m.

Napa County Conservation, Development & Planning  
Office of Special Projects  
Attn: William L. Selleck  
1195 Third Street, Room 210  
Napa, CA 94559

RECEIVED  
NAPA COUNTY  
DEVELOPMENT

SUBJECT: Winery Definition Ordinance - E.I.R.

Dear Mr. Selleck:

After reviewing the D.E.I.R. prepared by LSA, Inc. I would like to lend the following comments and inquiries to the record.

(229) 1) Both the D.W.D.O. and the D.E.I.R. seem to lack proper focus. Are we trying to preserve the agricultural atmosphere of the Napa Valley, or are we just so outraged with the existing winery industry that we want to curb its growth? And why do we want to curb its growth; for the preservation of agriculture, or to make room for other industries or residential interests?

(230) 2) Is the present General Plan inadequate, or is the problem that the county has no enforcement agency to enforce the Plan? How will the new ordinance be enforced? Please identify and describe current illegal uses. Is it widespread, or just an isolated few? Why can't these laws be enforced?

(232) 3) Are small wineries causing disruption in our environment or is it the large wineries? It seems to me both the D.W.D.O. and the D.E.I.R. lean towards the protection of the large existing wineries with all of their amenities, to the exclusion of small wineries. Are there any facts about where the auto accidents and delays occur? I would be surprised if it were the small wineries. The ones I have noted are in front of large wineries and restaurants.

(233) 4) Is the purpose of the D.W.D.O. and the D.E.I.R. to restrict winery business or solve some of our environmental problems? If the latter, we should restrict the number of trips to a winery, rather than the purpose of the trips to the winery. In other words, make wineries submit trip counts at the time of application and make each winery install an electrical count station at the entrance to the winery. Have the county read the meters monthly. We should not be trying to curb the wine business, but rather the traffic. The county should make ordinances which deal with absolutes (numbers), not personalities. Let wineries manage their business by maximizing the use of the count.

- (234) 5) No analysis has been made to what comprises the winery industry. I feel a winery is comprised of growing grapes, processing grapes to wine, and marketing wine products. If any of these elements is missing, it is not a complete operation.
- (235) Why do existing wineries buy or build more wineries in the same valley? What happens when a few owners own all of the wineries?
- (236) 6) I think the sale of Napa Valley fruit produced in the fields, and/or processed into wine, is part of the implied use covered in the agricultural preserve act. The violation is selling products not produced from the soils of Napa Valley. I, therefore,
- (237) propose anyone not using 75% Napa Valley grapes, not be allowed retail sales — the rest have that right.
- (238) 7) The traffic studies mitigated items are laughable. No mention of what public transportation might do for the industry or the environment. Could the train be used to help the traffic problem, or a bus system, or independent winery or tour group mass transit from down valley to up valley?

Cummulative impacts for traffic. The mitigated measures appear to have the purpose of preserving the highway and no concern about the agricultural preserve. Let's make a plan that will work and can be enforced, instead of parroting the E.I.R.'s that private parties have already submitted. Listed below are some mitigation measures that might be considered:

a) Location: Have Napa to Yountville wineries close at 3:00 p.m.; Yountville to Rutherford at 3:30 p.m.; Rutherford to St. Helena at 4:00 p.m.; and St. Helena to Calistoga at 4:30 p.m.

b) No visitors should be allowed to enter or leave wineries after these hours until after 6:00 p.m.

c) Deliveries should have the same schedule so trucks will not be stopping or turning on the southbound route during peak hours.

d) No tour busses allowed on Highway 29 between 4:00 and 6:00 p.m.

e) Run public bus service or train service for employees and/or visitors subsidized by wineries who have tours and tastings.

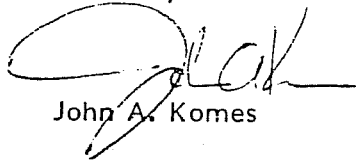
- (239) 8) What impact do the independent cities and townships play in creating the environmental impacts, particularly traffic, or in making any of this ordinance work, or are they just exempted little pools of culture? If the cities and townships adopt the same ordinances, is it not more apt to have a positive effect than if they ignore this ordinance? How can you measure cummulative traffic impact with the cities supporting growth of winery and tourist facilities, with purchases of county land for their waste water projects? Just lately, the City of St. Helena has approved hotel expansion, bed and breakfasts, restaurants, delicatessens, and winery expansions, including a culinary center at one winery. How can you have an adequate E.I.R. without the study of the cities growth patterns? Is the county supposed to forfeit the natural rights of their land for the cities gain?

(240) 9) The only significant change brought about by this ordinance is less wineries. All other items analyzed are insignificant using the general rule that any change less than 10% is insignificant. This again just shows how the authors of the D.W.D.O. tried to deceive the public with a mute act of reform for the benefit of the existing (themselves). Ordinances should apply to land use, not with establishing an imbalance in the wine industry. What applies to one parcel applies to the others.

(241) 10) The original Ag Preserve Act was written to save the valley from the big developer, which it did. The threat now is from the big wineries and the mass of individuals looking for homesites in the Ag Preserve and Ag Watershed areas. The homes use as much land as a small winery, so let's make an ordinance which applies to both. Let's make an ordinance that saves the land — not one that destroys the roots of our wine culture, the small winery. If there are minimum density standards for wineries, then there should be minimum density standards for residents, too.

(242) Let's do a proper study with objectivity — identify the problems and mitigate them. This E.I.R. assumed the solutions without identifying the problems. I have read four recently submitted E.I.R.s on individual proposed projects — Swanson, Stone Hedge, La Croix, and Whitehall Lane — all of them spending more time identifying the problems of traffic and all of them offering better cumulative solutions than this document. Not a word on the wine train; in fact, there are no specifics of the region at all. How can you mitigate traffic when you only study 20 to 30 percent of it? What causes the other traffic? Please don't approve this study until it's complete.

Sincerely,



John A. Komes

June M. Foote  
6110 Silverado Tr.  
Napa, CA 94558

RECEIVED

NOV 13 1989

12:00 PM

November 10, 1989

Napa County Planning Dept.  
Office of Special Projects  
Will Selleck  
1195 3rd St. - Room 210  
Napa CA 94559

Dear Mr. Selleck,

(243) I am opposed to non  
wine-making activities on agricultural  
land. What else is a winery for  
except for processing its product.

Thank you,

June M. Foote



DAVID B. GAW  
NICHOLAS R. VAN MALE  
WYMAN G. SMITH, III  
ALVIN J. KNUDSON  
BRUCE A. MYERS  
BRUCE A. MIROGLIO  
M. KENDALL HILLMAN  
DAVID A. DIAMOND  
JAMES W. LAUGHLIN

LAW OFFICES  
GAW, VAN MALE & SMITH  
A PROFESSIONAL LAW CORPORATION  
944 MAIN STREET  
NAPA, CALIFORNIA 94559-3045  
TELEPHONE (707) 252-9000  
FAX (707) 252-0792

NOV 13 1989  
NAPA CO. CONSERVATION OFFICES  
DEVELOPMENT & PLANNING DEPT.  
ADAMS STREET  
ST. HELENA, CALIFORNIA 94574-1110  
TELEPHONE (707) 963-1926  
TELEPHONE (707) 944-1740  
FAX (707) 963-0226  
CORPORATE PLAZA  
1261 TRAVIS BOULEVARD  
SUITE 350  
FAIRFIELD, CALIFORNIA 94533-4801  
TELEPHONE (707) 425-1250  
FAX (707) 425-1255

November 13, 1989

Napa County Conservation  
Development & Planning Dept.  
Office of Special Projects  
Attn: William L. Selleck  
1195 Third Street, Room 210  
Napa, CA 94559

Re: Draft EIR for the Draft Winery Definition Ordinance

Dear Mr. Selleck:

244

We represent numerous clients who stand to be affected by the County's proposed Winery Definition Ordinance (DWDO). We have therefore reviewed the proposed ordinance as well as the Draft Environmental Impact Report (DEIR) prepared in conjunction with that project. On behalf of our clients, we are submitting to you our comments and concerns on the DEIR. While the substance of our comments relates to the alternative analysis contained in that document, we realize that many of our other concerns are being brought to your attention by other parties.

It is now a well recognized rule of the CEQA that an EIR must discuss both mitigation measures and project alternatives. (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 403.) More specifically, an EIR must describe and discuss a "range of reasonable alternatives to the project, or locations to the project, which could feasibly obtain the basic objectives of the project." (Guidelines, 15126(d).) One of the alternative must be the "no project" alternative. (Guidelines, 15126(d)(2).)

245

The DEIR's discussion of the "no project" alternative is faulty for three distinct reasons: First, it defines the no project alternative simply by making a reference to another study. Second, this alternative seems to be build-out under existing conditions rather than maintaining today's existing conditions. Third, the discussion of this alternative is very brief and conclusory.

The DEIR identifies the "no project" alternative as follows: "This alternative would parallel the Baseline Case as defined in the analysis prepared by Economic Planning Systems." (DEIR, p. 71.) What is this? Unless we have that document, all we can do is guess.

An agency must compile all relevant environmental data into a single format document, in order to facilitate public input and the decision making process. (Emmington v. Solano County Redevelopment Agency (1987) 195 Cal.App.3d 491, 503.) In that case, the agency had prepared an initial study that made reference to impact discussions contained in nineteen previously prepared EIR's and planning documents. The court reasoned that the public and the decision makers should have all relevant information presented to them in a single document rather than be forced to research through other documents.

