

IX. RESPONSE TO COMMENTS

A. INTRODUCTION

The responses to the comments received on the Draft EIR are presented in this section. Consistent with the State EIR Guidelines, only the significant environmental points raised are responded to. Page citations to appropriate text sections have been provided for reader convenience. Pages cited refer to the Draft EIR (DEIR) or Final EIR (FEIR).

B. RESPONSES

U.S. Fish and Wildlife Service (November 13, 1989)

Comment 1, page B-5 (FEIR)

The reviewer requests inclusion of endangered species habitat for the California freshwater shrimp be shown on Figure 8, Location of Sensitive Animal Species in Napa County.

Response

Exact locations of freshwater shrimp habitat were omitted from the DEIR in accordance with the policy of the U.S. Fish and Wildlife Service to protect the habitat from intentional degradation. However, Keith Taniguchi, of the Service, has informed us that they have recently changed their policy. Due to the recent extent of winery and vineyard development near sensitive habitat, they now feel that protection will be best served by alerting the industry to sensitive locations. Figure 8 on page A-60 (FEIR) is amended.

Comment 2, page B-5 (FEIR)

The reviewer requests inclusion of explanation of federal laws regarding "take" of endangered species on p. 23, 35, and 38.

Response

Inclusion of explanation is not appropriate on page 23, in the section regarding Effects Found Not To Be Significant. Additionally, this detailed explanation is not appropriate for inclusion in toto in the Environmental Setting, Potential Impacts, and Mitigations Measures section. The text, however, on page 38(DEIR) has been

changed to reference this information, and the complete explanation as provided is included in Appendix H.

Comment 3, page B-5 (FEIR)

The reviewer expresses "concern for the increasing demands being placed by the wine and grape industry on the watersheds in Napa County." In addition, they reiterate their request in Comment 1 above.

Response

Comment noted; no response required (position statement).

California Office of Planning and Research (November 13, 1989)

Comment 4, page B-9 (FEIR)

"This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act."

Response

Comment noted; no response required (procedural point).

California Native American Heritage Commission (October 26, 1989) (C)

Comment 5, page B-11 (FEIR)

"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."

Response

See new Mitigation Measures, page A-95 (FEIR).

Comment 6, page B-11 (FEIR)

The reviewer requests that CEQA Appendix K be included as part of the FEIR.

Response

Because Appendix K is part of the State EIR Guidelines, it need not be included here as part of the FEIR. Mitigation Measures, however, have been augmented; see page A-95 (FEIR).

California Department of Fish and Game (November 7, 1989)

Comment 7, page B-12 (FEIR)

"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."

Response

Comment noted, no response required (informational point).

Comment 8, page B-12 (FEIR)

"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.

Response

The mitigation measure regarding wastewater treatment has been deleted at the request of the Napa County Department of Environmental Management. See response to comment #592.

Comment 9, page B-12 (FEIR)

"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 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."

Response

The discussion on page 3 and 4 (DEIR) is a summary; discussion of Vegetation and Wildlife Environmental Setting, Potential Impacts and Mitigation Measures and Cumulative Impacts are found on pages A-5 and A-89 (FEIR).

New mitigation measures have been added which include recommendations listed above; see page A-89 (FEIR).

Comment 10, page B-13 (FEIR)

"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."

Response

No maps of riparian vegetation were available at the time of writing the DEIR. We recommend this be done as part of the survey outlined in comment 9 above. See Mitigation Measure, page A-89 (FEIR).

Comment 11, page B-13 (FEIR)

"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."

Response

We disagree and refer the commenter to page 15 (DEIR) for a discussion of impact on wine production. Though this discussion regards wine production, vineyard development rates are driven by the same market forces and would not be substantially affected. Additionally, there are only 32,000 acres currently planted out of

58,000 potential acres of grape land in Napa County, and this does not constitute scarcity. See also response to comment #131.

Comment 12, page B-14 (FEIR)

Letter enclosed from California Department of Fish and Game, Region III, dated prior to publication of the DEIR. Commenter states: "The ordinance is environmentally unacceptable in that it does not directly address impacts to fish and wildlife habitats 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 easements for riparian vegetation areas, and mitigation for lost wildlife habitat. These standards should be required for both vineyards and wineries."

Response

No response required; comment is on DWDO not the EIR. We note however, the Environmentally Superior Alternative includes measures requiring easements for riparian vegetation areas and mitigation for lost wildlife habitat. The Ordinance and therefore this EIR do not treat vineyard development; the Wine Industry Growth Program EIR will. See response to comment #592.

California Department of Food and Agriculture (October 26, 1989)

Comment 13, page B-16 (FEIR)

"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 area 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."

Response

Comment noted; no response required (position statement).

California Regional Water Quality Control Board - Central Valley Region (November 20, 1989)

Comment 14, page B-17 (FEIR)

"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." No further response required (position statement).

Response

Some of the mitigation measures excerpted from the Master Environmental Assessment are being deleted from this document and may be placed in the Wine Industry Growth Program EIR instead.

City of Calistoga (November 9, 1989)

Comment 15, page B-18 (FEIR)

"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."

Response

See response to comment #212.

Comment 16, page B-19 (FEIR)

"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."

Response

Comment noted; no response required (procedural point).

Comment 17, page B-19 (FEIR)

Regarding the Interim Measure, the reviewer states: "An additional provision should be added to prohibit new non-agricultural uses associate with wineries during this interim period."

Response

Additional provision has been added to Interim Measure. See page A-12.

Comment 18, page B-19 (FEIR)

"The proposed mitigation measures need to be incorporated, where practical, into a new draft winery ordinance for public review and comment."

Response

Comment noted; no response required (procedural point).

Comment 19, page B-19 (FEIR)

The reviewer 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."

Response

The difference between the DWDO projections in 2010 and "base case" in 1989 is not the direct result of the DWDO, it is the result of current growth trends, as modified by the DWDO. The "direct" impacts we have defined show to what extent the DWDO modifies current growth trends. It is important to see that the DWDO has only minor impacts upon any area of environmental concerns. Cumulative impacts then analyze the impacts of current growth trends, as modified by the DWDO.

Comment 20, page B-19 (FEIR)

The reviewer states that impacts on housing are not adequately discussed under direct, indirect or cumulative impacts, and proposes the following two mitigation measures to lessen the 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.

Response

See new text in Community Services, page A-77. The first mitigation measure has been included. The second mitigation measures regards vineyard workers only and will be considered for inclusion in the Wine Industry Growth Program EIR.

Comment 21, page B-20 (FEIR)

The reviewer states that impacts of new households resulting from new jobs resulting from new wineries on community services and public safety are not adequately discussed.

Response

See new text in Community Services, page A-77.

City of St. Helena (November 13, 1989)

Comment 22, page B-22 (FEIR)

The commenter reviews their letter of September 12th regarding several points of the DWDO, stating that the winery definition is good, that regulation of accessory uses and promotional activities is inadequate, that uses allowed by use permit are overly broad and ambiguous, that the 18-month clause is discriminatory, and that percentage of parcel coverage is excessive.

Response

No response required; comment is on the DWDO and not the DEIR.

Comment 23, 24, 26, pages B-22, B-23 (FEIR)

The commenter discusses the DWDO, stating that it won't implement its stated objectives, that it would exacerbate traffic and water use impacts, and that it signals a trend toward commercialism which undermines the agricultural policies of the General Plan.

Response

No response required; comment is on the DWDO and not the DEIR.

Comment 25, page B-22 (FEIR)

Reviewer asks for more analysis of the impact of promotional activities on traffic, water supply, and sewage disposal.

Response

The "worst case scenario" of promotional events presented in Growth Inducing is too general and speculative to use for analysis of specific environmental impacts. Further, mitigation measures in the Traffic Section place further limitations on promotional events and permitting of promotional events.

Comment 26, page B-23 (FEIR)

Response

Refer to response #23.

Comment 27, page (FEIR)

"5. Until they address traffic, the County shouldn't allow more wineries on Highway 29 north of Yountville."

Response

Mitigation Measures on page A-84 (FEIR) require that all wineries use minor collector roads rather than direct access onto Highway 29. The commenter, however, probably refers to additional traffic from wineries on Highway 29 as well as additional wineries.

A new mitigation measure, #1C(1), is proposed on page A-46 (FEIR) which will prohibit new or expanded private or public visitor facilities in the Napa Valley Agricultural Preserve. This measure will still allow visitor serving facilities to be built in the cities or on land zoned Agricultural, Watershed along Highway 29, but traffic from such development will be slight in comparison to that generated from development in the Agricultural Preserve.

Comment 28, page B-23 (FEIR)

"6. Wineries which are of a scale and character similar to processing plants should be located in industrial areas."

Response

See new discussion in Alternative section, page A-107 (FEIR).

Comment 29, page B-23 (FEIR)

"7. Wine warehousing should not be allowed in Agricultural zones."

Response

See new discussion in Alternative section, page A-107 (FEIR).

Comment 30, page B-23 (FEIR)

"8. Where a winery site is less than 40 acres, the preponderance of grapes that winery uses should be grown on the site."

Response

The mitigation measures we are recommending would preclude placement of wineries on sites less than 40 acres. If the County chooses not to adopt this measure as recommended, we propose they adopt the measure suggested by this commenter.

Comment 31, page B-23 (FEIR)

"9. Controls on promotional activities should be tightened."

Response

We have recommended that promotional activities not be allowed in agricultural zones; see page A-46 (FEIR).

Comment 32, page B-23 (FEIR)

"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."

—Response—

See response to comment #31.

Comment 33, page B-23 (FEIR)

Reviewer states their position in opposition to strip commercial development of Highway 29 between Yountville and Calistoga.

Response

Comment noted; no response required (position statement).

Comment 34, page B-23 (FEIR)

"12. Setbacks along Highway 29 should be greater than 150'."

Response

Setbacks greater than 150' should be a site specific requirement imposed by a Design Review Board, rather than a general regulation which may not be necessary or desirable in all cases.

Comment 35, page B-23 (FEIR)

"13. There should be more specificity to the threshold for determining 'adequacy' of water supplies."

Response

See response to comment #86.

Comment 36, page B-23 (FEIR)

"14. There should be greater emphasis on vanpooling and traffic-reduction mechanisms."

Response

See additional mitigation measures, page A-86.

Comment 37, page B-23 (FEIR)

"15. Air quality Mitigation Measures should add a paragraph on recycling by-products of waste disposal."

Response

See Mitigation Measures in Appendix D.

Comment 38, page B-24 (FEIR)

"16. The County should ensure that seasonal housing is provided for the seasonal workforce."

Response

See response to comment #20.

Comment 39, page B-24 (FEIR)

"17. Recycling of winery by-products should be increased."

Response

See response to comment #37.

City of Vallejo (November 6, 1989)

Comment 40, page B-27 (FEIR)

The reviewer asks "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." Include mitigation measures if necessary.

Response

Adoption of the DWDO will not have any impact on traffic in the area of the City of Vallejo. As indicated in the study, cumulative winery development will result in a 3% increase in winery related traffic throughout south Napa County. As this increase in daily traffic volumes is minor and would have origins and travel patterns distributed throughout the area south of the City of Napa, no significant impacts will result. Specifically, the SR-29/SR-37 and SR-37/Fairgrounds Drive and the I-80/American Canyon Road interchanges are not forecast to experience significant impacts as a result of the DWDO. No mitigation is required.

Napa County Conservation, Development, and Planning Department (November 13, 1989)

Comments 41-48, pages B-28, B-29 (FEIR)

The reviewer requests several format or procedural changes, namely number all pages, number mitigation measures, enlarge maps if not legible, provide citations, state mitigation measures in "mandatory" language, and clarify the relation between standard County use permit conditions and proposed mitigation measures.

Response

Document is changed as requested.

Comment 49, page B-29 (FEIR)

"The consultant has reached conclusions about project impacts in the opening section about project location; this discussion should be relocated."

Response

See revised text, page A-20.

Comment 50, page B-29 (FEIR)

"The consultant should be advised that new wineries are not permitted within the commercially-zoned areas of Napa County."

Response

Comment noted; no response required (informational point).

Comment 51, page B-29 (FEIR)

The commenter states that Net Public Cost Increases should not be in the Effects Found Not To Be Significant section since the Administrative Permit for promotional events will require action of the County Conservation, Development and Planning Department, Department of Environmental Management, Department of Public Works, and the State Division of Forestry.

Response

See response to Comment #286.

Comment 52, page B-30 (FEIR)

The commenter states that Traffic Hazard Exposure should not be in the Effects Found Not to Be Significant section since it is discussed in the Cumulative Impacts section of Public Health and Safety.

Response

The item listed under Effects Found Not To Be Significant, Traffic Hazard Exposure, regards exposure of project participants to an already existing traffic hazard, for example, building an elementary school next to a busy thoroughfare. The impact listed under Public Health and Safety regards creation of new traffic hazards. The Impact Identification matrix supplied by County staff determined that there were no significant impacts to Traffic Hazard Exposure, and it was therefore included in Effects Found Not to be Significant.

Comment 53, page B-30 (FEIR)

"The consultant should clarify that the construction of a new winery on 10 acres is not inconsistent with the General Plan requirement that newly created parcels must be a minimum of 40 acres in size."

Response

See response to Comment #212; see revised text, page A-43.

Comment 54, page B-30 (FEIR)

Regarding the Water Resources section, the "consultant should provide a quantifiable impact discussion to support the conclusions stated in the impact section."

Response

See response to comment #86.

Comment 55, page B-30 (FEIR)

"Figure 6 has two different symbols -- "circled" numbers and "uncircled" numbers -- what is the difference?"

Response

All numbers are circled; the size of the circle shows the approximate extent of the distribution.

Comment 56, page B-30 (FEIR)

"The mitigation measures under the Cumulative Impact Section seem to be broader than necessary. Those measures suggest that a biological survey is necessary for all winery projects yet figure 6 indicates that only certain areas of the County contain sensitive plant and animal communities."