It appears that the "no project" alternative is build-out under existing conditions. This assumption can be drawn from the fact that the proposed ordinance allows new wineries and expansions, together with the statement that "the No-Project Alternative and the DWDO would parallel each other by the year 2010." (DEIR, p. 72.)

(246)

Under CEQA, eventual build-out under existing conditions may not be used as the no-project alternative. In Environmental Planning & Information Council v. County of El Dorado (1982) 131 Cal.App.3d 350, 354, the court held that a county, in analyzing the impacts of a general plan amendment, should have used existing conditions on the ground as the starting point of its environmental analysis. The agency had wrongly compared environmental conditions under build-out of the proposed new plan with the conditions that eventually would exist under build-out of the existing plan. The EIR should have analyzed how build-out under the proposed plan would affect the existing environment. Dusek v. Redevelopment Agency (1985) 173 Cal.App.3d 1029, 1043, confirms that the "no-project" alternative must look at existing conditions on the ground rather than eventual build-out under existing conditions.

The discussion of the "no-project" alternative, or rather the lack of any meaningful discussion of that alternative, also renders the DEIR defective. The discussion contained in the DEIR is as follows:

"Our analysis has concluded that neither feature would, over time, be a significant benefit to the County.

"It is assumed that the DWDO would, by the year 2010, generate fewer wineries. However, it is not structured to create fewer impacts. Best case, the No-Project Alternative and the DWDO would parallel each other by the year 2010. Worst case, the DWDO would increase impacts during the same planning horizon." (DEIR, p. 72.)

(247)

The key issue is whether the selection and discussion of alternatives fosters informed decision making and informed public participation. (Guidelines, 15126 (d)(5).) Conclusory comments in support of environmental conclusions are generally inappropriate. (Laurel Heights, supra, 47 Cal.3d at 404.) In Laurel Heights, three alternative were presented in one and one-half pages of text in an EIR. The Supreme Court held that this was not a discussion of any kind, and was barely an identification of alternatives. (Laurel Heights, supra, 47 Cal.3d at 403.) The same situation is presented in the Winery Definition Ordinance DEIR.

(248) As to the other alternative mentioned in the DEIR, this is merely a restatement of the proposed mitigation measures. As stated above, the Supreme Court held that an EIR must contain a meaningful discussion of both mitigation measures and alternatives to the proposed project. (Laurel Heights, supra, 47 Cal.3d at 403.) The Winery Definition Ordinance DEIR has taken the proposed mitigation measures and relabeled them as a project alternative. As a result, the public and the decision makers are presented with any alternatives that could feasibly obtain the basic objectives of the proposed ordinance.

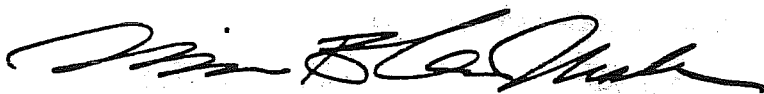
(249) It is not enough that the County may have considered various alternatives and found them lacking for one reason or another. The project proponent in Laurel Heights argued that such a procedure was adequate. The Supreme Court held otherwise, stating that without a meaningful analysis of alternatives in an EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. If certain alternatives are found to be infeasible, such alternatives and the reasons they were rejected must be discussed in the EIR in sufficient detail to enable meaningful participation and criticism by the public. (Laurel Heights, supra, 47 Cal.3d at 404-405.)

(250) We are therefore asking that the analysis of alternative contained in the DEIR be substantially revised and augmented in the Final EIR. In particular, we ask that the "no-project" alternative be properly identified and discussed. In addition, we ask that true alternatives to the proposed ordinance, rather than simply mitigation measures disguised as an alternative, be identified and discussed so that the public and the decision makers will have useful information to review and consider.

(251) We are confident that they can be made without unreasonably delaying the ordinance adoption process. We believe, however, that true alternatives to the proposed project can be identified and discussed only after the objectives of the proposed project are identified and clearly stated to the public. We therefore ask that the Final EIR clearly identify the objectives of the project, so that the public will know why this action is being undertaken.

Very truly yours,

GAW, VAN MALE & SMITH



NICHOLAS R. VAN MALE  
NVM/mjs

# HETLAND & HANSEN

A Professional Corporation

2800 WARRING STREET  
BERKELEY, CALIFORNIA 94704-3415

TELEPHONE (415) 548-5900

FACSIMILE (415) 548-0197

University Office

JOHN R. HETLAND  
SCHOOL OF LAW (BOALT HALL)  
BERKELEY, CALIFORNIA 94720  
(415) 861-1405

Orinda Office  
20 REDCOACH LANE  
ORINDA, CALIFORNIA 94563  
(415) 884-4765

November 14, 1989

RECEIVED

NOV 14 1989

Napa Valley County Conservation  
Development & Planning Department  
Office of Special Projects  
Attention: William L. Selleck  
1195 Third Street, Room 210  
Napa, California 94559

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

Re: Draft Environmental Impact Report for Draft  
Winery Definition Ordinance

Dear Mr. Selleck:

This office represents Pope Vineyards. We are hand-delivering this letter and the enclosed comments to you on November 14, 1989, in the expectation that it will be deemed timely received pursuant to your telephone conversation yesterday with Andy Cangemi of Pope Vineyards.

We believe that Pope, along with numerous other Napa growers and vintners, will be adversely affected by the County's proposed Winery Definition Ordinance, now in draft form. The purpose of this letter is to set forth Pope's comments based on our review of the Draft Environmental Impact Report ("Draft EIR") for the Draft Winery Definition Ordinance ("DWDO"). While most of our comments here will focus on the adequacy of the Draft EIR, we will also point out certain issues of due process raised by the Draft EIR which may go beyond the conventional scope of issues raised in the course of the CEQA process.

## ADEQUACY OF THE DRAFT EIR

1. Failure to Adequately Consider and Elaborate Project Alternatives.

(252)

We believe that the Draft EIR fails to adequately describe or consider reasonable alternatives to the project as required by CEQA, the implementing regulations (see, particularly, 14 Cal. Administrative Code 15126(d); and several California cases including Citizens of Goleta Valley v. Board of Supervisors (1988) 197 Cal.App.3rd 1167 and Citizens for Quality Growth v. City of Mount Shasta (1988) 198 Cal.App.3rd 433. Aside from its perfunctory consideration of the "no project" alternative, the Draft EIR makes no effort to analyze the alternative of a less

(253)

Mr. William L. Selleck  
Napa Valley County Conservation  
Development & Planning Department  
Office of Special Projects  
November 14, 1989  
Page Two

comprehensive "project" in the form of a winery definition ordinance applied on a more geographically-focused basis as opposed to a County-wide basis.

254

Because of the superficial and two-dimensional discussion of alternatives, the Draft EIR does not contain any meaningful discussion of the environmental impacts of those alternatives as required by CEQA. See, County of Inyo v. City of Los Angeles (1981) 124 Cal.App.3rd 1.

2. Failure to Consider Environmental and Social Impacts Resulting From Economic Impact of the Project.

The Draft EIR is candid in stating that the economic effect of the DWDO and of the proposed mitigating measures described in the Draft EIR will be to favor larger winery operations, to discourage the expansion of existing small wineries and to limit competition and create concentration in the wine industry. This is particularly evident on page 14 of the Draft EIR in the following passage:

"It is predicted that the loss of this incentive [referring to the small winery use permit elimination] would increase the average production capacity, and therefore the size, of new wineries built in the future. This increase is anticipated, in turn, to reduce the total number of new wineries built. Fewer of these larger wineries would be required to meet the future demand for wine.

Implementation of this DWDO provision could also make expansion of existing small wineries more difficult, ...".

255

Pope is aware that a purely economic effect is not an environmental effect within the scope of CEQA. However, we believe that the economic impact of the ordinance, and particularly the discouragement of small winery operations, may well have environmental and social impacts on such matters as housing distribution, traffic patterns and similar considerations, which have not adequately been explored in the Draft EIR. We believe that the Draft EIR is inadequate in failing to explore environmental consequences mediated by the economic impacts described in the Draft EIR. See, No Slow Transit, Inc. v. City of Long Beach (1987) 197 Cal.App.3rd 241;

Mr. William L. Selleck  
 Napa Valley County Conservation  
 Development & Planning Department  
 Office of Special Projects  
 November 14, 1989  
 Page Three

- (256) Citizens of Goleta Valley, supra. The environmental impact of mitigating measures themselves must also be discussed, but this is not done in the Draft EIR. Stevens v. City of Glendale (1981) 125 Cal.App.3rd 986.

### 3. Failure to Compare Mitigating Measures.

- (257) The general methodology of the Draft EIR is to describe sometimes lengthy lists of mitigating measures without describing the relationship between those mitigating measure or a basis for selecting one or more particular measures.

### 4. Inadequacy of the Draft EIR's Treatment in Section VIE of the Relationship Between Local Short-Term Uses and Long-term Productivity.

- (258) Section VIE of the Draft EIR is cursory at best, and fails to address itself to the crucial issues, required to be discussed under this category including, without limitation, the reason, if any, why the proposed project is justified now as opposed to reserving an option for future alternatives. (See, 14 Cal. Administrative Code 15126(e)). Full and comprehensive treatment of the relationship between local short-term uses and long-term productivity is specifically required for projects which consist of, among other things, the adoption, amendment, or enactment of a plan, policy or ordinance of a public agency; See, Longtin, California Land Use 2nd ed. Section 4.62(9), Page 462.