Response

The Mitigation Measures are written in an effort to "throw an umbrella" over an entire county, not respond to a specific project proposal. Based on available data we have been able to identify certain areas of the County that are biologically sensitive. This is not meant to imply that a specific project proposal outside of known areas could not have a significant biological effect that could only be identified through site specific investigation.

Comment 57, page B-30 (FEIR)

"Also, if the impacts on vegetation and wildlife are less under the DWDO when compared to the base case, impacts should also be less. No mitigation measures would be necessary when a reduction in impacts is likely."

Response

The commenter's assumption that mitigation measures would not be necessary if a reduction in impacts is expected is erroneous. CEQA only recognizes avoidance or reduction to a level of insignificance as adequate. The mitigation measures included in the DEIR are necessary to meet this objective.

Comment 58, page B-30 (FEIR)

Regarding the Visual/Aesthetic Considerations section, the reviewer states, "Mitigation measures under cumulative impact section should be specific and should indicate the areas of impacts that are being mitigated. For example, what specific visual impacts of winery development require mitigation? parking areas? ..."

Response

Expanded mitigation measures from the draft MEA have been included in the final EIR; see page A-100 (FEIR). In addition, we believe it is important for the County of Napa to appoint a Design Review Board of local professionals and winery owners to set design guidelines for the County.

Comments 59, 60, pages B-30, B-31 (FEIR)

The reviewer raises several questions regarding traffic, specifically:

What is the relationship between trips generated and winery characteristics such as gallonage, size of tasting rooms, etc.
 What directional splits were used?
 What is available capacity of County roads?
 What number of visitors would be attracted to new wineries with private tours and tastings?

Response

Winery-related trips are projected as a result of winery jobs and truck traffic only. The economic consultants, EPS, determined that visitors to wineries in Napa County will not increase as a result of new wineries, but only as a result of larger market forces. Therefore, traffic generation figures even in the Cumulative section do not include visitor trips.

Generation factors for employee trips are as follows, in trip ends per thousands of gallons of annual wine production:

	Base Employees	Peak Employees (Including Base)
Large wineries (>400,000 gal)	.28	.35
Medium (75,000 - 400,000 gal)	.39	.49
Small (<75,000 gal)	.56	.70

Truck trip ends are calculated as follows:

Trip Ends per Day
(per 100,000 gallons of annual wine production)

During crush season	5.1
During remainder of year	1.4

Directional splits are now included in Appendix G.

Capacity of County roads has been inserted in the Cumulative Traffic Impact Section.

Even though new visitors are not expected to be generated by new winery development, site specific visitor trip ends would be the same whether the facility were "public" or "private." Generation factors would be, in trip ends per visitor serving facility:

Visitor trip ends

Large	778
Medium	229
Small	141

Comment 61, page B-31 (FEIR)

"In the cumulative impact section relating to traffic, the consultant concludes that the traffic impacts can be "partially mitigated"; does this mean that findings of overriding consideration will be needed even with the mitigation measures recommended?"

Response

Yes.

Comment 62, page B-31 (FEIR)

Regarding the Community Services section, the reviewer states, the "consultant should quantify the impacts on NSD system to support conclusions. Also, I believe that the sake facility on Highway 12/29 is connected to a sanitary sewer."

Response

See response to Comment #160.

Comment 63, page B-31 (FEIR)

Regarding the Significant Beneficial Effects section, the reviewer states, "transient occupancy taxes will result with or without the adoption of the DWDO."

Response

We agree, and the text of this section acknowledges that in the first paragraph. See revised text, page A-81.

Comment 64, page B-31 (FEIR)

Regarding the Growth Inducement section, the reviewer requests "the source of the 50,000 visitors that currently attend public promotional events (p. 58)"

Response

See page 58 (DEIR), first paragraph, last three sentences.

Comment 65, page B-31 (FEIR)

The reviewer points out the conclusion on page 59 is different than on page 67 regarding partial or complete mitigation.

Response

The reviewer is correct, and the text of page 59 is amended to show that both traffic and noise will be partially mitigated, and therefore statements of overriding considerations will be necessary.

Comment 66, page B-31 (FEIR)

"How was the number of wineries contained in the Interim Measure arrived at?"

Response

According to County staff, historically, Napa County has approved just under ten wineries a year over the past 16 years, including wineries receiving Use Permits and wineries receiving Small Winery Exemptions. This figure does not include expansions.

Napa County Department of Environmental Management (November 13, 1989) (J)

Comment 67, page B-32 (FEIR)

The reviewer expresses concern regarding administrative costs to implement the DWDO, including programs to inspect, permit, regulate, and monitor promotional events, sewage disposal, Use Permits, water use and reclamation programs, hazardous materials, and solid waste, noise, and odor control.

Response

See response to comment #286.

Comment 68, page B-32 (FEIR)

The reviewer is concerned regarding administrative costs resulting from the 18-month "grandfather" clause and possible abatement proceedings.

Response

See response to comment #286.

Comment 69, page B-33 (FEIR)

The reviewer is concerned regarding administrative costs resulting from regulation of food facilities and catering.

Response

See response to comment #286. Additionally, we do not foresee significant environmental impacts which result from the use of food facilities, per se, which are not discussed under visitor serving facilities or promotional events.

Comment 70, page B-33 (FEIR)

The reviewer is concerned regarding administrative costs resulting from regulation of promotional events.

Response

See response to comment #286.

Comment 71, page B-33 (FEIR)

The reviewer is concerned regarding administrative costs resulting from elimination of the Small Winery Exemption.

Response

See response to comment #286.

Comment 72, page B-33 (FEIR)

The commenter questions the rationale for constructing new wineries in the Carneros area due to the poor soil quality of the area.

Response

The winery forecast does not recommend the geographical location of new wineries; rather, it forecasts the likely geographical distribution of new and expanded facilities based on available data, current trends, and the location of new vineyards. In general, wine-producing facilities are assumed to locate near vineyards; therefore, new wineries were distributed based on the forecasted distribution of new vineyard acres.

Comment 73, page B-33 (FEIR)

"1. Additional wineries could, not "would", add to the degradation of the waters in Napa County."

Response

Text revised; see Water Quality, page A-54.

Comment 74, page B-34 (FEIR)

"2. The mitigation (page 3) refers to treatment systems. Is this intended to say waste water treatment systems."

Response

Yes; measure has been revised.

Comment 75, page B-34 (FEIR)

The commenter states that siting and approval of sewage disposal system is its responsibility, and states that mitigation measures which may be more restrictive than the Department's are not appropriate and may limit design options.

Response

Enforcement of the County's strict design criteria for wastewater treatment systems should be continued, including requirement of detailed site assessments for new winery wastewater treatment systems, particularly in shallow and coarser soils of hillside regions.

Comments 76, 77, 78, page B-34 (FEIR)

The reviewer has several questions and comments regarding runoff from structures, parking areas, and driveways, namely:

Has runoff been determined to be a hazard?

Once collected as potentially hazardous material, runoff is subject to monitoring, testing, and regulation. Proper installation of collections vaults will be required which will cause an unreasonable burden on the wineries.

Bermed collection pads which are vacuum swept prior to the first winter rains should be considered as an alternate.

Who will implement and monitor alternate method?

Response

This mitigation has been changed to a site-specific measure; see Appendix D.

Streams in all regions could receive increases in pollutant loading from paved areas. Quantification of impacts to stream concentrations is not possible; however, it can be assumed that if all runoff from paved areas were allowed to discharge directly to surface waters, degradation would occur. Short-term impacts would result in oxygen depression due to the high COD concentrations of the runoff. Aggradation of eutrophic conditions would occur due to the high concentrations of nutrients. Also, metals concentrations in urban runoff are toxic to aquatic life (EPA, 1983).

However, due to the nature of winery development and construction, there would probably be little opportunity for collection of runoff from more than one winery. This would physically limit the amount

of runoff which would directly reach a surface water body and therefore reduce the impacts associated with it. Given the existing pattern and style of winery layout, most runoff from paved areas would be routed through vineyard or other areas which would reduce impacts. Also, the quantities of such runoff would be small in relation to receiving waters and dilution by storm water would lessen impacts.

Comment 79, page B-34 (FEIR)

"5. This department presently enforces the design and installation of on-site waste water treatment and disposal systems. Napa County has a memorandum of understanding with the Bay Area Regional Water Quality Control Board for the design, installation and monitoring of above ground winery waste water disposal systems. We also work under a waiver for subsurface winery and domestic waste water disposal systems from Bay Area and Central Valley Regional Water Quality Control Boards."

Response

The mitigation measure from the MEA referring to the Regional Water Quality Control Board is deleted.

Comment 80, page B-34 (FEIR)

"6. Does the Resource Management Systems Plan refer to only erosion control?"

Response

The Resource Management Systems Plan (RMSP) is defined and supported by the Soil Conservation Service and relates to soils, including but not limited to erosion control. This Mitigation Measure has been deleted from this document; see response to Comment #592.

Comment 81, page B-34 (FEIR)

"7. Erosion control is needed. Water supplies have been degraded because control measures have not been implemented."

Response

See response to Comment #592.

Comment 82, page B-34 (FEIR)

"Oxidation, evaporation and percolation ponds along with land spray disposal and drip irrigation are approved methods of winery waste water treatment and disposal. In reference to page 56, 27 of the 30 wineries with above ground winery waste water systems have subsurface domestic septic systems as well."

Response

This information has been added to the text; see page A-75 (FEIR).

Comment 83, page B-35 (FEIR)

The reviewer is concerned about administrative costs resulting from monitoring winery waste water systems.

Response

See response to comment #286.

Comments 84, 85 page B-35 (FEIR)

"10. Field crush is being done. We are unaware of the extent, the amount of waste water generated, who is doing it, etc. This should be addressed as a potential source of contamination of waters."

"11. Custom crush is also being conducted at many wineries. The impact on the waste water generation must be addressed. Total production must be considered."

Response

The wine production projections represent "Total production" and would therefore include wine (and winery wastewater) generated by custom and field crush operations. Only a small portion of grapes exported from the County are crushed in the County and exported thereafter. Therefore, wine production is an adequate basis for wastewater production.

Comments 86, 87, page B-35 (FEIR)

What is "adequate" water supplies? Standard requirements must be determined considering the potential effects on existing and proposed neighbors using the same aquifer/water supply. This mitigation

measure must address a safe yield. Presently the County's well ordinance does not have a minimum yield for commercial, industrial or agricultural operations. The Department of Forestry may have minimum storage requirements for fire safety but that is not associated to the water consumption needs. The type and amount of additional promotional events may affect the water consumed. The effect on the community and existing water users is very important and must be more thoroughly addressed. Adjoining wells using the same aquifer could be significantly affected. This must be mitigated.

Response

An exact determination of water supplies would depend on the local groundwater recharge/withdrawal balance. In general, local water supplies would be considered adequate if they did not result in local overdraft (i.e., affect other nearby wells) in an average rainfall year or over the long-term. In addition, if a regional overdraft condition is known to occur, then groundwater supplies would not be considered adequate unless supplemental water sources were available. The safe yield of the Napa Valley aquifer is estimated at 24,000 acre feet per year (USGS, 1972). The issue of adjoining wells significantly affecting a local aquifer is treated in mitigation measures on page A-106.

Comment 88, page B-35 (FEIR)

"2. All wineries with 20,000 gallon or more per year production with public tours and tastings must comply with the California Safe Drinking Water Act. ...This number would increase with the removal of the small winery exemption."

Response

Comment noted; no response required (informational point).

Comment 89, page B-35 (FEIR)

There are some existing problem yield areas which have either had a watershed study completed (Milliken-Tulocay may have areas of overdraft) or according to testimony of the area residents the water is in short supply (Carneros, Dry Creek/Redwood Road, Dunaweal Lane, Pope Valley). These areas should be addressed. The Planning Commission has required monitoring and limitations on the type and

quantity of water usage at a winery. This type of monitoring will put an added stress on the workload of this office.

Response

Specific areas studies are beyond the scope of this report. We acknowledge that many parts of the County referred to in the comment have low yields or short supplies of groundwater. See response to Comments #94 and new mitigation measures, page A-106.

Refer to response to comment #286 regarding administrative costs of monitoring.

Comment 90, page B-36 (FEIR)

Reviewer is concerned about administrative costs resulting from monitoring of winery water use.

Response

See response to comment #286.

Comment 91, page B-36 (FEIR)

Water is being trucked for residential use from a potable water supply tap provided by the Napa City Public Works Department. The areas which are using this desperate measure to provide their water supply should be recognized.

Response

Water is trucked to outside contractors from the supply of the City of Napa. Uses of this water include construction, farming, pest control, and well drilling. No residential uses of this water are known by the Collections Department of the City of Napa. Customers have water trucked to their property for reasons of convenience or where there is no water supply on the land. Water shortage is not the cause of the trucking (Annette Ewen, Collections Department, 1989).

Comment 92, page B-36 (FEIR)

Who is the "County's Water Agency" which is referred to in relation to water conservation practices?

Response

The "County's Water Agency" is the Napa County Flood Control and Water Conservation District; this is deleted.

Comment 93, page B-36 (FEIR)

What are the areas which need to be addressed in respect to water conservation?

Response

The question is ambiguous as to whether "areas" refers to geographic areas or methods. The geographic areas which would most need water conservation measures are Calistoga in Napa Valley, Carneros, and eastern Napa County. Water conservation methods may include reduction of water during processing, reuse of water from processing for irrigation, leak detection, and pump efficiency tests for wells.

Comment 94, page B-36 (FEIR)

Who should approve and monitor the water reclamation/reuse programs in the wineries and vineyards?

Response

Three options exist for monitoring water conservation/reuse programs in wineries. These are:

1. The Napa County Water Conservation and Flood Control District could accept this responsibility;
2. The wineries could be required to develop self-monitoring programs with periodic results transmitted to the County Planning, Public works, or Flood Control agencies for review; or
3. The County could retain a private consulting firm to implement this monitoring and transmit results to any or all of the agencies listed in (2), above.

The selection of one of these options would be up to the County Conservation, Development and Planning and Public Works Departments.

Comment 95, page B-36 (FEIR)

What type of groundwater study is needed to review the decline of the overall groundwater levels and who will review and monitor this program?

Response

An on-going inventory/monitoring of selected well logs throughout the County would be required to review the decline of overall groundwater levels. Detailed design and implementation of this program is beyond the scope of this EIR.

Comment 96, page B-36 (FEIR)

What impact would large municipal wells have on the groundwater supplies? Calistoga and St. Helena are presently actively researching groundwater sources for their municipal water supplies. the other cities have considered using groundwater supplies in the past and may need to explore them further in the future.

Response

The current need for Calistoga and St. Helena to expand their water supplies is immediate and far outweighs incremental pressure from winery development. Impacts of specific withdrawal projects are beyond the scope of this report and require detailed study at the time of their proposal.

Comment 97, page B-36 (FEIR)

"1. Some noise problems exist with existing densities, whether those problems are real or conceptual by the neighbors. The layout of the winery in relation to the neighbors and property lines should be addressed to minimize noise disturbances."

Response

See revised mitigation measures, page A-88.

Comment 98, page B-36 (FEIR)

"2. Picking at night and crush operations which require 24-hour work-schedules can continue for many weeks, especially at wineries which produce red and white wines. Due to the differences in the

picking and crushing times of the red and white grapes, the potential for noise disturbance is greater."

Response

See new mitigation measures, page A-88.

Comment 99, page B-37 (FEIR)

"1. Public visitor-serving facilities, or expansion of existing facilities in approved locations should not be discouraged, i.e. Vintner's Village, locations in the cities, off-site wine tasting."

Response

We agree; no response required (position statement).

Comment 100, page B-37 (FEIR)

"2. What development limitations and restrictions in lodging, etc. are suggested...?"

Response

The Mitigation Measure recommending these limitations has been deleted from this document and may be included later in the Wine Industry Growth Program EIR.

Comment 101, page B-37 (FEIR)

"1. Aeration is already required on all new ponds and many old ponds are being upgraded by providing aeration."

Response

See Appendix D.

Comment 102, page B-37 (FEIR)

What "accumulation of pond residue" is the mitigation measure referring to? And where is that accumulating? Ponds are usually dried and cleaned once every ten years, or as needed, under direction from this department.

Response

See Appendix D.

Comment 103, page B-37 (FEIR)

What "waste material stockpiling" is being referred to? Pomace is often stockpiled for week long periods and then incorporated into the soil on site, with proper separation from property lines, creeks, ditches, etc. This is an acceptable method of disposal and it would be eliminated if waste materials were prohibited from being stockpiled. Landfills do take this material also, and are working on reuse of the material. Diatomaceous earth and lees are also common waste materials and accumulated on-site.

Response

Wastewater material is pomace and sludge removed from wastewater treatment systems. Avoidance of waste material stockpiling will reduce odor conflicts and violations. Stockpiling which produces anaerobic conditions leads to the production of odors which may violate Bay Area Air Quality Management District (BAAQMD) odor rules.

Comments 104 and 105, page B-37 (FEIR)

What is an "adequate buffer" between ponds and houses/property lines? The use of the neighboring property, prevailing wind directions, location of the structures, etc. should be incorporated into the buffer. Depending on the age and construction of the pond, the buffer may vary in existing wineries. Where did the quarter mile come from? Should there be a minimum setback in the sewage ordinance which, due to the site conditions, could be buffered or expanded at the use permit stage?

Response

An adequate buffer between agricultural odor sources and urban residences has been shown through air dispersion modeling to support a 40-acre (1,320-foot) green belt buffer zone (Goddard, 1987). This suggested buffer zone distance is intended to protect urban residents from commercial farming operations which produce noise, odors and drifts of toxic gases and particulates. Sewage ponds and other odor or biological drift producing air emission sources should be reviewed for adequate buffer distances. Application of buffering should be studies site specific.

Comment 106, page B-37 (FEIR)

What operations are meant to be "exhausted"? Where will the exhaust systems be installed and who will be responsible for the inspections? How will the noise generated from these units impact the project? Are there any outside operations which are producing emissions which must be mitigated?

Response

Inside operations which produce air emissions which exceed OSHA standards must be vented externally. The BAAQMD through their Authority to Construct, Permit to Operate and air district rules have the responsibility to review proposed or existing operations which have the potential to exceed Ambient Air Quality Standards (AAQS) or exceed New Source Review (NSR) emission limits.

The responsibility of noise control is regulated through County Noise Ordinances, OSHA limits or EPA guidelines. A Noise Control Officer in the County Environmental Health Department is responsible for carrying out the mandates of noise regulations.

Comment 107, page B-38 (FEIR)

The Bay Area Air Quality Management District has expressed concern about the cumulative impact of ethanol emissions from the fermentation process at all of the wineries in the Napa Valley. This issue should be addressed.

Response

The BAAQMD through their Authority to Construct, Permit to Operate, New Source Review or other rules may impose ethanol emission limits if AAQS or emission limits are exceeded. Individual wineries have not exceeded such limits, and cumulative impacts are insignificant.

Comment 108, page B-38 (FEIR)

Regarding Community Services, the reviewer states that the first mitigation measure in this section is not appropriate or safe.

Response

We agree; mitigation measure is deleted.

Comment 109, page B-38 (FEIR)

The reviewer states that it has the responsibility for design, installation and operation of all on-site sewage disposal systems.

Response

Comment noted. This comment may relate to the second mitigation measure under Community Services, however, if so, the mitigation recommended is not regarding sewage disposal, but winery process waters containing twigs, skins, bentonite, diatomaceous earth, activated carbon, or other materials not acceptable to the Napa Sanitation District.

Comment 110, page B-38 (FEIR)

"3. Napa Sanitation District already requires testing of commercial loads for disposal. Very little material is used at wineries which would require a material data sheet."

Response

See response to comment #109.

Comment 111, page B-38 (FEIR)

Reviewer comments on farm labor camps, and the health and safety problems associated with farm labor housing (or lack thereof).

Response

Comment noted; no response required (comment related to vineyards, not DWDO; see Wine Industry Growth Program EIR).

Emergency Services Agency (Department of Forestry, Napa County Fire Department, and the Napa County Office of Emergency Services) (November 13, 1989) (Ja)

Comment 112, page B-39 (FEIR)

The commenter suggests specific equipment and manpower requirements to mitigate the negative fiscal impacts of the DWDO.

Response

The impact of the cumulative increase of wineries on the County's fire protection and emergency services was addressed in the FEIR (page A-103). The commenter is correct in asserting that there will be an increasing need for fire protection and emergency services as development occurs. One mitigation measure was included in the DEIR that suggested that an increased allocation be made to the fire protection agencies from the County General Fund. An additional mitigation measure, suggesting that the County adopt a development impact fee for fire protection facilities and equipment has been added to the FEIR.

NAPAC (November 12, 1989)

Comment 113, page B-41 (FEIR)

"First of all, we found the DEIR difficult to follow. We feel that the consultant did not fully explain the process or reasons behind some of the major conclusions. For example, in the cases where the consultant makes reference to conflicts with the General Plan, the specific General Plan language in question should have been included. The document would be clearer if it included a thorough discussion of the DWDO (including a summary of its intended results), an analysis of the unforeseen results, identification of possible impacts, and then the proposed mitigation measures. Although most of this information is in the EIR, the organization made it difficult to find."

Response

The Land Use section has been amended clarifying the General Plan issues; see page (FEIR) and response to Comment #212. The Project Description section has been amended to define the provisions of the DWDO more precisely; see page (FEIR). The analysis of results of the DWDO, whether intended or unforeseen, is located in the Projections section, immediately following the Project Description. Impact and Mitigation Measures are discussed in the next section by topic.

Comment 114, page B-41 (FEIR)

"1. We feel that there is a need for more examples in the definitions of the following terms:
non-agricultural use
wine-related activities
marketing

If these terms are more clearly defined in other County documents, those definitions should be included in the EIR."

Response

Non-agricultural use:

Policy 3.11 of the Napa County General Plan: Processing of Agricultural Products - Agriculture will be considered the production of food and fiber, the growing of crops, produce and feed and the raising of livestock and animals. The processing of agricultural products often takes on an industrial character which will be subject, in general, to the same kind of regulations as other industrial uses.

Section 12019 of the Napa County Zoning Ordinance: "Agriculture" means the raising of crops or livestock and includes the following:
(a) Growing and raising trees, vines, shrubs, berries, vegetables, nursery stock, hay, grain and similar food crops and fiber crops;
(b) Grazing of livestock and feeding incidental thereto;
(c) Animal husbandry, including, without limitation, the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits and poultry and egg production;
(d) Sale of agricultural products grown, raised or produced on the premises.

Note that the Zoning Ordinance does not include processing as an agricultural function, and the General Plan infers that processing is an industrial rather than agricultural use. However, agricultural processing facilities are allowable with a Use Permit in the Agricultural Zones and winery location is discussed in the General Plan agricultural policies.

We therefore recommend for the purposes of this document the following definition: "Non-agricultural use" is a use other than the growing, processing, or sale of agricultural products as defined in the Napa County Zoning Ordinance."

Wine-related activities:

There are no previous definitions to correspond to, therefore we recommend for the purposes of this document the following definition: "Wine-related activities" are those activities which directly involve tasting of wines; education regarding wines, grape growing, or wine making; display of historical material regarding wines, grape

growing, or wine making; and sale of wines; all of which constitute the primary focus of the activity.

Marketing:

There are no previous definitions to correspond to, therefore we recommend for the purposes of this document the following definition: "Marketing" is the sale or advertisement for sale, not including ancillary attractive events.

Comment 115, page B-41 (FEIR)

The reviewer asks for clarification regarding conflicts with the General Plan.

Response

See response to comment #212.

Comment 116, page B-41 (FEIR)

If possible, the EIR should contain information on how many parcels between 10 and 40 acres would be affected if the proposed mitigation measure (requiring new wineries to locate on 40+ acre parcels) is adopted.

Response

We have attempted to find out this information, but the County Assessor has informed us it is not feasible to do an actual count. There are, however, several thousand such parcels.

Comment 117, page B-42 (FEIR)

The recommended mitigation measures for Water Resources (p. 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?

Response

Potential additional surface water sources in the County have been explored as supplemental sources, and are mostly limited to surface water diversion from the Napa River. Stream diversion from the Napa River is estimated at roughly 13,000 AF, even though water supply in the River is much greater. Currently, 12,000 AF are being diverted for agricultural purposes annually, which leaves an annual surplus of 1,000 AF as of 1989. However, future additional diversion of Napa River water may infringe upon those owners of already established water rights. In addition, effects of additional water diversion may be felt in the San Pablo Bay, and therefore may require a permit by the Bay Area Regional Water Quality Control Board.

Supplemental sources from outside the County could be available from the North Bay Aqueduct, but this water is currently not available to agricultural uses (i.e., wineries).

It is beyond the scope of this EIR, as well as highly speculative, to determine which, if any, of these sources may be developed in the future, or the impacts that such development may have on growth inducement.

Comment 118, page B-42 (FEIR)

"4. The impacts identified under Vegetation and 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."

Response

Discussion on page 3 is the summary. See text in the Environmental Setting and Impact section and also the Cumulative Impact section for Vegetation and Wildlife, mitigation measures have been augmented.

Comment 119, page B-42 (FEIR)

"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.

Response

Although this alternative would work, we recommend a Design Review Board so that the process is subject to public meetings and a variety of interests can be involved in defining and implementing design guidelines.

Comment 120, page B-42 (FEIR)

"6. We suggest the following changes to the mitigation measures for Traffic (pgs. 4 & 5):

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."

Response

Road widening is a project under CEQA, and it is subject to environmental review prior to beginning the project. That is the appropriate time to answer this question, not in an EIR regarding the DWDO.

Comment 121, page B-42 (FEIR)

"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."

Response

This mitigation measure has been deleted from this document and may be included in the subsequent Wine Industry Growth Program EIR.

Comment 122, page B-42 (FEIR)

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).

Response

Comment noted; no response required (position statement).

Comment 123, page B-42 (FEIR)

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.

Response

We agree, however, the DWDO is intended to regulate wineries only.

Comment 124, page B-42 (FEIR)

"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?

Response

Elimination of the Small Winery Exemption is part of the DWDO, and is discussed in the Project Description, page A-25 (FEIR). See also response to comment #414. Elimination of the 18-month grandfather clause would reverse the provision of the DWDO, and impacts would be the same as under current regulations. The Use Permit process as currently defined is very flexible allowing greater limitations to be placed on larger, more impactful projects.

Comment 125, page B-42 (FEIR)

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?"

Response

We are not aware of any such mechanism; please see County Counsel's evaluation of "grandfather" clause in Appendix F.

Comment 126, page B-42 (FEIR)

"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) need a better definition of non-agricultural."

Response

Discussion of the Mitigated DWDO Alternative has been expanded; see page (FEIR). See response to comment #114 for definition of "non-agricultural."

Comment 127, page B-43 (FEIR)

"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."

Response

See County Counsel's letter regarding General Plan conformity in Appendix F.

Comment 128, page B-43 (FEIR)

"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."

Response

This measure is deleted.

Comment 129, page B-43 (FEIR)

"9. The Interim Measure ... 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."

Response

Justification for the Interim Measure is that several of the Mitigation Measures recommended cannot be put into place immediately. They involve creation of ordinances, surveys, easements, committees, etc. which will take some time. Without these Mitigation Measures active and in place, significant environmental impacts would result to the County of Napa.

Determination of which nine wineries would be approved is appropriately handled as an administrative matter by the Conservation, Development, and Planning Department.

Comment 130, page B-43 (FEIR)

"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."

Response

This is not a required topic of an EIR as dictated by CEQA.

Comment 131, page B-43 (FEIR)

The commenter challenges the finding that the 75 percent grape source requirement would have no impact on wine production.

Response

The grape source rule would require that certain winery expansions, and all new wineries located in AP or AW zones, use 75 percent Napa-grown grapes. Although this requirement would have localized impacts on specific wineries, for a variety of reasons it would have little impact on the overall industry.