### Non CEQA Issues

- (259) While somewhat peripheral to the traditional CEQA analysis, Pope Vineyards wishes to point out that certain passages of the Draft EIR reveal serious questions about due process and the propriety of delegation of legislative authority. At page vii, the Draft EIR states:

"The Draft Winery Definition Ordinance (DWDO) was prepared by representatives of the Napa Valley Vintners Association and the Napa County Grape Growers Association, the Napa County Farm Bureau, and County Counsel's office."

One can find a more detailed description of the process by which the DWDO was developed at page 13 of the Draft EIR which states:

Mr. William L. Selleck  
Napa Valley County Conservation  
Development & Planning Department  
Office of Special Projects  
November 14, 1989  
Page Four

"In response to these concerns an effort was begun several years ago to develop a DWDO that would regulate winery development and expansion in a manner that avoided potential negative environmental effects. After initial efforts by County staff, the effort was turned over to a group of experts representing the vintners and grape growers of the County." (Emphasis added.)

Pope Vineyard wishes to express strong reservations about the propriety of the procedure described in the above-quoted passage of the Draft EIR and also wishes to state for the record that those interests to which the DWDO was "turned over" do not represent the best interests of Pope Vineyards or many similarly situated enterprises in Napa County. We believe that the process described in the Draft EIR raises serious issues concerning a potentially unlawful delegation of legislative authority. Compare Bayside Timber Co. v Board of Supervisors 20 Cal.App.3d 1, 10-14 and cases collected therein.

Very truly yours,



Charles A. Hansen

CAH:sjk

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OCT 25 1989

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

BILL JENKINS  
5835 DRY CREEK RD.  
NAPA, CA. 94558  
707-944-1190  
OCT. 24, 1989

MR. WILLIAM SELLECK  
NAPA COUNTY CONSERVATION  
DEVELOPMENT AND PLANNING DEPT.  
OFFICE OF SPECIAL PROJECTS  
1195 THIRD ST. - RM. 210  
NAPA, CA. 94559

DEAR MR. SELLECK,

260

HAVING READ DEIR 60 I'D LIKE TO RESPOND FAVORABLY TO THE CONCLUSIONS THEY DREW AND RAISE SOME ISSUES THEY DIDN'T.

AS I READ IT, DIER 60 FINDS THAT ONLY IN THE BEST CASE DOES D.W.D.O. EQUAL THE NO-PROJECT ALTERNATIVE. IN PLAIN LANGUAGE, THE DRAFT WINERY DEFINITION ORDINANCE WILL PROBABLY MAKE THINGS WORSE THEN THEY WOULD HAVE BEEN HAD THERE BEEN NO MORATORIUM AND NO D.W.D.O.. I WOULD ADD THAT THE POLITE LANGUAGE OF THE EIR THINLY HIDES THE AWFUL TRUTH: D.W.D.O. IS AN ATTEMPT BY EXISTING WINERIES TO MONOPOLIZE AND ENHANCE THEIR OWN INTERESTS AT THE EXPENSE OF THIS UNIQUE MICROCLIMATE AND TO THE EXCLUSION OF FUTURE MORE HIGHLY MOTIVATED PLAYERS.

AS THE OWNER-OPERATER OF A SMALL FAMILY VINEYARD IN THE MAYACAMAS MOUNTAINS I AM DEEPLY FRUSTRATED BY THE MORATORIUM AND THE D.W.D.O.. I BEGAN TEN YEARS AGO TURNING A LOGGED OVER HILLSIDE (CIRCA 1950) INTO A BEAUTIFUL HILLSIDE VINEYARD.

PROGRESS WAS SLOW AS STRINGENT ECOLOGICAL AND ANTI-EROSIVE TECHNIQUE WAS EMPLOYED. IT WAS ALWAYS MY AIM TO TURN THESE DRY FARMED, ORGANICALLY GROWN GRAPES INTO FINE ESTATE CABERNET. I NEVER DREAMED THAT A SOUND AND TRADITIONAL APPROACH TO BECOMING A MEMBER OF THE NAPA WINE GROWING FRATERNITY WOULD BE CONSTRUED AS A THREAT.

FROM THE BEGINNING MY APPROACH LOOKED LIKE PART OF THE LONG TERM SOLUTION TO THE PROBLEM OF COMMERCIALIZATION AND CONCENTRATION ON THE VALLEY FLOOR.

261

THE NAPA VALLEY BECAME A RENOWNED PLACE BECAUSE OF A LARGE NUMBER OF SMALL HIGHLY MOTIVATED GROWERS AND PRODUCERS. AT A TIME WHEN THE TREND IS TOWARD CORPORATE, CONGLOMERATE, MULTINATIONAL TAKEOVERS IN THE NAPA VALLEY, IT'S ALARMING TO SEE NO MENTION OF THIS IN THE DEIR. DOES ANYONE REALLY WANT BEANCOUNTERS IN FOREIGN MONEY CENTERS MAKING THE DECISIONS THAT WILL DOMINATE THE FUTURE OF THIS AREA?



IT'S VERY COSTLY AND RISKY TO BE A SMALL FAMILY FARMER AND VINTNER IN THE NAPA VALLEY, BUT THE PAYOFF CAN BE RICH BOTH IN MONEY AND IN QUALITY OF LIFE. THE IMPACT OF THE D.W.D.O. WILL BE HEAVY ON US DUE TO HIGHER IMMEDIATE COSTS AND UNCERTAINTIES FOR THE FUTURE. WE LIVE, WORK, AND LOVE OUR LAND AND THAT RESULTS IN A LEVEL OF CARE YOU CAN'T ACHIEVE WITH "MITIGATION MEASURES".

AT THE LEAST THE CONTINUATION OF THE SMALL WINERY USE PERMIT EXEMPTION WOULD ENCOURAGE THE CONTINUED EXISTENCE OF THE SMALL, FAMILY WINEGROWER.

I DON'T KNOW HOW MANY OF US THERE ARE, BUT FROM MY POINT OF VIEW, HAULING MY 100 TONS OF GRAPES DOWN STEEP MOUNTAIN ROADS TO A WINERY ON HIGHWAY 29 DOESN'T LOOK LIKE IT WILL HELP ANYBODY, LEAST OF ALL ME.

SINCERELY YOURS,

*Bill Jenkins*

10/7/89

RECEIVED

TO: NAPA CO. CONSERVATION, DEVELOPMENT AND  
 PLANNING COMMISSION AND BOARD OF SUPERVISORS

NOV 9 1989

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

RE: DRAFT E.I.R. AND PROPOSED WINERY  
 ORDINANCE

- (265) THE DRAFT E.I.R. MAKES IT CLEAR THAT THE PROPOSED WINERY ORDINANCE WILL NOT LIMIT OVERALL WINERY GROWTH OR PROTECT CURRENT QUALITY OF LIFE IN THE VALLEY. IN FACT IT IS EXPECTED TO ENCOURAGE VAST GROWTH AND EXPANSION OF LARGE CORPORATE WINERIES, WHILE REMOVING INCENTIVES FOR SMALL WINERIES — ALL WITHOUT AN E.I.R. WHICH CLOSELY ANALYZES PROBABLE
- (266) IMPACTS UPON SUCH THINGS AS OUR WATER
- (267) SUPPLY. THERE ARE PROBLEMS WITH QUALITY AND QUANTITY OF WATER IN THE VALLEY NOW.
- (268) WE ARE APPALLED THAT OUR SMALL WINE AND THE NEARLY 60 OTHER SMALL WINERIES OPERATING UNDER THE STRICT REQUIREMENTS OF USE PERMIT EXEMPTIONS, MAY LOSE LEGAL RIGHTS WE CURRENTLY HAVE AND EXPECTED TO HAVE IN PERPETUITY. UNLIKE HUGE INTERNATIONAL CORPORATIONS, THESE SMALL FAMILY WINERIES ARE OWNED AND OPERATED BY PEOPLE WHO LIVE HERE AND ARE VESTED

Kate's Vineyard

5211 Big Ranch Road

Napa, California 94558

707-255-2644

B-85

IN THE COMMUNITY. THE E.I.R. PASSES  
OVER THE THREAT TO OUR BUSINESSES.

IT WILL BE EASY, IF OUR WINERIES  
ARE NOT A POLITICAL PAWN ALREADY  
TRADED AWAY, TO CONTINUE OUR LEGAL,  
CONFORMING USE. WE URGE YOU TO INSURE  
THAT OUR LEGAL, CONFORMING USE IS  
CONTINUED, THE USE PERMIT PROCESS IS  
NOT A POSSIBLE SOLUTION FOR MANY OF  
US BECAUSE OF PARCEL SIZE ALONE.

WE DO NOT BELIEVE THAT COMPROMISE  
LEGISLATION WILL SOLVE PROBLEMS OF  
ENFORCEMENT.

WE DO NOT BELIEVE THAT THE PROPOSED  
WINERY ORDINANCE IS IN THE PUBLIC IN-  
TEREST AND ARE UNABLE TO SUPPORT IT

SINCERELY,

Sally T. Bryant

Wm F. Bryant

SALLY T. BRYANT

WILLIAM F. BRYANT

S. OUR VINEYARD AND WINERY ARE NAMED IN HONOR  
OF 7 YEAR OLD DAUGHTER, KATE, TO WHOM WE  
WANT TO LEAVE A TINY LEGACY. WE HATE TO  
SEE THE DREAM OF HAVING A SMALL NAPA WINE  
COME TO AN END.