Wineries producing popular premium wine would be most effected, since they import larger amounts of cheaper grapes or juice from outside of the County. Although the DWDO would effectively limit these wineries in AP and AW zones, it would continue to allow these wineries in areas zoned commercial or industrial. The Winery Forecast under the DWDO does not reduce the amount of wine produced by popular premium wineries; rather, it distributes new popular premium wineries to commercially or industrially zoned areas (e.g. near the airport in the Jameson area, and in the cities of Napa and St. Helena).

Wineries producing super/ultra premium wine also would not be affected by the grape source requirement. Many super/ultra premium wineries are operating within appellations which require as high as 100 percent locally-grown grapes. In addition, only 36 percent of the grapes currently used by all wineries is imported from outside of the County; this figure is forecast to decline to 31 percent by the year 2010.

Napa County Landmarks, Inc. (November 7, 1989)

Comment 132, page B-44 (FEIR)

"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."

Response

We have done so in the FEIR.

Comment 133, page B-44 (FEIR)

"A general statement as to why the DWDO will not have direct impacts but will have cumulative impacts would make it easier ... to understand the difference."

Response

Direct and cumulative impacts have been revised; see Projections, page (FEIR).

Comment 134, page B-44 (FEIR)

"3. What is the timetable for implementing the mitigation measures? Who is responsible for the mitigation monitoring program?"

Response

The County is responsible for the mitigation monitoring program, presumably the Conservation, Development and Planning Department.

Comment 135, page B-44 (FEIR)

"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."

Response

We have done so in the FEIR.

Comment 136, page B-44 (FEIR)

"2. Section IX, References, should also include the Historic Resources Inventory."

Response

We have done so in the FEIR.

Comment 137, page B-45 (FEIR)

"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."

Response

Comment noted; no response required (position statement).

Comment 138, page B-45 (FEIR)

"It might be noted that an historic preservation ordinance would work with the design review ordinance mitigation measure... in that the design review ordinance could include the guidelines for rehabilitation of historic structures, guidelines for new construction and the process for review."

Response

Comment noted; no response required (informational point).

Comment 139, page B-45 (FEIR)

"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."

Response

Comment noted; no response required (position statement).

Sierra Club, Redwood Chapter, Napa Group (November 9, 1989)

Comment 140, page B-46 (FEIR)

"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."

Response

This is quite possible, however, the impact of promotional activities is not quantifiable at the present time due to the open ended nature of the DWDO regulations.

Comment 141, page B-46 (FEIR)

"The estimate of winery related trip ends does not include trips for transportation of winery pomace to the Whitehall Lane facility."

Response

Winery related trip ends generated for the County of Napa are typical of a non-peak daily weekday activity, and are not necessarily representative of traffic during the peak crush season. Truck trip ends during the peak harvest season would be higher, and would include transfer of pomace from the wineries to the Whitehall Lane facility. It should be pointed out that the adoption of the DWDO does not change the annual wine production, and therefore, the DWDO will not result in an increase in winery related truck traffic.

Comment 142, page B-46 (FEIR)

The report states that groundwater supplies are completely recharged each year. This assumption is based on data which is over 15 years old. Overdraft 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.

Response

The Napa County Flood Control and Water Conservation District has been contacted regarding the accuracy of the statement that the Napa Valley Aquifer is recharged in the average rainfall year. In general, well logs and monitoring confirm that the aquifer is fully recharged by rainfall. In years of light rainfall, such as the past few years, the groundwater table has lowered. Historically, years of heavy rainfall have compensated for years of light rainfall. Although there are isolated spots of overdraft, overall the aquifer is fully recharged (Bern Klein, Napa County Flood Control and Water Conservation District, 1989).

It is true that aquifer capacity may be lost due to consolidation of locally overdrawn aquifers. This potential concern can only be evaluated on a site- or vicinity-specific basis. Such an evaluation is beyond the scope of this EIR. See mitigation measures designed to reduce this problem, page A-106.

Comment 143, page B-46 (FEIR)

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

Response

Municipal and industrial uses in Napa County are supplied predominantly through surface water while agricultural uses are supplied primarily through groundwater and stream diversion. Most of the developed water supplies in Napa County are in the Napa Valley as described below.

The City of Napa is supplied by two water sources, Lake Hennessey and Milliken Canyon Reservoir, as well as water supplied by the Napa County Flood Control and Water Conservation District from the North Bay Aqueduct and Yuba County. It does not draw in groundwater, therefore would be affected by groundwater westbound.

The City of St. Helena is supplied primarily by the Bell Canyon Reservoir. In dry years, St. Helena contracts for additional water

from the City of Napa or Yuba County via the North Bay Aqueduct, and has pumped water from its one well. New sources of water are being explored, including new well sites south of the City between Highway 29 and the Napa River. In addition, a four-million-gallon storage tank plan is under review and expected to be approved in 1990. St. Helena currently supplies many wineries in the area with water for production and domestic usage (Anne Corna, St. Helena Water Department, personal communication, 1989).

The Town of Yountville receives all of its water from the Napa Water District and the State facility of Rector Dam. Therefore, groundwater withdrawal would not affect Yountville's municipal supply. It is possible that St. Helena's groundwater supplies could be adversely affected by winery groundwater withdrawal in the area.

The City of Calistoga receives water from the North Bay Aqueduct, Kimball Canyon Reservoir and a well field. The well field, however, is severely depleted and three of four pumps there have been abandoned. The one remaining pump yields roughly 50 gallons per minute, and is not considered a major source of water for Calistoga. The City is currently under a water hookup moratorium due to limitations of water availability. The feasibility of new wells south of the City is being explored, where the City may eventually be able to purchase water from the private land owners.

The Jameson/American Canyon region obtains their water supply from the North Bay Aqueduct, and would not be affected by winery wells.

The Carneros region receives almost all of their water from wells. A small portion of the Carneros region, the Congress Valley Water District, is supplied by the City of Napa. Development in eastern Napa County is limited, and few water supplies are available. Depending on the growth and demand for groundwater of municipal and industrial development, there is potential for overdraft with winery development.

Comment 144, page B-47 (FEIR)

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

Response

The DWDO air quality impact analysis does take into consideration the winery related traffic.

Comment 145, page B-47 (FEIR)

"Land Use. 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."

Response

Land Use Mitigation Measures have been expanded to include avoidance of impacts from visitor serving facilities in the Napa Valley Agricultural Preserve; see page A-47 (FEIR).

Comments 146, 147, page B-47 (FEIR)

"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."

Response

See expanded Alternatives section, page A-107 (FEIR).

Comment 148, page B-47 (FEIR)

"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."

Response

See expanded Alternatives section, page A-107 (FEIR).

Comment 149, page B-47 (FEIR)

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

Response

See expanded Alternatives section, page (FEIR).

United Napa Valley Associates (November 10, 1989)

Comment 150, page B-48 (FEIR)

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

Response

Comment noted; no response required (position statement).

Comment 151, page B-48 (FEIR)

"We call attention to the inadequacy of the document in that it does not provide for the mitigation monitoring program required by State law."

Response

The mitigation monitoring program need not be included in the EIR, although it would make it easier for decision-makers to be aware of the program as they consider the document. The program must be adopted by the County as lead agency when they certify the EIR pursuant to Public Resources Code Section 21081(a). The County, and not the consultant, is responsible for development of the program.

Comments 152, 153, page B-48 (FEIR)

"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."

Response

It is not necessary to fully examine the environmental impacts of mitigation measures when their implementation will constitute a project under CEQA, and full evaluation will take place prior to

their approval. The mitigation measure in question will constitute a project under CEQA for Caltrans and will be evaluated at that time.

Comment 154, page B-49 (FEIR)

"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 it in conflict with the General Plan.
- d. marketing uses on-site and off-site.

Response

Comment is on DWDO, not the EIR, therefore no response is required.

Comment 155, page B-49 (FEIR)

"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."

Response

Private tours and tastings, as defined by the DWDO, would be open only to those visitors who have made an appointment. This requirement alone will not provide a restriction on the number of visitors to a winery. Currently many wineries holding "private" tours and tastings attract similar numbers of visitors as those holding tours and tastings open to the general public. The County is affected by all winery visitors, regardless of whether they are attending "public" or "private" tours and tastings.

Comment 156, page B-49 (FEIR)

"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."

Response

Though elimination of the exemption will require all wineries to apply for a use permit and is expected to decrease the number of wineries, it must be noted that elimination of the exemption will not significantly decrease wine production, number of visitors, traffic, solid waste, waste water generation, number or square footage of visitor serving facilities. In fact, elimination of the exemption will tend to increase the average size of wineries which may increase visual impacts and have other negative social impacts on Napa County, as many commenters have pointed out. Overall, we have concluded that elimination of the exemption by the DWDO would not, over time, be a significant environmental benefit to the County, although we do recommend that all wineries be subject to the Use Permit process for ease of regulation and appropriate imposition of permit conditions.

Comment 157, page B-49 (FEIR)

"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."

Response

See response to comment #212.

Comment 158, page B-49 (FEIR)

"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."

Response

The reviewer does not state what environmental impact this mitigation measure would reduce to a level of insignificance. This is an appropriate consideration in adoption of the DWDO, not certification of the EIR.

Comment 159, page B-49 (FEIR)

"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."

Response

The mitigation measure is amended; see page A-106 (FEIR).

Comment 160, page B-49 (FEIR)

"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?

Response

Text has been corrected to show that a sake facility has been given permission for a direct hookup to the Napa Sanitation District, even though it has not yet started processing. There are possible other wineries connected to the NSD. This is not the source of the impacts discussed, however. Several existing wineries truck winery processing waste water to the Napa Sanitation District for treatment. The District was not able to give us present or projected volumes of such waste material. See new mitigation measures, page A-106.

Comment 161, page B-49 (FEIR)

"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.

Response

The current DWDO does require all new wineries and all expansions of existing wineries to have use permits. Therefore, there is no need for a mitigation measure to require this.

The mitigation measure referred to in #2, is perhaps the first measure of the Mitigated DWDO Alternative, which states: "Amend the DWDO to prohibit any non-agricultural use to be permitted in the AR or AW zones." Existing non-agricultural uses which have been legally permitted in the past need not be abated. However, existing non-agricultural uses which have no permit should be abated according to existing zoning regulations.

W. Andrew Beckstoffer and Reverdy Johnson for the Joint Winery Definition Committee of the Napa Valley Vintners Association, Napa Valley Grape Growers Association, and the Napa County Farm Bureau (November 10, 1989)

Comment 162, page B-51 (FEIR)

"Numerous mitigation measures ... is based upon a straight-line growth projection of growth for the past ten years We believe that construction and/or expansion of wineries in the future will be substantially inhibited by increased economic restraints...."

Response

The projection of the overall growth of wineries is principally linked to the projections for increases in vineyards. The projected growth rates for vineyards were determined by a number of factors including the historic growth trends in the number of acres of vineyards (See Economic Model (the draft MEA Part 3, Table 5, p. 29)). These vineyard projections were then modified by a number of factors including foreign competition, relative land values, trends in the demand for premium Napa wines, and possible reductions in the demand for wine (such as neoprohibitionist tax increases). Hence, we project in Table 4 (of the Economic Model, see draft MEA Part 3, p. 28) that growth in vineyards will be 3.5% from 1988 to 1989, 3.0% from 1989 to 1995, and 1.0% from 1996 to 2010. The vineyard growth projections are therefore not straight line projections. Therefore, the winery growth estimates, a function largely of vineyard growth, are also not straight line projections and have included the factors mentioned in Comment 162. After consulting a number of experts in the wine industry, we submit that the numbers chosen are conservative and reasonable.

Comment 163, page B-52 (FEIR)

The commenter disagrees with the DEIR statement that the DWDO provides a mechanism to legalize existing illegal uses and promote the intrusion of non-agricultural uses into agricultural land.

Response

The commenter's analysis is incomplete. Specifically, Section 9; sub-paragraph (i) states: ". . . Provided that as to any winery not legally authorized to conduct such uses prior to (ordinance date) a use permit application shall have been on file on or before 18 months after (ordinance date . . . ". This provision is not providing for existing legal uses, but us an obvious window of opportunity for illegal uses to procure a use permit. WE concur that the DWDO, in and of itself, could not legalize an illegal use. However, any ordinance that may be considered for adoption should not become a vehicle that accommodates zoning or use permit violations.

The DEIR acknowledges that many uses proceeded the 1974 use permit requirements. We have not implied that the status of any winery that, to the best of their ability, complied with existing regulations and ordinance requirements i in question. The status of these facilities should not be placed in jeopardy, but improved through a new ordinance, and conditional use permit process. The fact that the County has "routinely permitted" non-agricultural activities for years does not necessarily equate to continuing the practice, nor should they be grandfathered through as legal uses. A conditional use permit is always subject to modification or revocation. There is nothing inherent in the process that guarantees the findings are "cast in stone". It is clear that the DWDO does not differentiate adequately between an existing legal, and not legally authorized status. The confusion that would surround properly defining the latter would not be beneficial to the use permit process.

Comment 164, page B-53 (FEIR)

The commenter disagrees with the EIR statement that the DWDO "would effectively reduce the County's General Plan agricultural land use intent from 40 acres to 10 acres."

Response

Refer to Response #212.

Comment 165, page B-54 (FEIR)

By stating that public tours and tasting is a non-agricultural use, the DEIR bestows an agricultural status on private tours and tasting.

Response

The commenter is correct. The text has been amended to recommend that both public and private tours/tasting should be prohibited from the Agricultural Preserve.

Comment 166, page B-54 (FEIR)

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.

Response

We concur with the comment. It is our position that either use in any form is too intense for the Agricultural Preserve designated lands. Tours/tasting, and associated facilities, should be developed in areas that do not conflict with primary agricultural pursuits.

Comment 167, page B-54 (FEIR)

Another activity characterized by the DEIR is the retail sales of wine not produced by the winery. The DEIR proposed mitigation measures fail to recognize industry needs.

Response

The text has been amended to delete any reference to retail sale of wine.