# KENT RASMUSSEN WINERY

Dan Jonas  
Napa County Planning Commission  
1195 Third Street  
Napa, California 94559-3092

October 25, 1989

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NOV 9 1989

RE: Winery Definition Ordinance and Draft EIR

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

Dear Commissioner Jonas:

I am writing to address the issue of the Small Winery Exemption Permit as it is affected by the Winery Definition Ordinance and the EIR. You may remember that I spoke briefly at the Public Hearing on Wednesday, October 18, 1989.

First, please understand that I acknowledge the need for a winery definition. As a resident of the Napa Valley, I am tremendously concerned about increased tourist traffic, and unchecked, indiscriminate winery growth. I also recognize the difficulty involved in arriving at such a definition, especially that it will be nearly impossible to find one that makes everybody happy.

Having said this, I must call your attention to page 14 of the Draft EIR. The apparent point of eliminating the SWE in the DWDO was to remove the incentive to start a small winery and expand to become a larger winery. As the EIR wisely points out, loss of the incentive to work within the gallonage limitations of the SWE will encourage those who must start with a use permit, to start with a larger winery. While the result will probably mean fewer small wineries, it will also mean those wineries that do start will have larger production capacities, and with this all the increased traffic and tourism associated with such. This is not solving the problem; in addition it is placing those of us currently operating under the SWE in jeopardy.

At the public hearing, you told me that you were not convinced that requiring those who currently operate under the SWE to apply for use permits, would create any serious hardship. I must stress something here. Most of us who operate under the SWE are family operated. We are not huge corporations, nor are most of us backed by armies of investors. We are small because we can operate as husband-wife teams, without employees, and still produce enough income to support ourselves and our business. We feel we are what the Napa Valley is all about; we create the image the Napa Valley likes to be known by.

The fact that we would become "legally non-conforming" would be a nightmare come true. As we find the ability to upgrade our wineries, (and I am not talking about increasing production, but bringing facilities up to date with more efficient equipment, etc.) having to apply for use permits, and opening ourselves to such requirements as traffic feasibility studies and other expensive studies and upgrades, places us in a position of financial hardship. If we apply for a use permit, it could likely be assumed that we wish to receive wine country tourists, even if this isn't our intention. Suddenly, when all we wanted was permission to pour some concrete so we could add one stainless steel tank, we may be required to build a new road, install public restrooms with wheelchair access, and a myriad other costly improvements. You can say that such permits will probably be granted to those already established with SWE on a discretionary basis, but that does not offer any guarantees that we will not have to face such a scenario anyway.

272

In essence, if we wish to upgrade, or if there should be a fire, we will be put in the position of starting all over with the permit process, and at far greater expense. Such a situation would very possibly put a number of family wineries out of business. Is this a fair way to treat the very salt of the Napa Valley?

273

274

While I laud the Vintner's Association for taking on the monumental task of creating a winery definition, I do not believe they truly have the interests of small wineries at heart. It cannot be expected that they would, since out of all their members, only a handful are operating under the SWE. Since you are the deciding body in this matter, I appeal to you to find some way to avoid elimination of the SWE. As is suggested by the Draft EIR, omit section 6 of the DWDO.

Thank you for your time and patience with this matter. You have a difficult task ahead of you, but I urge you--don't force family wineries to become legally non-conforming.

Sincerely,

*Celia E. Ramsay*

Celia E. Ramsay

cc: Bob White  
Fred Negri  
Mel Varrelman  
Paul Battisti  
John Mikolajcik

**ANNE M. KIRLIN**

ATTORNEY AT LAW  
1001 SECOND STREET, SUITE 320  
NAPA, CALIFORNIA 94559-3017  
(707)224-5698  
FAX (707)224-7865

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NOV 9 1989

NAPA CO. DEVELOPMENT  
DEVELOPMENT & PLANNING DEPT

November 8, 1989

Honorable Members  
Board of Supervisors  
COUNTY OF NAPA  
1195 Third Street  
Napa, CA 94559

RE: Winery Ordinance

Honorable Members:

This letter is written by the owner of one Small Winery Exemption business, but all 57 such wineries (more than one-quarter of all the wineries in the Valley) have a stake in this issue. On Tuesday, November 14, 1989, you will consider a request by Joseph Peatman to incorporate a revised version of the draft winery ordinance into the current environmental review of the winery ordinance and to give the EIR consultant some direction regarding the General Plan consistency issues raised in the initial draft of the EIR.

- (278) I strongly urge you to follow the direction suggested by Mr. Peatman. Under the draft ordinance, which is currently the subject of study by the EIR consultants, a large number of wineries - both large and small - are made nonconforming uses. That is an unacceptable legal status and clearly not the goal of the industry negotiating team which drafted the ordinance forming the basis of the current study. Nor do I believe that was ever the intent of the Planning Commission or the Board of Supervisors. Upon review of the negotiated language of the draft ordinance now under study,
- (279) the negative legal result is clear. The General Plan issues raised by Mr. Peatman are also a matter of serious concern to all wineries and to the integrity of the current schedule for adoption of a winery ordinance.

Like Mr. Peatman and his clients, I do wish to support continued steady progress toward a resolution of the winery ordinance debate

Honorable Members  
Board of Supervisors  
Page Two  
November 8, 1989

on schedule. However, I do strongly feel that the process could seriously be disrupted at the last minute if the issues raised by Mr. Peatman are not addressed immediately.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Anne M. Kirlin".

ANNE M. KIRLIN

AMK/fs

cc: James Hickey  
Will Selleck  
Jeffrey Redding  
Robert Westmeyer

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NOV 13 1989

10 30 AM

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

November 7, 1989

Office of Special Projects  
Attention: William L. Selleck  
Conservation-Development and Planning Department  
County of Napa  
1195 Third Street, Room 210  
Napa, CA 94559-3092

Dear Mr. Selleck:

This letter comments on the draft environmental impact report, DEIR 60, prepared on the Draft Winery Definition Ordinance and dated October 1989.

Among the questions which should be directed to the consultant for consideration in developing the final EIR are the following:

- 280 1. The DWDO assumes continued growth in the high end markets targeted by many Napa Valley wineries, based on straight line projections of recent experience. To what extent is the growth of this market segment and the Napa Valley share of that market dependent upon the types of marketing activities that the DWDO will limit or abolish? Will the DWDO or mitigated DWDO make wineries subject to its controls less able to market their wine in an increasingly competitive global marketplace? If any of these effects are felt, will they reduce the demand for Napa Valley wines, thus reducing the winery capacity needed and the acres of vineyards planted?
- 281 2. The data on visitors to wineries under 20,000 gallons versus those of larger wineries reported in the draft MEA (page 47) appear to be suspect. Are all of these wineries on Highway 29 or the Silverado Trail, with public tours and tastings? The visitor numbers attributed to small wineries appear to be far too large, at least for off main highway non-public tours and tasting wineries that predominate in the under 20,000 gallons category. What evidence exists that these data are representative of the two size categories of wineries?
- 282 3. Table 10 of the draft MEA provides a winery facility profile based on data from 30 wineries and these data are later combined in other tables (e.g., Table 12). The tables omit critical information needed for interpretation of their meaning and of dimensions relevant to the policy choices required in approval of the DWDO.
  - a. For all categories, data should be separated for wineries with public tours and tastings versus those without.
  - b. For wineries under 20,000 gallons, a three fold separation of the data is required: use permit



with public tours and tasting, use permit without public tours and tasting, and wineries operating under the Small Winery Exemption.

- c. What number of winery responses are included in each size category? By the categories identified in items "a" and "b" immediately above?

As the DWDO prohibits public tours and tastings for future wineries and eliminates the SWE, these data are absolutely critical to the analysis of the projected effects of the DWDO and must be developed here and carried through the MEA and EIR.

- (283) 4. What evidence supports the assumption stated on page 14 that wineries initiated under the Small Winery Exemption (SWE) grow over time? It is known, for example, that only two wineries begun under the SWE grew to exceed 20,000 gallons/year and obtained use permits for those expansions.
- (284) 5. What evidence do the authors of the EIR and the MEA have that the use patterns they analyzed are the result of currently legal uses, either by virtue of a use permit, pre-1974 winery activity, or operation under a Small Winery Exemption? Is much of the perceived problem due to lack of enforcement of the current legal framework for regulation of wineries?
- (285) 6. The DWDO will require substantial regulatory activity by the county in analysis of proposed projects and enforcement upon current and future wineries. Other costs will be incurred as existing wineries made legal nonconforming uses by the DWDO or whose activities are placed in legal jeopardy by the DWDO seek use permits to remedy those effects. No estimate of the costs of these activities is provided in the MEA and EIR, yet they fall within the public service costs to be analyzed under CEQA. What is the estimate of those costs and how are they to be financed? The same questions need to be answered for the proposed mitigated DWDO.
- (287) 7. The DWDO will impose substantial compliance costs upon current wineries and increased costs upon proponents of future winery projects. What are those costs estimated to be and how will they impact the business viability of wineries operating under the DWDO? Will those impacts be sufficient to disadvantage Napa Valley wineries vs. competitors elsewhere? Will they be sufficient to reduce the number of wineries continuing to operate in the Napa Valley or to be initiated here?