Comment 168, page B-54 (FEIR)

Successful marketing of wine is the key to earning the dollars to support vineyards and the wineries that are the major force in keeping Napa Valley agricultural. The success of a winery and its

ability to maintain the economic viability of agriculture in Napa County depend upon the public perception of it brand as well as the quality of its wine.

Response

Comment noted; no response required (comment on wine industry, not EIR).

Comment 169, page B-55 (FEIR)

At page 14, the DEIR concludes that wineries authorized under the SWE 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.

Response

The commenter has misinterpreted the DEIR. Pages 14-17 list the provisions of the DWDO, and attempt to interpret the result. Currently, wineries operating under the SWE are not permitted to operate visitor-serving facilities. By eliminating the SWE, and subjecting new small wineries to a conditional use permit, the DWDO would allow such uses to occur. We are not suggesting this is an advantage or disadvantage, merely stating a fact.

Comment 170, page B-55 (FEIR)

At pages 15 and 58 the DEIR assumes that the result of the DWDO will be to increase promotional events and activities by wineries. In fact, the DWDO will impose limits on such events and increase control of their nature. 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.

Response

See response to comment #172.

Comment 171, page B-56 (FEIR)

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 accessory uses be subordinate to the main use and clearly incidental to 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.

Response

The commenter is correct in his understanding, except that in addition to Section 12071 allowing public promotional events for charity or community benefit only, Sections 12202(i)(2) and 12232(k)(2) allow public promotional events for any purpose including profit.

Comment 172, page B-56 (FEIR)

The commenter challenges the finding that the DWDO would create an unlimited capacity for promotional events, and questions the methodology used to forecast the number of promotional events under the DWDO.

Response

The commenter is correct in asserting that the DWDO does restrict established wineries to existing use permit limits on promotional events, and new wineries to small private promotional events. However, by allowing all wineries to apply for use permits, with no guidelines for limiting the number of promotional events for a period of 18 months following adoption the effectiveness of the DWDO is severely reduced. This 18-month grace period does indeed allow for the creation of an unlimited capacity for promotional events.

The forecast of promotional events was made using general assumptions reflecting the existing size and number of events as well as expected growth in the visitor market. These assumptions

may or may not reflect reality under the DWDO; however, they do reflect a rational "worst case scenario" that can be expected.

Comment 173, page B-57 (FEIR)

The commenter states that the finding that the definition of winery development areas reduces the effectiveness of this regulation implies that Napa winery owners are dishonest.

Response

The methods proposed by the DWDO to restrict expansion of existing wineries can easily be circumvented, making the restrictions ineffective. The purpose of this DEIR is, in part, to evaluate the effectiveness of the DWDO at achieving its stated purpose. The uncertain delineation of the winery development area would create a regulatory difficulty as well as an incentive to circumvent the regulation.

Comment 174, page B-57 (FEIR)

"On the same page it is concluded that because of production expansion limitations in the DWDO wineries on limited size parcels [are] 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."

Response

Text in Projections section has been revised. See also response to comments #339 and #340.

Comment 175, page B-57 (FEIR)

The commenter explains the purpose of the Winery Development Area expansion limitation: "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."

Response

We agree, and conclude that this provision will not serve to restrict expansions. See response to comments #339 and #340.

Comment 176, page B-57 (FEIR)

"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. 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?

Response

See response to comment #76, 77, 78 regarding necessity for ponding. Mitigation measures have been amended to include sweeping; see page A-89.

Comment 177, page B-58 (FEIR)

Commenter objects to change in signage from "Appointment Required for Tours and Tastings" to "Not Open to the Public."

Response

See response to comment #526.

Comment 178, page B-58 (FEIR)

"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?"

Response

See response to comment #31.

Comment 179, page B-58 (FEIR)

"What facts support the determination that traffic will be significantly lessened by signage that is impolite as opposed to polite."

Response

See response to comment #526.

Comment 180, page B-58 (FEIR)

"Air quality mitigation measures require that waste materials not be stockpiled and that in connection with field disposal of winery waste, the waste be mixed with soils during application. Is that recommendation the result of a determination that grape stems, for example, are an air quality hazard in a pile and that pomace poses a threat if not disced in contemporaneously?"

Response

Purpose of the mitigation measures is to avoid odor problems, not hazardous air emissions. Measures have been amended, see response to comments #465, 466, 467.

Comment 181, page B-58 (FEIR)

"State-of-the-art exhaust systems are to be maintained; what are they?"

Response

This mitigation measures has been deleted.

Comment 182, page B-58 (FEIR)

"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."

Response

The Napa Department of Environmental Management has reviewed this issue and mitigation measures have been revised, page A-104.

Comment 183, page B-59a (FEIR)

"E. Mitigation measures from the Master Environmental Assessment are incorporated in the DEIR by reference. ... The DEIR should be revised to delete any reference to them."

Response

See response to comment #14.

Comment 184, page B-59a (FEIR)

"A. The proposal that the DWDO be amended to prohibit non-agricultural uses withstands only cursory examination. What is "non-agricultural?"

Response

See response to comment #114.

Comment 185, page B-59a (FEIR)

"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."

Response

On the contrary fairness to new wineries dictates that they receive the same opportunities as existing wineries. See response of Napa County Counsel in Appendix F.

Comment 186, page B-59a (FEIR)

"C. We agree with the proposal that all development or expansion of wineries be subject to a county use permit. ... No modification of the DWDO is necessary."

Response

Commenter is correct. This provision is included only to emphasize this need in the case of possible amendments to the contrary.

Comment 187, page B-59a (FEIR)

"D. Similarly, no modification is necessary to implement the recommendation that illegal uses be abated if not legalized. ... The DWDO contemplates nothing different."

Response

The commenter is correct, however, in listing this requirement, we are emphasizing the need for the County of Napa to enforce its Zoning regulations and General Plan policies and abate illegal uses, beyond its current enforcement program.

Comment 188, page B-59a (FEIR)

"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."

Response

See response to comment #14.

Comments 189, 190, page B-59b (FEIR)

"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?"

Response

Regarding the reason for nine, see response to comment #66; regarding which nine should be chosen, see response to comment #530; and regarding limit on winery production, see amendment which would allow expansion of winery production during Interim Period.

Roger Asbill

Comment 191, page B-60 (FEIR)

"1. 40 acre minimum parcel size should be mandatory."

Response

Comment noted; no response required (position statement).

Comment 192, page B-60 (FEIR)

- "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."

Response

Each of these suggestions is currently recommended in the EIR. No response required (position statement).

Comment 193, page B-60 (FEIR)

- "6. Sufficient buffers will be needed to lessen noise and odor problems for occupied dwellings."

Response

See revised mitigation measure in Appendix D, for odor buffer recommendations. See new noise mitigation measures, page A-88 (FEIR).

Comment 194, page B-60 (FEIR)

- "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."

Response

Every project must satisfy the requirements of CEQA; not all will require an EIR. No response required (procedural point).

Comment 195, page B-61 (FEIR)

- "8. Existing wineries need to be treated the same as new projects when it comes to expansion, additions, and/or changes."

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comments 196, 197, page B-61 (FEIR)

"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."

Response

See new Alternatives discussion, page A-107 (FEIR).

F. Marvin Atchley (November 2, 1989)

Comment 198, page B-62 (FEIR)

"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."

Response

See response to comment #212.

Comment 199, page B-62 (FEIR)

"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."

Response

True, the EIR does not state this, and does not imply it either. In fact, on page 72, it states the opposite.

Comment 200, page B-62 (FEIR)

"3. 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."

Response

Comment is on the DWDO, not the EIR; no response required.

Comment 201, page B-62 (FEIR)

"The Draft EIR ignores the right of a vineyard owner of between 10 and 40 acres to establish a small winery. ... 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."

Response

The EIR does not ignore the rights of landowners, but recommends establishing densities in agricultural land by means of lawful zoning regulations.

Francine Davis, November 12, 1989

Comment 202, page B-63 (FEIR)

"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."

Response

See response to comment #156.

Comment 203, page B-63 (FEIR)

"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."

Response

Permitted visitor-serving facilities are different from retail sales open to the public, and are treated differently in the County's General Plan, Zoning Ordinance, and DWDO. The statement is revised to show that prohibition of visitor-serving facilities still allows public visitation for the purpose of retail sales.

Comment 204, page B-64 (FEIR)

"The DEIR's conclusion that "in the future a larger percentage of small wineries will have visitor serving facilities" is inadequate, because small wineries without use permits are open to the public now and are accommodating visitors."

Response

See response to comment #203.

Comment 205, page B-64 (FEIR)

The commenter questions the finding that the elimination of the small winery permit exemption will result in an increase in the average production capacity of small wineries, or in a decrease in the number of new small wineries.

Response

The Winery Forecast (Section 2) of MEA Part 3 accounts for the elimination of the small winery use permit exemption under the DWDO on pages 25 and 35. The assumptions were derived based on the number and size of new wineries created both under land use permit and the small winery exemption over the last seven years. The assumptions used account for both a decrease in the number of new wineries created and an increase in the production capacity of the "average" small winery.

The assumptions imply that, in the absence of the small winery exemption, the majority of wineries created under the exemption would apply for land use permits as medium wineries (between 75,000 and 400,000 gallons) because there would be no regulatory incentive to be small. Production efficiencies and/or the desire to maximize the entitlement values will tend to push up the average winery size.

Comment 206, page B-64 (FEIR)

"The DEIR should explain why private tours/tastings are considered agricultural uses ... and public tasting rooms are considered non-agricultural uses."

Response

See response to comments #165, 166.

Comment 207, page B-64 (FEIR)

"The proposed signage mitigation "Not open to the Public" distinguishes between private and public tours/tastings and is therefore a more adequate description of use."

Response

Signage recommendations have been revised; see response to Comment #526, and page A-86 (FEIR).

Comment 208, page B-64 (FEIR)

"The term marketing needs definition."

Response

See response to comment #114.

Comment 209, page B-64 (FEIR)

"Private promotional activities in the DWDO "include, but are not limited to, food service, 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."

Response

Yes, text amended on page A-47 (FEIR).

Dickenson, Peatman & Fogarty for Robert Mondavi Winery, November 13, 1989

Comment 210, page B-66 (FEIR)

"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 impact 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.

Response

With the exception of Land Use (Agricultural Resources) the project as proposed does not have any direct impacts. The commenter is referred to the Impact Identification Matrix, provided by the County of Napa, and included in the DEIR as Appendix B. The format used in the Environmental Setting, Potential Impacts, and Mitigation Measures section, is very specific in separating "Direct" and "Cumulative" impacts.

Comment 211, page B-66 (FEIR)

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.

Response

The explanation on Page 26 has been expanded. The commenter's opinion that cumulative impacts would be virtually the same with or without the DWDO has validity. However, he has failed to focus on the primary issue. The DWDO, in order to be effective, must be responsive to cumulative impacts, and provide mechanisms to ensure

that future development will not exacerbate existing conditions. The DWDO, as proposed, does not afford the County of Napa adequate mitigation, and would therefore be an ineffectual ordinance. If current policy is to be modified the end result should suggest an opportunity for improvement, not a perpetuation of environmental degradation.

Comment 212, page B-67 (FEIR)

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;

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.

Response

The fact that the proposal to allow development to occur on 10-acre parcels "... no different than many other provisions of the current zoning ordinance ..." is not relevant, nor does it provide justification. The fundamental issue is determining what is the appropriate density for the Agricultural Preserve, and Agricultural Watershed designated areas. The General Plan has the following Agricultural Policies that are pertinent to this issue:

- 3.2 "... The County will initiate studies to evaluate means, methods, advantages and disadvantages of placing the existing agricultural preserve plus potential agricultural acreage under permanent land use protective controls ... "

- 3.5 " . . The County will develop planning concepts and zoning standards designed to minimize conflicts arising from encroachment of urban uses into agricultural areas . . "
- 3.6 " . . . The County will establish minimum agricultural parcel sizes which reflect the availability of natural resources in order to assure that agricultural areas can be maintained as economic units . . "
- 3.10 " . . . The County will reserve prime agricultural lands for agricultural uses . . ."
- 3.11 " . . Agriculture will be considered the production of food and fiber, the growing of crops, produce and feed and the raising of livestock and animals. The processing of agricultural products often takes on an industrial character which will be subject, in general, to the same kinds of regulations as other industrial uses . . "
- 3.13 " . . . Wineries and related activities will where practical, be located on sites off prime soils areas and should be designed to convey the attractiveness associated with existing Napa Valley Wineries. . . "

The intent of the General Plan regarding densities for Agriculture, Watershed, Open Space, and Agricultural Resource areas is clearly 40 acres. The language in the DWDO does not preclude lot line adjustments, combining parcels, or other recognized non-discretionary mechanisms that would create 10 acre parcels and then, by definition, be permitted to locate and operate a winery.

Because agricultural lands are in jeopardy from growth of wineries, and because the General Plan has mandated that these lands be preserved and protected, our recommendation is the County use the 40 acre minimum to reduce density, and meet the policies of the General Plan. These directives are valid for both direct and cumulative impacts associated with the DWDO. Each individual project that comes before County decision makers for the purpose of securing a conditional use permit must be evaluated in terms of this criteria. Acknowledging that inconsistency with these General Plan Policies (a direct impact of the project) would reduce the burden on the Agricultural Preserve, and thereby lessen cumulative impacts.

"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 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.

Response

See amended text, page A-43.

The fact that the commenter has proposed amendments to the DWDO to clarify the process of becoming "legal" would substantiate our position that the existing language is inadequate. Our intent, as is yours, is to call recognition to these flaws so they may be corrected during the project approval phase.

The commenters question as to why ". . . 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. . ." cannot be responded to by the consultant, nor is it germane to the EIR. If one reads the Findings of Fact attached to the DWDO it is evident that this historic unrestricted growth has not been satisfactory. The commenter's point that ". . . years of use permit approvals which always contain findings of general plan consistency . . ." does not alter our interpretation of the issues confronting the County, nor the appropriate mechanisms to reduce significant adverse effects. The commenter's conclusion that a General Plan amendment is necessary would seem to support our conclusions.