Sincerely,

  
John J. Kirlin 

Napa Co Conservation  
Development & Planning  
Office of Special Projects MARKHAM.  
Attn: William L. Selleck VINEYARDS  
1195 Third St-Rm 210  
Napa, CA 94559

Robert Foley  
Vice President  
Markham Vineyards  
2812 St Helena Hwy N  
St Helena, CA 94574

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November 10, 1989

NOV 13 1989

Dear Sir:

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

288

The reputation of the Napa Valley is a well earned testimony to successfully hand-crafted fine wines of world class calibre. The source of this reputation and the time proven development of the finest products is in the smaller wineries this valley has harboured for over one hundred years. Indeed it is only the smaller producers who can give the essential attention to detail to produce such wines. By vinifying small lots, keeping the fruit from areas within a vineyard separate the smaller producer is able to identify the nuances in their wine attributable to microclimatic variances and viticultural and vinification techniques. Only the smaller producers are set up to make many different cuvees from a single vineyard in order to isolate those of the highest quality and thereby produce a separate wine with an extra margine of excellence.

289

The critical timing involved requires the vintner to be able to harvest fruit and deliver it immediately to the crusher - delays represent deterioration of final product quality. Only the small producers are free of the delays of distance, excessive gondola travel on the highways and congestion in the crusher lines of the larger wineries. Again, it is control over all these variables that makes possible the realization of an extra level of quality for which the Napa Valley has become famous.

290

Most of the producers belonging to this class of winery are small businesses with economically limited ability to advertise and market their products. Mass media and trade publication advertisements are usually priced beyond the scope of affordability

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NOV 13 1989

for the smaller wine grower/producer who faces the burdens of premium land, high overhead and long periods of production time. The only available alternative is to allow contact by the interested public. The typical visitor will taste, may purchase at retail (significant in economic terms for the small producer) and may or may not tell a friend. But the visitor does take with him a multi-sensory memory of the winery and the people who work there and this is the most valuable form of advertising. I can't even imagine how many times I have heard someone remark about how much they love the smell of the inside of a barrel room! It is this essence-the story of the wine that allows a winery to hook the consumer and the only practical approach for a small wine producer to tell his story is to allow visitors to come in and look around and smell the place. To deny this process would be to prevent the ends of the chain from linking in the most effective manner. This Napa Valley Lore distinguishes small romantic wine production from the likes of catsup bottling plants.

(291) Increasing the parcel size minimum for small wineries would deny many would be producers the opportunity to set up their productions and would favor the larger producers. Obviously, it would also significantly increase the necessary capital to begin a new production facility which would certainly contribute to the already high and increasing price of land. My experience has been that when local government acts in such a way to encourage land prices to climb, a serious risk of losing such land to development develops and the Valley would face new perils.

(292) Water use balance data on the other hand would provide an unambiguous formula by which parcel size and production capacity could be linked in such a way to prevent land abuse. I strongly feel that land abuse prevention is the important issue rather than denying land use. This would also avoid the question of fairness to the small parcel owner who wants to make wine from his vineyard. If it can be shown that he can legitimately balance his resources used and his waste generated I feel that he should be allowed to

proceed.

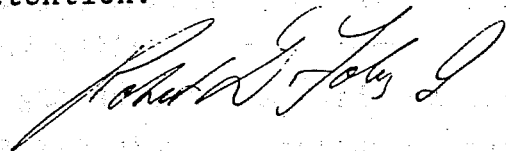
(293) New setback requirements which intend to prevent the destruction of our scenic highway are indeed well founded. However, in fairness to existing wineries I would like to see a grandfather clause which would establish their setback at the existing distance. This would permit appropriate additions to develop the architecture of the existing buildings.

(294) In closing I strongly urge rejection of mitigation measures which severely tax or deny the small wine producers from having their place in the Valley. I also urge rejection of those measures

(295) which deny public contact with the wineries. All of the data I have personally reviewed for our facility at Markham Vineyards indicate that the number of visitors is actually down. However, the sales from the tasting facility are soaring to the point at which the tasting room has become our leading "distributor" in the country. They allow us to reveal our personality. Finally, I urge (296) grandfathering of existing setback distances for wineries already in existence so that any additions they may undertake must simply conform with their existing structures.

Thank you for your kind attention.

Sincerely,



Robert Foley  
Vice President/Winemaker  
Markham Vineyards

MONICA L. WOLF MARVIN  
JEFF C. ANDERSEN

LAW OFFICES OF  
MONICA L. WOLF MARVIN  
1250 CHURCH STREET  
POST OFFICE BOX 271  
ST. HELENA, CALIFORNIA 94574

NOV 13 1989  
11:16 AM  
NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT  
TELEPHONE  
(707) 963-0311

November 13, 1989

Napa County Conservation  
Development & Planning Dept.  
Office of Special Projects  
1195 Third Street, Room 210  
Napa, California 94559  
Attn: William L. Selleck

Re: Winery Definition Ordinance  
Draft Environmental Impact Report

Ladies & Gentlemen:

The undersigned represent the sponsor of the proposed La Croix Blanche Napa Winery and, on its behalf, we submit this letter as comments on the Draft Environmental Impact Report for the proposed Winery Definition Ordinance.

297 We applaud the DEIR for its most important conclusion, which is that the Draft Winery Definition Ordinance, in its current form, would do far more harm to the environment than good. As documented in the DEIR, the DWDO would not improve the environment in Napa County, but could itself cause significant adverse environmental impacts as compared to the existing zoning ordinance.

298 The DEIR also documents the bias against small business drafted into the DWDO at the behest of the large Napa County wineries. Though dressed in the sheep's clothing of a slow growth measure, the draft ordinance is, in fact an anti-competitive wolf, which would permit uncontrolled expansion of the large existing wineries in Napa County, while at the same time choking off any growth in competition from small new wineries.

299 The fact is that modest growth in the number of small and medium sized wineries will have no significant adverse impact on the environment in the County. But the uncontrolled expansion

of large existing wineries and the legalization and growth of promotional events, all of which would be permitted under the DWDO, would have disastrous effects on the environment.

We are concerned, however, that the DEIR does not provide sufficient information to enable the Planning Commission and Supervisors to formulate a more effective response to the problems facing the County. The DEIR's analysis of alternatives and mitigation measures is woefully inadequate. With regard to many of its most important recommendations, the DEIR is conclusory, and provides little or no supporting analysis. As a result, the DEIR does not meet the requirements of CEQA.

In part because the DWDO itself embodies a fundamentally flawed approach to the regulation of growth in the winery industry in Napa County, the DEIR represents no more than a tentative first step in the analysis of possible solutions to the problems resulting from such growth. The DEIR should be revised to include a more detailed analysis of the effects of the different components of the DWDO, an expanded analysis of alternatives to the DWDO, and a more rigorous analysis of the effects of the mitigation measures proposed in the DEIR.

In support of these general comments, we offer the following more specific comments with regard to the DEIR.

1. Public Tours and Tasting (DEIR, page 16). In paragraph no. 5, the DEIR points out that the DWDO's proposed ban on public tours and tastings would have minimal effects. In fact, there is no evidence in the DEIR that the proposed ban on public tours and tastings would make any beneficial contribution to the environment.

Public tours and tastings (particularly public tastings) are an essential marketing tool for new wineries in Napa County. The County has no legitimate interest in handicapping the marketing efforts of new wineries by prohibiting public tours and tastings. There is no evidence that inclusion of public tours and tastings in new wineries, particularly in small and medium sized wineries, would result in any incremental increase in the number of visitors to the County. Only the large existing wineries - not the public or the environment - would benefit from such a prohibition.

As the DEIR points out, visitor growth is primarily a function of such factors as increasing population and tourism in the Bay Area generally. (The one exception is the DWDO's proposal to permit promotional events, discussed below.) The DEIR should flatly state that the analysis has identified no impact on the environment from the DWDO's proposed ban on public tours and tastings.<sup>1</sup>

306

2. Relationship to General Plan (DEIR, page 18). The DEIR's discussion of the relationship of the DWDO to the County's general plan is inadequate and misleading. The County's general plan recognizes wineries as an appropriate agricultural use in the agricultural resource area. Determination of consistency of the existing zoning ordinance, or any proposed amendments to the zoning ordinance is not the province of the environmental impact report. The determination of consistency should be made by the Planning Commission and the Board of Supervisors.

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3. Land Use Impacts and Mitigation (DEIR, page 29). There is no support for the statement in the DEIR that the DWDO would "effectively reduce the County's general plan agricultural land use intent from 40 acres to 10 acres." Both Napa County's general plan and the existing zoning ordinance permit agricultural uses, including wineries, on parcels of less than 40 acres. The General Plan and the County Ordinances do restrict further subdivision into parcels of less than 40 acres, but there is an important distinction, lost in the DEIR, between further subdivision and the permissible use of existing, legal parcels.

Furthermore, there is no explanation of how a reduction in parcel size would constitute a significant adverse environmental impact. There is no analysis to support the DEIR's conclusory statement that any such change in land use policy,

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<sup>1</sup> The same statement should be made with respect to private tours and tastings. There is no support for the implication on Page 16 of the DEIR that the prohibition on public tours and tastings would be ineffective in reducing visitors because private tours and tastings can attract just as many visitors. The analysis in the DEIR does not reveal any significant impact from either public or private tours and tastings. See, e.g., page 28 of the DEIR where it is concluded that the DWDO would have "no direct nor cumulative impact" on the volume of visitors to Napa County. (Emphasis added.)

even if it were proposed, would have significant adverse environmental impacts.