The commenter is confusing his interpretation of developing a workable definition of a winery and the purpose of an EIR. The basic purpose of an EIR is "... to inform governmental decision-makers and the public about the potential significant environmental effects of proposed activities, and "identify the ways that environmental damage can be avoided or significantly reduced ...". The ultimate Winery Definition Ordinance is a subsequent process confronting County decision-makers. The EIR is not a decision-making document; it is a document that is used in the decision-making process.

Comment 214, page B-67 (FEIR)

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.

Response

Refer to Response #212.

Comment 215, page B-68 (FEIR)

Your inconsistency interpretation flies in the face of many years of use permit approvals which always contain findings of general plan inconsistency 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.

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.

Response

The commenter's conclusion is incorrect. The DEIR does not "... analyze General Plan consistency of already existing wineries. . ."; the DEIR evaluates the General Plan consistency of the DWDO with appropriate policies, as required by CEQA. The commenter is correct in that a General Plan Amendment is one vehicle whereby consistency may be obtained. However, this is a prime example of the "tail wagging the dog". The General Plan is the foundation of land use planning for Napa County, not the Zoning Ordinance or amendments thereto. If the intent is to protect agriculture the appropriate procedure would be to amend the DWDO.

Comment 216, page B-68 (FEIR)

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.

Response

The comment is an opinion with which we do not concur. Abatement proceedings are a valid method to provide compliance with zoning regulations. Existing illegal uses in the AP & AW zones should be abated.

Comment 217, page B-68 (FEIR)

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.

Response

The mitigation measure should not be eliminated. However, it has been amended to afford protection to legal nonconforming wineries that do not have, nor were required to have, a conditional use permit.

Comment 218, page B-68 (FEIR)

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.

Response

The commenter does not understand the relationship of the Zoning Ordinance to the General Plan. The Ordinance, or any element thereof, is intended to implement the General Plan not be in conflict with its adopted policies. Perhaps the most critical agenda within the General Plan is protection of agricultural resources, and avoidance of either direct or cumulative impacts. The fact that the DWDO parallels existing policy is the strangest case for modification. A revised ordinance should endeavor to improve conditions, not merely follow the current course.

The mitigation measure as amended acknowledges any use that should be considered legal.

Comment 219, page B-69 (FEIR)

"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."

Response

Development of wineries, if any, that would occur within the incorporated communities would be minimal. The only method whereby General Plan consistency, and the additional issues, can be mitigated is to adopt an ordinance that provides protection. If lands in the AP & AW zones are available for winery development, they will be developed. Protection can only be derived through a restriction on density.

Comment 220, page B-69 (FEIR)

"5. The Final EIR should provide an environmental analysis of the environmentally superior alternative, Alternative W2, as it has done "with" and "without" the project and for cumulative impacts."

Response

See amended Alternatives section, page A-107.

Comment 221, page B-69 (FIER)

"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.

Response

It is not possible to change the project at this point in the process, therefore, no response required (procedural point).

Comment 222, page B-69 (FEIR)

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.

Response

The conclusions contained in the Growth Induction section are based on historic data, provisions of the DWDO, and basic mathematical calculations to forecast promotional-event-person-days. Because provisions of the DWDO would allow this to occur, and the EIR is obligated to identify the "worst case", the discussion is reasonable.

Comment 223, page B-70 (FEIR)

"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."

Response

It is not possible to change the project at this point in the process; no response required (procedural point).

Comment 224, page B-70 (FEIR)

"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."

Response

See response to comment #14.

Comment 225, page B-70 (FIER)

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?

Response

The commenter's conclusion is erroneous. Any growth will cause impacts and, in some instances exacerbate existing conditions, and therefore, according to CEQA, an EIR was required. The issue is does the DWDO as presented cause these impacts to be avoided or reduced to a level of insignificance? Based on the commenters conclusions that amendments to the DWDO are ultimately necessary, the need for the EIR has been clearly identified. The commenter's continuous reference to the parallels between existing policy and the DWDO further demonstrate the need for an EIR.

Will Nord (Domaine Chandon) (November 13, 1989)

Comment 226, page B-71 (FEIR)

"There are a number of wells in Napa County where water is pumped lower than 200 feet."

Response

It is hereby noted that there are a number of wells in the County extending below a depth of 200 feet. However, the major alluvial aquifer underlying the valley is, at its thickest point (between

Rutherford and Yountville), about 200 feet deep. Withdrawals from deeper wells are likely to derive much of their water from the alluvial aquifer above the bottom of the well.

Comment 227, page B-71 (FEIR)

"Surface water. Isn't it more appropriate to use rainfall data than to quote an excellent winemaker?"

Response

The citation at the end of the second paragraph on p. 34 is in error. It should read "(U.S. Geological Survey, Basic Data Contribution 25, 1971)". Average annual rainfall for the Carneros region is 20-22 inches/year, and 33 inches/year for the St. Helena area.

Comment 228, page B-71 (FEIR)

"How was it determined that the Napa River habitat is the third most valuable in California?"

Response

This conclusion was excerpted from the Napa County Watercourse Obstruction and Riparian Cover Ordinance Proposed Action Program, Ordinance #447.

Comments of John A. Komes (Flora Springs) (November 8, 1989)

Comment 229, page B-72 (FEIR)

Both the DWDO and the DEIR seem to lack proper focus.

Response

Comment noted; no response required (position, statement are comment on DWDO, not the EIR).

Comment 230, page B-72 (FEIR)

Is the present General Plan inadequate, or is the problem that the County has no enforcement agency to enforce the plan?

Response

The existing General Plan is adequate for the purpose intended. The County has adequate agencies to provide enforcement.

Comment 231, page B-72 (FEIR)

Why can't these laws be enforced?

Response

The EIR can only evaluate the effectiveness of the mitigation proposed. Enforcement, or a perceived lack thereof, can only be addressed by County Administration.

Comment 232, page B-72 (FEIR)

Are small wineries causing disruption in our environment, or is it the large wineries? It seems to me both the DWDO and the DEIR lean towards the protection of the large wineries, and the exclusion of small wineries.

Response

The DWDO calls for all wineries to be subject to a use permit process. The DEIR supports this concept. The issue concerning the DEIR is not protection of any particular size of winery, but protection of the environment.

Comment 233, page B-72 (FEIR)

Is the purpose of the DWDO and the DEIR 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.

Response

Comment noted; no response required (position statement).

Comment 234, page B-73 (FEIR)

No analysis has been made to what comprises the wine industry.

Response

The economic model contained in the MEA, Part III, has discussed at length the components of the wine industry. The purpose of the DEIR is to identify the significant effects of the DWDO, and recommend methods to either avoid or reduce the effects to a level of insignificance. It has been determined in consultation with County staff that many of the areas identified by the commenter are not relevant to the DWDO.

Comment 235, page B-73 (FEIR)

What happens when a few owners own all of the wineries?

Response

The issue of ownership does not constitute an environmental effect as defined by CEQA.

Comment 236, page B-73 (FEIR)

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.

Response

We agree, see response to #212.

Comment 237, page B-73 (FEIR)

The violation is selling products not produced from the soils of Napa Valley. I, therefore, propose anyone not using 75% Napa Valley grapes, not be allowed retail sales -- the rest have that right.

Response

Comment noted; no response required (position statement).

Comment 238, page B-73 (FEIR)

The traffic studies mitigated items are laughable. No mention of what public transportation might do for the industry or the environment. The mitigated measures appear to have the purpose of preserving the highway and no concern about the agricultural preserve.

Response

The mitigation measures contained in the DEIR were not submitted by private parties. The issue becomes one of enforcement. Some of the restrictions proposed by the commenter, particularly regulating movements of visitors (as opposed to employees) would be very difficult to enforce.

Comment 239, page B-73 (FEIR)

The commenter states that the DEIR does not adequately address visitor related growth in Napa County cities and towns.

Response

The MEA Part 3 Section 3 provides a visitor forecast and some of the cumulative effects of these visitors. With the possible exception of the growth inducing aspects of the DWDO related to visitor promotional events, visitors are expected to increase at the same rate regardless of the growth of wineries, with or without the DWDO. As documented in the MEA, the major constraints on visitor growth will remain traffic congestion and visitor serving facilities within the cities, most significantly overnight lodging. These factors were considered in the preparation of the forecast.

Comment 240, page B-74 (FEIR)

The only significant change brought about by this Ordinance is less wineries.

Response

Comment noted; no response required (position statement).

Comments 241, 242, page B-74 (FEIR)

The original Agricultural Preserve Act was written to save the valley from the big developer, which it did.

Response

Comment noted; no response required (informational point).

June M. Foote (November 10, 1989)

Comment 243, page B-75 (FEIR)

Opposed to non-agricultural activities on agricultural land.

Response

Comment noted; no response required (position statement).

Comments of Gaw, Van Male & Smith (November 13, 1989)

Comment 244, page B-76 (FEIR)

We represent numerous clients who stand to be affected by the County's proposed Winery Definition Ordinance (DWDO).

Response

Comment noted; no comment required (informational point).

Comment 245, page B-76 (FEIR)

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.

Response

The study in question is discussed within the DEIR on pages 25-28, not merely referenced. That aside, CEQA permits an EIR to incorporate by reference all or part of another document which is a matter of public record or is generally available to the public [section 15150(a)]. The document in question is available through the Napa County Conservation, Development, and Planning Department. The commenter's conclusion regarding the basis for the analysis would normally be valid, as a "no project" usually equates to no development. However, it must be recognized that the County has an existing ordinance which, if not amended, would permit continued growth over time, hence, it is not a no growth option. The assumption must be that once the moratorium has expired, and if a new WDO has not been adopted, the existing ordinance language would

prevail, and should be considered the no project alternative. For purposes of clarification a "no growth" alternative has been included in the Final EIR.

Comment 246, page B-77 (FEIR)

Under CEQA, eventual build-out under existing conditions may not be used as the no-project alternative. The EIR should analyze how build-out under the proposed plan would affect the existing environment. The "no-project" alternative must look at existing conditions on the ground rather than eventual build-out under existing conditions.

Response

Refer to Response #245. A "No-Growth" alternative has been included.

Comment 247, page B-77 (FEIR)

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.

Response

See amended text in Alternatives section, page A-107.

Comment 248, page B-78 (FEIR)

As to the other alternative mentioned in the DEIR, this is merely a restatement of the proposed mitigation measures. The EIR must contain a meaningful discussion of both mitigation measures and alternatives to the proposed project.

Response

Pursuant to Section 15126(d) of the guidelines, the EIR should ".... Describe a range of alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project...." There is nothing within the CEQA Guidelines that states that the project with mitigation cannot be the "Environmentally Superior Alternative". This is not massaging the

project as proposed, but satisfying the aforementioned citation by making the project responsive to environmental issues.

Comment 249, page B-78 (FEIR)

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. 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.

Response

Refer to responses #246 and #247.

Comment 250, page B-78 (FEIR)

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.

Response

Refer to Responses #246 and #247.

Comment 251, page B-78 (FEIR)

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.

Response

Project objectives are identified on page A-24.

Hetland and Hansen for Pope Vineyards (November 14, 1989)

Comment 252, page B-79 (FEIR)

We believe that the Draft EIR fails to adequately describe or consider reasonable alternatives to the project as required by CEQA, the implementing regulations.

Response

Additional alternatives have been included.

Comment 253, page B-79 (FEIR)

Aside from perfunctory consideration of the "no project" alternative, the Draft EIR makes no effort to analyze the alternative of a less comprehensive "project" in the form of a Winery Definition Ordinance applied on a more geographically-focussed basis as opposed to a County-wide basis.

Response

The WDO is not a stand-alone document, but will be integrated into the existing zoning ordinance. It must be considered in a manner that is consistent with the entire document, which is to establish zoning law, and implement the General Plan for the entire County, not create multiple provisions with regulations predicated on geographical locale.

Comment 254, page B-80 (FEIR)

Because of the superficial and two-dimensional discussion of alternatives, the Draft EIR does not contain any meaningful discussion of the environmental impact of those alternatives as required by CEQA.

Response

See amended text in Alternatives section, page A-107.

Comment 255, page B-80 (FEIR)

We believe that the Draft EIR is inadequate in failing to explore environmental consequences mediated by the economic impacts described in the Draft EIR.

Response

Elimination of the Small Winery Exemption was not found to cause any significant adverse environmental effects on the County of Napa. In fact, bringing all new wineries under some form of conditional use permit authority will enhance the County's ability to provide future mitigation.

Comment 256, page B-81 (FEIR)

"The environmental impact of mitigating measures themselves must also be discussed, but this is not done in the Draft EIR."

Response

See response to comment #120.

Comment 257, page B-81 (FEIR)

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

Response

The mitigation measures recommended are not a "shopping list", but all are required to mitigate the effects of the project.

Comment 258, page B-81 (FEIR)

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.

Response

The reason(s) for proceeding with a WDO are clearly presented in the Finding of Fact attached to the DWDO (Appendix C). It is also clear that the existing and future short-term uses, if left unchecked, would eliminate the long-term productivity of the Agricultural Resource.

Comment 259, page B-81 (FEIR)

Pope Vineyards wishes to express strong reservations about the propriety of the procedure that caused the DWDO to be drafted. We wish to state for the record that those interests (experts representing the vintners and grape growers) 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 DEIR raises serious issues concerning a potentially unlawful delegation of legislative authority.

Response

Comment noted; no response required (procedural point).

Bill Jenkins (October 24, 1989)

Comment 260, page B-83 (FEIR)

Having read DEIR 60 I'd like to respond favorably to the conclusions they drew and raise some issues they didn't. The polite language of the EIR thinly hides the awful truth: DWDO is an attempt by existing wineries to monopolize and enhance their own interests at the expense of the unique microclimate and to the exclusion of future more highly motivated players.

Response

Comment noted; no response required (position statement).

Comment 261, page B-83 (FEIR)

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 bean counters in foreign money centers making the decisions that will dominate the future of this area?

Response

Comment noted; no response required (comment is beyond the scope of an EIR).