309 4. Direct Traffic Impact Analysis (DEIR, pages 50-52). The discussion of direct traffic impacts should be clarified. It should be expressly stated that no reduction in visitor traffic would be anticipated as a result of the DWDO. It should also be noted that visitor traffic is included with other "Non-Winery Related Trip Ends" in Table No. 2.

310 It appears that the minor decrease in traffic projected under the DWDO results entirely from the DEIR's assumption that larger wineries, which would be encouraged under the DWDO, employ slightly fewer persons per gallon of wine produced than do smaller wineries. If so, this should be expressly stated in the DEIR.

311 The DEIR should provide a description of the methodology used to project non-winery related trip ends. Though a great deal of information is available concerning the methodology used to estimate the relatively modest increase in winery related trip ends, there is no discussion of the methodology used to project the huge increase in non-winery related trip ends. It is not sufficient to cite as sources, without any further elaboration, ABAG and MTC Travel Pattern Projections.

312 5. Promotional Events (DEIR, page 58). The DEIR's only analysis of the DWDO's proposal to permit for-profit promotional events is included in a section on "Growth Induction." The increase in promotional events which would be authorized by the DWDO is not a secondary, growth inducing impact of the ordinance. The projected visitor traffic resulting from such promotional events would be a direct and primary result of the ordinance, with potentially disastrous results for the County.

The discussion of promotional events should be integrated into the environmental analysis contained elsewhere in the DEIR, particularly the sections on traffic impacts. The DEIR projects that a total of over 500,000 event-person-days would be generated by promotional events. Yet, the DEIR begs the critical question of the extent to which these promotional events would generate incremental visitors to the County in addition to the so-called baseline visitor forecast.



Large scale promotional events, such as musical concerts and art shows, would generate a substantial number of new trips to the County and would greatly exacerbate the County's weekend traffic problems. The lift on the ban of promotional events is unquestionably the most environmentally sensitive aspect of the DWDO, and it is given too little attention in the DEIR. The DEIR should expressly state that this aspect of the DWDO would have a significant adverse effect on the environment for which there is no offsetting social or economic benefit for the County.

313

The basis for the assumptions used in generating the forecast of visitors to promotional events should be explained. For example, what is the basis for the assumption that only two percent of all wineries would have promotional events on any given weekend? What is the basis for the assumption that the average size of these events would be 575 participants? Also, if the projection of 500,000 person-event-days is for the year 2010, then a shorter term estimate should also be provided. Twenty-year projections of environmental effects are important to have, but it is at least as important for the public to be informed of the nearer-term impacts.

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6. Cumulative Traffic Analysis (DEIR, page 63). As in the earlier discussion of direct traffic impacts, the discussion of cumulative traffic impacts is too conclusory, and provides too little information on the methodology used in the projections. For example, the DEIR apparently assumes no increase in capacity for the purposes of calculating the volume/capacity ratio for the year 2010. However, the addition of the third lane to State Route 29, a project which is expected to be under construction in less than a year, would significantly increase the capacity of State Route 29.

317

The DEIR states that in the year 2010, 9,900 trip ends, or 8.2 percent, would be due to winery growth. It should be noted, however, that 9,100 of these 9,900 trip ends represent winery employee trip ends. These "trip ends" are not merely additional cars on the highway, but also represent new jobs for Napa County residents. Furthermore, it should be noted that the number of new winery-related trip ends is slightly larger under the current regulations (as compared to the DWDO), as the current regulations would create more jobs than would the DWDO.

- 318 7. Mitigation of Cumulative Traffic Impacts (DEIR, page 67). The first of the proposed mitigation measures, which would limit access to new wineries to minor collector roads, is unsupported by any evidence in the DEIR, and would have no beneficial impact. Growth in the winery industry will generate the same amount of traffic regardless of whether access is located on minor collector roads or on one of the listed state routes. This mitigation measure could not be expected to reduce traffic on the state routes, as it will be necessary to use the state routes to access the minor collector roads. Furthermore, this "mitigation measure" could itself cause significant adverse impacts by needlessly increasing traffic on minor collector roads.
- 319 If the concern is with delays resulting from turns off the state routes, the DEIR should consider the impact of the proposed third lane on State Route 29 before proposing such a sweeping mitigation measure. Better yet, it would seem that mitigation of this sort would be better left to a case-by-case analysis of localized traffic impacts.
- 320 The fifth mitigation measure is entirely too vague to constitute a mitigation measure at all. The more appropriate mechanism within CEQA to analyze any proposed development limitations and restrictions would be as an alternative to the proposed project.
- 321 8. Noise Impacts (DEIR, page 68). There is no support in the DEIR for a finding that noise from winery growth would constitute a significant adverse environmental impact. In fact, the DEIR contains no analysis of the expected noise impact at all. In the section on direct noise impacts, there is some discussion of applicable noise standards, but no analysis of how existing noise levels might be increased by winery growth. In particular, there is no support for the DEIR's suggestion that increased development of wineries may adversely effect ambient noise conditions in Napa Valley.
- 322 9. Alternatives Analysis (DEIR, pages 71-73). The DEIR's analysis of alternatives should be significantly expanded. In light of the DEIR's conclusion that the DWDO would have potentially adverse environmental impact, it is all the more critical that the DEIR provide a useful analysis of a range of other possible alternatives.

323

There is at least one additional alternative which should be considered and analyzed in the DEIR - one which eliminates from the DWDO those aspects which would have no significant environmental benefit. Specifically, the DEIR should include an alternative which would be similar to the Mitigated DWDO Alternative, but would delete from the DWDO the ban on public tours and tastings, the grandfather provision, the minimum parcel size requirement, the winery development area limitations and the accessory use limitations. By analyzing an alternative which deletes these ineffective provisions from the DWDO, the DEIR would allow decision makers to focus on the appropriate and effective elements of the DWDO, along with the mitigation measures proposed in the final EIR. (As noted elsewhere in this letter, certain of the mitigation measures proposed in the DEIR are inappropriate and would be ineffective.)

All of the alternatives must be analyzed in a useful way. In the DEIR, the proposed "Mitigated DWDO Alternative" is merely described -- it is not analyzed as required by CEQA. As to all alternatives, the EIR must include a "sufficient degree of analysis to provide decisionmakers with information to allow them to intelligently take account of [the alternatives'] environmental consequences." San Bernardino Valley Audubon Society Inc. v County of San Bernardino (1984) 155 Cal.App.3d 738, 751.

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The DEIR makes no attempt to analyze and quantify the impact of the Mitigated DWDO Alternative. In light of the unquestioned economic benefit of wine industry growth, the DEIR must provide some analysis of the environmental benefits of this proposed alternative, so that decisionmakers can balance the environmental, social and economic effects of this alternative. The DEIR must be revised to provide some quantitative and qualitative analysis of the environmental effects of this allegedly environmentally superior alternative.

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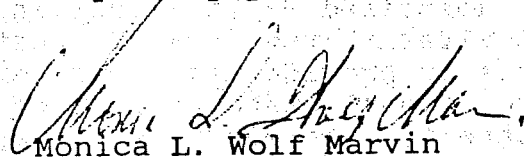
Finally, we are troubled by the Mitigated DWDO Alternative, as it references a document, the Master Environmental Assessment, which is not available for public review. It is not appropriate to define this alternative as including mitigation measures "associated with the MEA," as those mitigation measures have not yet been finally determined. The majority of the MEA is not available for public review, and cannot therefore be considered as part of the DEIR. See CEQA Guidelines, Section 15150.


Napa County Conservation  
Development & Planning Dept.  
November 13, 1989  
Page 8

Though a draft of the MEA mitigation measures has been made available, the analysis which generated these measures is not available. Furthermore, the MEA's mitigation measures are subject to revision through a separate review process which will take place after the close of the comment period, and perhaps after the certification, of the DWDO EIR. Judging from the preliminary draft of the mitigation measures, the MEA may provide important information which should be available for public review prior to closing the comment period on the DEIR.

We appreciate the opportunity to comment on the Draft Environmental Impact Report for the Winery Definition Ordinance. We look forward to a continuing role in the County's efforts to formulate a rational public policy with regard to future growth in the winery industry.

Very truly yours,

  
Monica L. Wolf Marvin

  
Harry O'Brien  
for Coblentz, Cahen,  
McCabe & Breyer  
Special Counsel

cc: Members of the County Planning Commission  
Members of the Board of Supervisors

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NOV 13 1989

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NAPA CO. CONSERVATION  
DEVELOPMENT & TELEPHONE DEPT.  
(707) 963-1831

MONICA L. WOLF MARVIN  
JEFF C. ANDERSEN

LAW OFFICES OF  
MONICA L. WOLF MARVIN  
1250 CHURCH STREET  
POST OFFICE BOX 271  
ST. HELENA, CALIFORNIA 94574

November 13, 1989

Napa County Conservation Development  
and Planning Department  
Office of Special Projects  
Attention Mr. William Selleck  
1195 Third Street Room 210  
Napa, California 94559

Dear People:

This letter is submitted on behalf of Whitehall Lane Winery in response to the Draft Environmental Impact Report ("DEIR") for the Draft Winery Definition Ordinance ("DWDO") currently under consideration.

326 The purpose of the DEIR is to identify and scientifically analyze the effects of the DWDO on the environment. Many of the DEIR's findings, proposed alternatives and recommendations for mitigation are conclusory, at best, and fail to provide the supporting analysis required by CEQA.

327 For example, the DEIR initially concludes, without discussion or reference to a specific provision of the General Plan, that the "proposed DWDO would effectively reduce the County's General Plan Agricultural Land Use Intent from 40 acres to 10 acres" (DEIR page 1). There is nothing in the General Plan itself which prohibits or discourages agricultural activities or the processing of agricultural products on existing parcels less than 40 acres in size. While the General Plan does prohibit the subdivision of existing parcels in the AP and AW zones to create new parcels less than forty acres in size, nothing in the DWDO advocates or permits the subdivision of existing parcels in the AP and AW zones to create new parcels less than forty acres in size. The basic premise underlying the DEIR is, therefore, fundamentally flawed.

328 Section 12419 of the DWDO limits production capacity for new wineries and expansion of existing wineries located on parcels smaller than 40 acres within the AP and AW zones to 2,400 gallons of wine per acre excluding the winery area and waste water ponds of the winery. There is no discussion in the DEIR as to the development of this formula, which would, if implemented, limit or prohibit production expansions of approximately seventy percent (70%) of existing wineries, while allowing unlimited expansion for wineries located on parcels larger than 40 acres.


November 13, 1989  
Mr. William Selleck

Page Two

- (329) There are no facts cited in the Draft Master Environmental Assessment ("MEA") or DWDO which indicate that the limitation of 2,400 gallons of wine per acre bears a rational relation to the maximum production capacity for a given parcel of land or scientifically determines the impact this formula, if implemented, would have on the environment. Absent a logical basis for selecting 2,400 gallons of wine per acre, the formula is, at best, arbitrary.
- (330) The production capacity of each winery, as determined by the Planning Commission or Board of Supervisors, should bear a rational relation to the effect that winery's production would have on the environment, individually and cumulatively.
- (331) The effect of the DWDO as drafted and, if implemented as recommended by the DEIR, would deprive many wineries of the freedom to effectively compete in an already highly-regulated industry.
- (332) The County of Napa has the duty to continue to explore reasonable alternatives to the drastic measures proposed by the DWDO and DEIR, which alternatives, when evenly applied, would preserve the ability of small and medium size wineries to compete with the large conglomerates and still preserve the agricultural character of the Napa Valley and its precious natural resources.
- (333) The MEA, when completed and thoroughly analyzed, may provide valuable information to assist local legislators in developing such an ordinance. In the meantime, the data contained in the Draft MEA may assist local planners and legislators in making case by case determinations of use permit applications.

Tax dollars would be better spent increasing local staff to assist in the use permit evaluation process than in defending an ordinance which is both arbitrary and discriminatory.

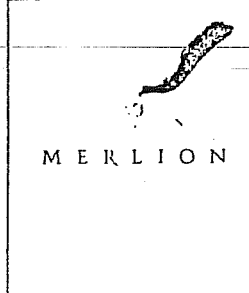
Respectfully submitted,

  
MONICA L. WOLF MARVIN  
Attorney for Whitehall Lane Winery

cc: Members of Napa County Planning Commission  
Members of Napa County Board of Supervisors

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10-18-89 MTS  
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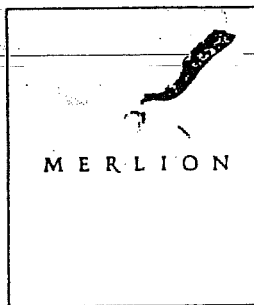
October 18, 1989

The Napa County General Plan was adopted in 1954 and the Ag Preserve in 1968. The intent was to preserve our agricultural lands. As stated by the 1987-88 Grand Jury and the Draft EIR, there are existing illegal uses on AP lands at the present time. The EIR recommended the Mitigated DWDO Alternative on pg 72. I agree but would like further modification:

1. Over time, all public tours and tastings on AP lands should be eliminated.
2. Tours and tastings on AP land by appointment allowed. Limit per winery should be considered. Possibly 10 visitors per day.
3. Set up tasting complexes in properly zoned areas.
  - a. County Administrator, Jay Hull, made such a proposal to the Napa Vintners.
  - b. The Vintners Village, north of St. Helena is such a complex. There are 14 wineries with tasting rooms. That's about 7½% of the Valley's wineries in one location. It requires staffing and sells wine. Makes good economic sense. The wineries themselves still have tours and tasting, at the winery, by appointment. Very rare. They are true wineries. They ferment, age, bottle and ship wine.
4. Do not limit vineyard size for wineries. Small family wineries should be allowed on vineyards. Again, a winery ferments, ages, bottles and ships wine. Nothing more.

The County should be aware that our most valuable asset is our land. Every available square foot of land that can grow grapes, should not be wasted with roads or parking lots or buildings. Without the vineyards, Napa Valley would not have the worldwide demand. Put the wineries in other areas. Follow the pattern of the wineries of Burgundy, France. The wineries are in the villages. They value their fine land too much to waste it.

The Draft EIR for the New Winery Definition was received yesterday, the 17th. It is very large and complicated. The input was primarily the Napa Valley Vintners and Growers. Now it is necessary that time be given to non-organizations, like small wineries and growers and other Napa citizens. The major growth in wineries is apparently going to be upvalley. I propose that hearings be held in other locations, with more time for people to study the EIR and then to give



all citizens the chance to be heard. I propose that hearings be held in large areas, like High School gyms. The Napa Valley newspapers and libraries can help to inform about the EIR and the hearings. I propose the following schedules:

Calistoga Week of Oct 23, early in week

St. Helena Week of Oct 23, late in week

Yountville Week of Oct 30, early in week

Napa Week of Oct 30, late in week

Please remember, we are just finishing our harvest and still have wines fermenting. Please give us time.

337

I'm sure you are aware of the recent decision by the US Supreme Court to deny the challenge to the Marin County zoning laws. An appellate court opinion said that "Marin zoning no doubt preserves a bucolic atmosphere for the benefit of a proportion of the population at the expense of those who would flow into the county if there was no zoning...the protection of agricultural lands was one of Marin's highest planning priorities." Please maintain zoning that preserves our valued Napa Valley agricultural lands.

*George Vierra*  
George Vierra

3271 St. Helena Hwy No  
St. Helena, CA 94574



November 11, 1989

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NOV 13 1989

11:45 AM  
NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

NAPA CO CONSERVATION DEVELOPMENT & PLANNING DEPT  
OFFICE OF SPECIAL PROJECTS  
Attn: William L. Selleck  
1195 Third St. Room 210  
Napa, CA 94559

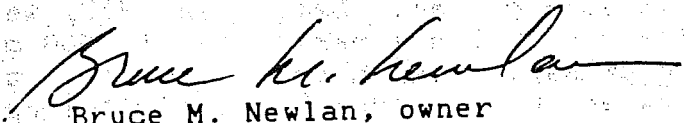
Dear Mr. Selleck:

My family and I have been property owners in Napa County for twenty two years, having established a vineyard in 1967 on a 13 acre parcel. Later, in 1977, we established a small winery with a use permit for 12,000 gallons. This business is our primary livelihood. We have no outside wealth in which to draw on, having "bootstrapped" the operation since its inception. The production of 12,000 gallons does not provide an economically viable size in order to continue. Now, as we are financially able to modestly expand our operation, we see serious problems ahead in regard to many of the proposed winery definition ordinance provisions. It appears that the small producing wineries that have been here for numerous years will be penalized in favor of new large high budget wineries. The following are our major concerns:

Section 18, Sec. 12419, (c) (3), regarding maximum annual production of 2400 gallons of wine per acre. What this ordinance would do is promote more wineries, since nearby vineyard land under a single ownership may not be able to be processed at a single winery without exceeding the gallonage limitation. Thus other nearby owned parcels would also have to have a winery to process the fruit. The BATF recognizes that a single winery can occupy more than a single parcel of land, ie. area A and B, etc. up to a 4 mile radius. These separate parcels can even qualify as "estate bottled", the most stringent government labeling requirement. I feel that the ordinance on maximum space that a winery can occupy within the parcel would accomplish the intent of the gallonage ordinance, and this section is unnecessary. If it is adopted, it will have the effect of promoting the very thing that it was designed to limit.

Section 19, Sec. 12420 (b) regarding minimum setbacks. I have no objection regarding section (a) of a minimum setback of 150 feet. However, making a requirement of where a winery can expand within the 150 foot limitation, ignores other facts that can vary widely from parcel to parcel when taking into consideration various settings. If I expand my winery away from the public right-of-way, then I must remove productive vineyard land, and the expansion would be more visible from the public right-of-way. This ordinance is arbitrary in nature, would not necessarily produce the intended results, and would invite arguments of technicalities, interpretation, appeals and litigation. As a hypothetical example, if an "expansion" were built prior to the original structure, then the "original" built in an identical location, then it would be legal under this ordinance.

Sincerely,



Bruce M. Newlan, owner  
Newlan Vineyards & Winery

November 9, 1989

Napa Co Conservation Development &  
Planning Dept.  
Office of Special Projects  
Attn: William L. Selleck  
1195 Third St-Rm 210  
Napa, CA 94559

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NOV 14 1989

NAPA CO. CONSERVATION  
DEVELOPMENT & PLANNING DEPT.

RE: WINERY DEFINITION ORDINANCE EIR

Dear Mr. Selleck:

Please accept the following input as my opinions for consideration in the finalization process for the subject ordinance.

There are 3 major elements to the draft winery definition ordinance which I feel compelled to comment upon.