Comment 262, page B-84 (FEIR)

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 DWDO will be heavy on us due to higher immediate cost 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".

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 263, page B-84 (FEIR)

At the least the continuation of the small winery use permit exemption would encourage the continued existence of the small, family winegrower.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 264, page B-84 (FEIR)

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.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Sally and William Bryant (Kate's Vineyard Winery) (October 7, 1989)

Comment 265, page B-85 (FEIR)

The DEIR makes it clear that the proposed winery ordinance will not limit overall growth or protect current quality of life in the valley.

Response

Comment noted; no response required (position-statement).

Comment 266, page B-85 (FEIR)

The EIR does not closely analyze probable impacts upon such things as water.

Response

Water quality and Water Resource sections have been amended. See also response to comments #86, 117, 143.

Comment 267, page B-85 (FEIR)

There are problems with quality and quantity of water in the valley now.

Response

Comment noted; no response required (position statement).

Comment 268, page B-85 (FEIR)

We are appaled that our small winery and other small wineries may lose legal rights we currently have and expected to have in perpetuity.

Response

Comment noted; no response required (position statement).

Comment 269, page B-86 (FEIR)

The EIR passes over the threat to our businesses.

Response

Comment noted; no response required (comment is beyond the scope of an EIR).

Comment 270, page B-86 (FEIR)

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.

Response

Comment noted; no response required (position statement).

Celia E. Ramsay (Kent Rasmussen Winery) (October 25, 1989)

Comments 271, 272, pages B-87, B-88 (FEIR)

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. Please understand that I acknowledge the need for a winery definition ordinance.

Response

Comment noted; no response required (comment is on DWDO, not the EIR).

Comment 273, page B-88 (FEIR)

The commenter expresses concern that wineries created under a small winery permit exemption would have to apply for land use permits if their winery burned down.

Response

The commenter is correct. This is a policy issue not directly related to the DEIR.

Comment 274, page B-88 (FEIR)

I appeal to you to find some way to avoid elimination of the SWE.

Response

Comment noted; no response required (position statement).

Anne Kirlin (October 18, 1989)

Comment 275, page B-89 (FEIR)

The proposed draft makes small winery exemption wineries legal non-conforming uses, an undesirable result.

Response

See response to comment #156.

Comment 276, page B-89 (FEIR)

Making SWE wineries legal nonconforming land uses has negative impacts upon the County of Napa, the Napa Valley Vintners Association, the reputation of the Napa Valley wine industry world wide and upon the SWE wineries.

Response

The commenter's opinion is on the DWDO, not the DEIR. The appropriate time to address this issue would be when the project is being considered for approval.

Comment 277, page B-90 (FEIR)

Existing SWE wineries suffer negative impacts if made into legal, non-conforming uses.

Response

Refer to Response #276.

Ann Kirlin (November 8, 1989)

Comment 278, page B-91 (FEIR)

I strongly urge you to follow the direction suggested by Mr. Peatman. I do strongly feel that the process could be seriously disrupted at the last minute if the issues raised by Mr. Peatman are not addressed immediately.

Response

The majority of the issues raised by Mr. Peatman are project related, not EIR related. The changes that he has suggested are totally inappropriate during the finalization of the EIR. They would be appropriate for consideration during the hearings on project approval.

Comment 279, page B-91 (FEIR)

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.

Response

Refer to response #278.

Comments of John J. Kirlin (November 7, 1989)

Comment 280, page B-93 (FEIR)

"To what extent is the growth of this (high-end) market segment and the Napa Valley share of that market dependent upon the types of marketing activities that the DWDO will limit or abolish?..."

Response

The original DWDO proposes to limit public tours and tastings in new wineries. There are no limits for wineries that presently are operating public tasting facilities. Hence, there will be no effect on wineries already in existence.

New wineries will still be allowed to hold "private" tours and tastings. While the number of visitors per winery would decrease, the percentage of visitors who purchase wine during the (private) tours should increase, offsetting the decline in absolute numbers. The limit on public tours and tastings will not affect the international competitive position of Napa wines; this is dependent on exchange rates, consumer tastes internationally, and the level of international marketing undertaken by Napa wineries. Domestic demand for Napa wines will also not be affected, since wine sold at the winery is only one of a number of retail channel through which wine is available. One change that could occur at new wineries is that the percentage of profits derived from on-site sales could decline if the offsetting effect described in the second sentence of this paragraph is not as strong as predicted.

Comments 281 and 282, page B-93 (FEIR)

"The data on visitors to wineries under 20,000 gallons versus those of larger wineries reported in the draft MEA (p. 47) appear to be suspect...."

Response

After rechecking the original data, we have discovered that several of the wineries in the "under 20,000" categories did not submit data for the number of visitors. Hence, there are too few responses in this one category to be statistically valid, and indeed the response of one of the wineries in this category was skewing the results. We have amended the Tables 10 and 12 (of the Economic Model, or the draft MEA, Part 3) to read "n/a" or not available.

However, it is important to understand how this number was derived and how it was used. The original number was derived as part of a survey of some 30 wineries in five categories, the results of which are published in Tables 10 and 12. Upon further examination of the survey results, the Consultants decided that five categories was too many and reduced the number of categories to three. This increased the number of wineries in each category and thereby the statistical significance of each category. Finally, in the work done on the visitor forecasts, the average numbers in the small winery category (as well as the medium and large winery categories) were compared to a number of estimates prepared by other experts (See Section 3 of the Economic Model, "Visitor and Secondary Growth Forecasts, in draft MEA, Part 3).

Hence, the two figures in Table 10 and 12 singled out by the reviewer played only a small role in the determination of the policy recommendations concerning visitor facilities.

Comment 283, page B-94 (FEIR)

What evidence supports the assumption stated on page 14 that wineries initiated under the small winery exemption (SWE) grow over time?

Response

There is no such assumption on page 14 of the DEIR. The discussion relates to the provision of the DWDO that would subject all new wineries to use permit control, and suggests that, under such control, expansions of existing facilities would be more difficult.

Comment 284, page B-94 (FEIR)

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?

Response

Projections of use patterns were based on data on legal wineries generated by the Napa County Conservation, Development and Planning Department staff.

Comment 285, page B-94 (FEIR)

Is much of the perceived problem due to lack of enforcement of the current legal framework for regulation of wineries?

Response

The EIR can only provide mitigation that is enforceable. Enforcement policies may only be resolved through appropriate County channels.

Comment 286, page B-94 (FEIR)

The commenter is concerned that the fiscal cost to the County of increased regulation is not adequately addressed.

Response

The Conservation, Development and Planning department has been processing and regulating wineries throughout the 1980's, during a period of unprecedented expansion. Accordingly it was assumed that future growth expected, either with or without the DWDO could be accommodated with existing staff levels. The fiscal benefits of vineyard expansion and winery development were documented in MEA Section 4. Because of these substantial fiscal benefits the County could, if it desired, substantially increase its planning, processing and regulatory efforts without negative fiscal consequences.

Comment 287, page B-94 (FEIR)

"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?..."

Response

It is true that DWDO will impose increase compliance costs, particularly on new wineries, but also on existing wineries wishing to undertake an expansion project. It is impossible to estimate accurately what those costs might be because they would vary widely from one winery project to the next. However, a rough estimate would suggest that costs for new winery projects could increase by 5-8 percent on average. Increases for expansion projects should generally be lower, in the range of 3-5 percent.

One can argue that these estimated increase represent the cost of keeping up the quality the Napa environment. And if this is done, it will benefit all of Napa County residents, including the wineries.

Robert Foley (Markham Vineyards) (November 10, 1989)

Comment 288, page B-95 (FEIR)

The reputation of the Napa Valley is a well earned testimony to successfully hand-crafted fine wines of world class calibre.

Response

Comment noted; no response required (informational point).

Comment 289, page B-95 (FEIR)

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.

Response

Comment noted; no response required (informational point).

Comment 290, page B-95 (FEIR)

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

Response

Comment noted; no response required (informational point).

Comment 291, page B-96 (FEIR)

Increasing the parcel size minimum for small wineries would deny many producers the opportunity to set up their productions and would favor the large producers.

Response

Establishing a 40-acre minimum is not an effort to encourage land prices to climb, but a desire to protect the resource that is so crucial to the industry. It must be recognized that wineries, regardless of size, are not agricultural uses, they are processing facilities. Prime agricultural soils are of no benefit to anyone when they are replaced with structures, parking lots, or other impervious surfaces.

Comment 292, page B-96 (FEIR)

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.

Response

Implementing zoning controls is not denial, it is regulatory. Zoning is one of the fundamental agents available to a county or city to implement the General Plan, and ensure long-term compatibility.

Comment 293, page B-97 (FEIR)

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.

Response

The concern may have merit. However, this is project related, not EIR related. The commenter should address this issue when the project is being considered.

Comment 294, page B-97 (FEIR)

I strongly urge rejection of mitigation measures which severely tax or deny the small wine producers from having their place in the valley.

Response

Comment noted; no response required (position statement).

Comment 295, page B-97 (FEIR)

I also urge rejection of those measures 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.

Response

Comment noted; no response required (position statement).

Comment 296, page B-97 (FEIR)

Finally, I urge grandfathering of existing setback distances for wineries already in existence so that any additions they may undertake must simply conform with their existing structures.

Response

Comment noted; no response required (position statement).

Monica L. Wolf Marvin for LaCroix Blanche Napa Winery (November 13, 1989)

Comment 297, page B-98 (FEIR)

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.

Response

Comment noted; no response required (position statement).

Comment 298, page B-98 (FEIR)

The DEIR also documents the bias against small business drafted into the DWDO at the behest of the large Napa County wineries.

Response

The word "bias" is the commenter's. The DEIR has only evaluated the significant environmental effects of the DWDO as it was submitted.

Comment 299, page B-98 (FEIR)

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.

Response

This conclusion is the commenter's. The DEIR has concluded that any growth, without benefit of a uniform regulatory process, would have significant adverse effects on the County.

Comment 300, page B-99 (FEIR)

The DEIR's analysis of alternatives and mitigation measures is woefully inadequate.

Response

Additional alternatives have been included.

Comment 301, page B-99 (FEIR)

With regard to many of its most important recommendations, the DEIR is conclusory, and provides little or no supporting analysis.

Response

We concur with the commenter that the DWDO is fundamentally flawed, and that revisions are mandated to provide an effective ordinance.

Comment 302, page B-99 (FEIR)

The DEIR should be revised to include a more detailed analysis of the effects of the different components of the DWDO.

Response

The commenter has broached the subject that the growth of the wine industry is larger than the DWDO, and we agree completely. However, the intent of the DWDO is very focussed on one specific element of the industry, providing a definition of what constitutes a winery, and what uses should be considered as appropriate. The DWDO, as it is structured, cannot respond to all of the significant growth related issues. Napa County, through subsequent analysis (Wine Industry Growth Program EIR) will need to evaluate the broader spectrum of impacts, and the available opportunities for mitigation.

Comment 303, page B-99 (FEIR)

The DEIR should be revised to include an expanded analysis of alternatives to the DWDO.

Response

Additional alternatives have been included.

Comment 304, page B-99 (FEIR)

The DEIR should be revised to include a more rigorous analysis of the effects of the mitigation measures proposed in the DEIR.

Response

It is assumed the commenter is concerned about the effects the mitigation measures will have on the industry, not the environment.

The mitigation measures proposed will not cause significant effects on the environment, therefore no additional discussion is warranted. Should the mitigation measures be more costly, or impede project objectives as perceived by industry, this is an accepted consequence under CEQA.

Comment 305, page B-99 (FEIR)

On page 16, 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.

Response

The commenter is confusing the technical description of the project with the analysis of the environmental setting, potential impacts, and mitigation measures. The fact that the DWDO ban would have a minimal effect does not support the conclusion that public tours and tastings do not have a significant adverse effect on the environment, particularly when allowed to occur in the Agricultural Preserve. Intensification of urban intrusion is not compatible with the desire to protect prime agricultural lands.

Comment 306, page B-100 (FEIR)

The DEIR's discussion of the relationship of the DWDO to the County's General Plan is inadequate and misleading. 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.

Response

The commenter is incorrect. Section 15125 (b) of the Guidelines specifically states: ".... The EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans..." The DEIR is not attempting to make any determination of consistency, but merely points out the fact that the DWDO has language that is not compatible with the intent of the existing General Plan.

Comment 307, page B-100 (FEIR)

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. There is an important distinction lost in the DEIR, between further subdivision and the permissible use of existing, legal parcels.

Response

The distinction is not lost in the DEIR, it is lost in the DWDO. The existing language is so vague and ambiguous that the intent is unclear. The DWDO does not preclude lot line adjustments, combining parcels, or other recognized mechanisms that could create 10 acre parcels. The DEIR has pointed out that the intent of the Land Use Element of the General Plan is to maintain 40 acre minimums in the Agricultural Preserve. The DEIR suggests the County consider imposing such zoning restrictions to meet this intent, and reduce the intensity of development on prime agricultural soils. We would concur with the commenter regarding the word "reduce", and have amended the text by inserting the word "undermine".

Comment 308, page B-100 (FEIR)

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.

Response

The commenter is misrepresenting the statement contained on Page 28 of the DEIR. The conclusion is that the DWDO, in and of itself, would not affect visitor or employment trends, as this is due to outside forces. The exception would be in the case of new promotional events which the DWDO would allow. It is a reasonable conclusion that visitors to the Napa Valley are associated with, among other impacts, traffic related problems. It is our position that the DWDO should recognize these effects, and respond to the impact by providing reasonable mitigation.

Comments 309-311, page B-101 (FEIR)

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 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.

Response

Non-winery related forecast daily traffic volumes for all the major State route sections and Silverado Trail within the County are based on the MTC person interchange model, which defines forecast person travel patterns into, out of, and through Napa County from the 34 superdistricts within the nine Bay Area counties and identifies increases in residential and non-residential trip ends. Based on vehicle occupancy rates for the various travel patterns, vehicle trip ends were calculated and calibrated with the existing 1987 Caltrans ground counts to produce the forecast non-winery related trip ends. As a result, the average growth in traffic volumes anticipated over the next two decades varies significantly for each roadway section to reflect the changing travel patterns. See Appendix G for travel pattern.