Originally passed to prevent Napa from becoming a housing developers dream for a bay area bedroom community, the AP AND AW zones restricted the number of buildings per acre. This meant that essentially the land would be left "open", free of concrete, steel and/or wood structures and available primarily for cultivation of crops and/or animals for human food requirements.

In February, 1989 the board of supervisors accepted for "the purpose of environmental analysis" a joint proposal developed among members of the vintners and growers associations, the county farm bureau and the county counsel office.

Under the proposed ordinance, a winery on AP/AW land is going to be defined as:

Sec. 12047: "winery" shall mean an agricultural processing facility use for:

- \* (1) The fermenting and processing of grape juice into wine: or
- (2) The refermenting of still wine into sparkling wine

Furthermore, the proposed ordinance goes on to stipulate :

Sec. 12418: Wineries located in Open Space Area--Minimum parcel size

- (1) (( paraphrased by me)) Existing wineries are 1 acre or more
- (2) Wineries that were established after (the effective date of the new ordinance) -- 10 acres.

Sec 12419: Wineries located in Open Space Area--Production Capacity

- \* (b) All wineries first established subsequent to (the effective date of the new ordinance): At least 75% of GRAPES..... shall be grown within the county of NAPA.
- (c) ~~((paraphrased by me)) 75% county grape rule applies to expansion acreage only.~~

\* UNDERLINING BY ME NOT PART OF DRAFT ORDINANCE

(343) As I see the proposed ordinance elements above, the AP is now really being defined as GRAPE PRESERVATION ONLY not ag in general. BECAUSE OF THE WORD "GRAPE", ONE COULD NOT OPEN A RICE SAKI WINERY COULD THEY?

(344) What will the 10 acre rule do to existing growers with 9 acres or less? To whom can they sell their land? If a new winery must be on a 10 acre single parcel minimum, then the selling and/or buying party must scurry to find the balance of land (co-located) to meet the rule. If they cannot, then the only market for the 9 acre grower is another grower or an existing winery. Depending on how desperate the seller is becoming, the market buyer potentials could effectively starve the grower into any price the potential buyer wants. I fear that should the 10 acre rule be adopted, there will be evidence that we have institutionalized the future to basically maintain the status quo of those already in business. In fact, we could be unfairly guaranteeing them future land acquisitions at the expense of others.

(345) The 75% county grape rule bothers me also. It should be remembered that of the about 35,000 acres of viable AG land for grapes, only 4,000 acres remain not in the hands of existing growers and vintners. Of the remaining 31,000 acres, vintners control about 67% and independent growers the balance of 33%. Additionally, it is reported that Napa Valley grown grapes can only meet about 33% of the existing winemaking capacity in the valley. By way of a hypothetical example, let me forecast a possible scenario. Assume that the independent growers get so mad at everybody in the winery business that they mutually agree to withhold their grapes or sell them exclusively outside of Napa County. Or, they decide to form a coop and build their own winery in a commercially zoned parcel. Since they control 33% of the crop, what do the existing but expanded winery and the new winery do for their supply? They are kind of stuck aren't they?

(347) If new or expanding wineries are going to have to meet a 75% rule, then I suggest that to balance the supply and demand cycle, all vineyard owners must be limited to sale of no more than 25% of their Napa grapes/juice to sources outside of the county. I fully realize the outrage that will probably occur when this suggestion is aired. I can hear the existing vintner and grower yelling that limiting his/her sales market to outside sources at no more than 25% is restriction of free trade, commerce, etc. Well, isn't that exactly what the 75% rule does?

(348) Frankly, the 75%/25% recommendation is just as bad as the proposed 75% rule, in that government--the people-- are tampering in the market place. As I see the proposed 75% rule, it only guarantees existing vineyard owners a sure market for their grapes/

(349) juice, and that market is any existing winery desiring to expand or any new winery. And, the latter two could be forced into almost "blackmail" prices for these products.

(350) Admittedly I have presented my concerns in "doomsday" scenarios. However, I do this to point out the potential weaknesses that exist in the joint vintner/grower proposal. I certainly do not mean to imply that any of the existing growers or vintners would do anything like the hypothetical examples that I used. Rather, that if the proposed rules were adopted, they (the rules) could be used in such a manner. Government should not pass rules that have such a potential.

November 13, 1989

Napa Co. Conservation Dev. &  
Plan. Dept.  
Office of Special Projects  
Attn: William L. Selleck  
1195 Third St--Rm 210  
Napa CA 94559

RE: WINERY DEFINITION ORDINANCE AS APPLIED TO ON-SITE MARKETING AND SALES

Dear Mr. Selleck:

Please accept the following input as my opinions for consideration in the finalization of the draft ordinance.

(351) When the whole issue of what constitutes allowable activities at a winery on AG/AW land came about, it focused on promotional activities and which of them should or should not be allowable in preservation lands. The question is one of fairness in allowable activities on such land. How could a winery sell tee-shirts, salami, cheese but an aspiring business person in the same lines but without a winery can not open a deli on AP/AW land? Or how could a winery sell art work but a gallery cannot get on the same land?

Apparently vintners and growers were attempting to answer two questions in their joint proposal:

- o How to protect open land, AP/AW?
- o How to allow wineries situated on such land to compete in the market place?

Both of these questions were addressed in terms of existing and new wineries. And, this is where the difficulty in any redefining process really occurs. How do you find rules that are fair, equitable, etc. to those who have been operating in a certain manner for years, but if also instituted by additional wineries, overload the system (i.e. perceived to impact traffic)?

(352) Growers apparently see the tasting and the retail sales room, and other on-site marketing techniques such as concerts, dinners, art shows, picnic grounds, etc.--all designed to draw buyers to the winery--as an infringement of and on open AP/AW land. I'm not sure that I can agree with the growers. We all allowed the buildings, caves, parking lots, etc. to be built within what was then called reasonable proportion to open land. We knew full well that the winery expected visitors and that it would certainly sell its products. We had no objection to them doing so. In fact, we accepted proposals and often granted these wineries expansion on their properties which we also said were within reason.

I can certainly understand the winery who would fear changes in the rules after years of building a renown name that attracts visitors from all over the world to see its facilities, taste its wines and while here seek a memento by which to remember the visit. After all, such wineries spent may years to recover their investments and make profits from their hard work. And, many others benefited from this hard work too, i.e. lodging facilities, restaurants, gliders, golf courses, governments receiving tax revenues, etc.'

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353 The proposed joint vintner/grower definition of activities at a winery would allow existing wineries to conduct themselves essentially as is; would allow those of them not yet doing these activities up to 18 months to apply for permits to do them; but, says that any new winery <sup>cannot</sup> enjoy the same marketing tools. Certainly we don't believe that limiting only the new wineries to private, by appointment only visitations is going to change the existing open, AP/AW "infringement" conditions or traffic problems, do we? The mud baths draw visitors. So do our golf courses, gliders, balloons, shops, etc. and many of these visitors never go wine tasting while here. We also have about 200 existing winery operations with tastings public or private or both which bring visitors too.

354 If the joint proposal is adopted with the rule that existing wineries may continue as is but new wineries cannot have open events, then all we are doing is institutionalizing the future to basically maintain the status quo of those already in business. If the new winery is a tremendous hit, it still cannot open its doors to the general public. If an existing winery slips into disarray producing poor quality wines not worthy of premium label status, and is actually hurting the reputation of the valley, it can still keep its door open to the public. What we are looking at in the joint proposal is in effect, an ordinance addressing private enterprise marketing. Is this our intention? Or should we the people even be addressing such subjects?

It is hard, very hard, to determine what is allowable or not allowable as government without looking like we are interfering in the free market. We don't want to set rules that favor any <sup>one</sup> party over another.

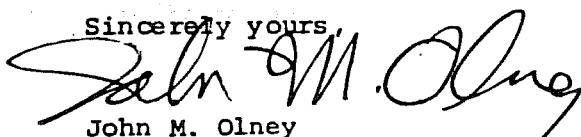
Making a good wine has nothing to do with the number of acres owned. The 75% local grape/juice rule does not make a good wine. Neither the 75% nor 10 acre rules get rid of the existing winery which primarily uses imported grapes/juice. Nor do these rules solve the "Napa Valley" name association concerns with existing groups using "ZIP" addresses.-

355 All kinds of clever marketing techniques are being used by wineries to sell their products. Some examples: 1) Radio, newspaper and magazine ads 2) culinary and wine tasting classes 3) dinner shows and concerts, 4) art shows, 5) picnic grounds, 6) merchandise sales room with tee-shirts, posters, cards, etc. 7) and more. What's wrong with any of these? Nor change the open land concept, nor AP/AW designation. They may affect traffic routes but that's not the fault of a definition for a winery. It's a fault of us (the people) and the government officials we elect who are not watching out for these kind of problems. We didn't plan for rerouting/renovating roads as we let new wineries open and existing ones expand. Additionally, many using the roads are not going to a winery. They are going shopping, golfing, eating or balloning. Are we next going to restrict general public visits to these too? Will they be available by appointment only or by special administrative pass? Denying the sale of art or attending a concert at a winery isn't going to solve our dilemmas. We need to make hard decisions about traffic control and what land we will condemn if we have to to make the world of the winery, the resident, the tourist and the local businessperson as compatible as possible. Don't pass the proposed ordinance as it addresses marketing and sales at a winery until we can think out the real issues at hand and make wise not emotional decisions.

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Sincerely yours,

  
John M. Olney

2711 Soscol Unit B  
Napa, CA 94558  
(707) 255-7371

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