Comment 312, page B-101 (FEIR)

The DEIR's only analysis of the DWDO's proposal to permit for-profit promotional events is included in a section on "Growth Induction". This is not a secondary effect of the ordinance, but a direct and primary result of the ordinance, with potentially disastrous results for the County.

Response

Page 58 has been amended to classify promotional events as "Direct Growth Inducing".

Comment 313, page B-102 (FEIR)

The DEIR should expressly state that the promotional event 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.

Response

The commenter is correct in her conclusion that large scale promotional events as described pursuant to the DWDO, would have a significant adverse effect on the environment. Regarding the

commenter's request that the DEIR expressly state that there is no offsetting social or economic benefit is beyond the scope of this document. The commenter's concern needs to be brought to the attention of County decision-makers at the time of project approval, at which time an environmental determination will be made. As the commenter is aware, the County may, pursuant to Section 15093 of the Guidelines make findings for a Statement of Overriding Considerations. It is incumbent upon the decision makers to balance the benefits against the unavoidable environmental risks on behalf of the County.

Comment 314, page B-102 (FEIR)

The commenter questions the methodology used to forecast the number of promotional events under the DWDO.

Response

See response to comment #172.

Comment 315, page B-102 (FEIR)

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.

Response

A straight line growth rate is assumed, therefore intermediate growth is proportional to the years elapsed from 1989.

Comment 316, page B-102 (FEIR)

"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 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."

Response

Regarding methodology, see response to comment #331. Regarding expansion of capacity, the Caltrans project will widen the shoulders on Highway 29, and provide left turn pockets from Yountville to St. Helena. These left turn pockets will become an almost continuous third lane from St. Helena to Calistoga. Therefore, we have changed the future capacity on Highway 29 from Yountville to St. Helena from 15,000-20,000 to 20,000-25,000 vehicles per day; see page .

Comment 317, page B-102 (FEIR)

"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 trips 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."

Response

The commenter is correct. We expect fewer jobs under the DWDO since wineries would be larger on average and require fewer workers due to economies of scale.

Comment 318, page B-103 (FEIR)

"7. 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."

Response

This mitigation measure has been revised to more clearly indicate which roads are subject to this provision. The commenter is correct in saying that this measure does not reduce trip ends on the major arterials, however, every turning movement onto or off of the arterial causes slowing and therefore contributes to congestion and a decrease in safety. Measures designed to decrease traffic congestion either decrease trips or increase capacity of the roadway, and this measure is designed to increase capacity.

Comment 319, page B-103 (FEIR)

"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."

Response

See response to comment #316. Further, this mitigation has been utilized in the County approval process for quite some time, and it is a proven effective method of maintaining capacity.

Comment 320, page B-103 (FEIR)

"The fifth mitigation measure is entirely too vague to constitute a mitigation measure at all. The more appropriate mechanism with CEQA to analyze any proposed development limitations and restrictions would be as an alternative to the proposed project."

Response

This mitigation measure has been deleted and will be considered for inclusion in the Wine Industry Growth Program EIR.

Comment 321, page B-103 (FEIR)

There is no support in the DEIR for a finding that noise from winery growth would constitute a significant adverse environmental impact.

Response

The section on noise has been amended.

Comment 322, page B-103 (FEIR)

The DEIR's analysis of alternatives should be significantly expanded. 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.

Response

Three additional alternatives have been included, however this suggestion has not been included, since the purpose of alternatives is to decrease environmental impacts. The DEIR has been expanded to include additional alternatives.

Comment 323, page B-104 (FEIR)

There is at least one alternative which should be considered, one which eliminates from the DWDO those aspects which would have no significant environmental benefit.

Response

The mitigation measures contained in the DEIR specifically eliminate the issues raised. Therefore, the Mitigated DWDO Alternative has already responded to the provisions defined by the commenter as "ineffective."

Comment 324, page B-104 (FEIR)

All of the alternatives must be analyzed in a useful way. The EIR must include a sufficient degree of analysis to provide decision-makers with information to allow them to intelligently take account of environmental consequences of the alternatives.

Response

CEQA states that a range of alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project be identified, and evaluate the comparative merits of the alternatives. In addition, only the significant effects, in addition to those caused by the project, need be discussed. It is fundamentally accepted that the County of Napa needs to implement some form of a Winery Definition Ordinance. Presenting variations of the same theme do not foster informed decision-making; they cause confusion. Conforming to the basic

concepts of CEQA, we have presented alternatives that could feasibly attain the basic objectives.

Comment 325, page B-104 (FEIR)

We are troubled by references to a document (MEA) which is not available for public review.

Response

The County of Napa has elected to separate the MEA from the DWDO EIR, and have each function as a stand-alone document pursuant to Section 15168 of the CEQA Guidelines.

Monica L. Wolf Marvin for Whitegall Lane Winery (November 12, 1989)

Comment 326, page B-106 (FEIR)

Many of the DEIR's findings, proposed alternatives and recommendations for mitigation are conclusory and fail to provide the supporting analysis required by CEQA.

Response

Comment noted; no response required (position statement).

Comment 327, page B-106 (FEIR)

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". 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. The basic premise underlying the DEIR is, therefore, fundamentally flawed.

Response

Refer to Response #212.

Comment 328, page B-106 (FEIR)

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 of existing wineries, while allowing unlimited expansion for wineries located on parcels larger than 40 acres.

Response

Section 12419 of the DWDO is discussed on Page 17 of the DEIR. The DWDO does not allow unlimited expansion on parcels larger than 40 acres. Specifically subparagraph (b) states "...maximum production capacity shall be established by the applicable use permit. This implies that the use may be restricted, and is subject to review and discussion in a public forum.

Comment 329, page B-107 (FEIR)

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.

Response

The formula in question was not developed by the DEIR, but is contained in the DWDO. See response to comment #339, 340.

Comment 330, page B-107 (FEIR)

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.

Response

Comment noted; no response required (position statement).

Comment 331, page B-107 (FEIR)

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.

Response

Comment noted; no response required (position statement).

Comment 332, page B-107 (FEIR)

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.

Response

Comment noted; no response required (position statement).

Comment 333, page B-107 (FEIR)

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.

Response

Comment noted; no response required (position statement).

George Vierra (Merlion) (October 18, 1989)

Comment 334, page B-108 (FEIR)

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 tasting should be eliminated on AP lands;
2. Tours and tasting on AP lands by appointment only;
3. Tasting complexes in properly zoned areas;
4. Do not limit vineyard size for wineries.

Response

We concur with the commenter on #1. However, #2 is inconsistent with this objective, and is unenforceable. We would also agree with the commenter on #3. This is an excellent method to reduce development pressure within the AP areas, and has been included in the discussion on Alternatives. There is no discussion in the DEIR regarding limiting the size of vineyards. This is precisely the type of use that the General Plan envisioned for prime agricultural soils.

Comment 335, page B-108 (FEIR)

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.

Response

Comment noted; no response required (position statement).

Comment 336, page B-108 (FEIR)

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.

Response

Comment noted; no response required (procedural point).

Comment 337, page B-109 (FEIR)

I'm sure that you are aware of the recent decision by the U.S. Supreme Court to deny challenges to the Marin County zoning laws. Please maintain zoning that preserves our valued Napa Valley agricultural lands.

Response

Comment noted; no response required (informational point and position statement).

Bruce M. Newlan (Newlan Vineyards and Winery) (November 11, 1989)

Comment 338, page B-110 (FEIR)

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.

Response

Comment noted; no response required (position statement).

Comments 339, 340, page B-110 (FEIR)

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...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..."

Response

First, if there is a question of two contiguous parcels, a simple lot line adjustment should take care of the problem mentioned by the commenter.

Second, in most cases, the regulations (Section 15, Sec. 12323, (a)) to increase the winery development area (WDA) would allow for a 20% increase of the WDA and hence an increase in the production facilities of the winery.

Third, the 2,400 gallons per acre is well above what would be normally produced on Napa vineyards. Assuming 180 gallons of wine produced for one ton of grapes with an average Napa yield of four tons, there is an allowance for 1,680 gallons ($2400 - (4 \times 180) = 1,680$) of wine produced for grapes not grown on the property.

Hence, the commenter's point that this section of the ordinance will create more wineries is not true.

However, we believe that the commenter's final point is well taken. The limits on expansion of the winery development area serve to sufficiently limit the environmental consequences of expansion of existing wineries, at least for the small wineries. A limit on winery capacity based on a 2,400 gallon per acre formula seems arbitrary. Hence, as long as wineries do not exceed the 20% increase allowed by the WDA regulation and meet the other parcel size and lot coverage limitations of the DWDO, we see no environmental need to have a gallon per acre limitation as well.

Comment 341, page B-111 (FEIR)

I have no objections regarding 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.

Response

The commentor's point is valid. The DEIR supports the concept of a design review board being instituted by the County to permit project specific constraints to be resolved individually.

Comment 342, page B-111 (FEIR)

This ordinance is arbitrary in nature, would not necessarily produce the intended results, and would invite arguments of technicalities, interpretation, appeals and litigation.

Response

The commenters concern as to the arbitrary nature of the DWDO is beyond the scope of the DEIR. The only effects that the DEIR may address relate to the environment. If in fact the DWDO is arbitrary, or any provision thereof, it would not, unless it suggested a significant adverse environmental effect, be subject to discussion. However, the commenter will have an opportunity to question these issues when the project (DWDO) is brought before County decision makers for consideration.

John M. Olney (November 9 and November 13, 1989)

Comment 343, page B-113 (FEIR)

There are 3 major elements of the DWDO which I feel compeled to comment upon. Please accept the following input for consideration in the finalization of the draft ordinance.

Response

The commenter's concerns are directed towards the project, not the significant environmental effects. The commentor should provide this input at the time the project will be considered for approval subsequent to the certification of the EIR.

Comment 344, page B-113 (FEIR)

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 adoptd, there will be evidence that we have institutionalized the future to basically maintain the status quo of those already in business.

Response

The commenter's concern has been acknowledged in the Land Use section of the DEIR (also see Response #212), to the extent that it applies to wineries. The DWDO does not apply to growers.

Comment 345, page B-113 (FEIR)

The 75% rule and possible collusion of independent grape growers to not sell grape to Napa county wineries.

Response

Please see response to comment #131 concerning 75% rule.

It is highly unlikely that the independent grape growers of Napa would collude to not sell to Napa wineries. The economic incentive to break away from any cartel arrangement is enormous, so any attempt at collusion would not last long. Furthermore, the economic well-being of many grape growers is dependent on long-term contracts and good relations with wineries. Also, Napa grapes meet closer to 65-70 percent of the existing winemaking capacity in the valley and could easily meet a higher percentage of the industry's requirements.

Comment 346, page B-113 (FEIR)

Assume independent growers mutually agree to withhold their grapes or sell them exclusively outside of Napa County. Since they control 33% of the crop, what do the existing but expanded wineries and the new wineries do for their supply? They are kind of stuck aren't they?

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 347, page B-113 (FEIR)

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. Limiting the vintners and growers sales market to outside sources at no more than 25% is a restriction of free trade, commerce, etc. Isn't that exactly what the 75% rule does?

Response

The comment is directed towards provisions of the DWDO, not the adequacy of the DEIR.

Comment 348, page B-113 (FEIR)

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/juice and that market is any existing winery desiring to expand or any new winery.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 349, page B-113 (FEIR)

Any existing winery desiring to expand or any new winery could be forced into almost "blackmail" prices for grapes/juice.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 350, page B-113 (FEIR)

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 could be used in such a manner. Government should not pass rules that have such potential.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 351, page B-114 (FEIR)

How could a winery sell t-shirts, salami, cheese but an aspiring business person on the same lines but without a winery cannot open a deli on AP/AW land? Or how could a winery sell art work but a gallery cannot get on the same land?

Response

The comment is directed towards the DWDO, not the adequacy of the DEIR.

Comment 352, page B-114 (FEIR)

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 accepted proposals and often granted these wineries expansion on their properties which we said were within reason.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 353, page B-115 (FEIR)

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 cannot 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.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 354, page B-115 (FEIR)

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 dissaray producing poor quality wines not worthy of premium label status, and is actually hurting the reputation of the valley, it can still keep its doors 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?

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 355, page B-115 (FEIR)

All kinds of clever marketing techniques are being used by wineries to sell their product -- radio, newspaper and magazine ads, culinary and wine tasting classes, dinner shows and concerts, art shows, picnic grounds, merchandise sales rooms with t-shirts, posters, cards, etc. What is wrong with any of these? None change the open land concept nor the AP/AW designation. They may affect traffic routes but that's not the fault of a definition for a winery. It is a fault of the people and the government officials we elect who are not watching out for these kind of problems.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 356, page B-115 (FEIR)

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 ballooning. Are we next going to restrict general public visit to these too?

Response

Comment noted; no response required (comment on DWDO, not EIR).

Comment 357, page B-115 (FEIR)

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 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 addresss marketing and sales at a winery until we can think out the real issues at hand and make wise not emotional decisions.

Response

Comment noted; no response required (comment on DWDO, not EIR).

Peter O'Malley (November 8, 1989)

Comment 358, page B-116 (FEIR)

My thoughts on wineries are that they should be limited to Highway 29 and Silverado Trail. Wineries in other areas just lead to excessive traffic on roads designed only for light amounts of cars and trucks. People who have moved to the country for peace and quiet are being blown off the road by cars and tourists intent on tasting as many cellars as possible. Often these people are inebriated as well as lost on these small lanes that are now permitted to have wineries.

Response

Comment noted; no response required (position statement).

Comments 359, 360, page B-116 (FEIR)

I'm especially concerned about the possibility of parcel 45-250-28 being able to put in a winery. The parcel is right in the middle of forty acres of single family homes which would be heavily affected by the noise.

Response

Comment noted; no response required (this concern is beyond the scope of the EIR).

Comment 361, page B-116 (FEIR)

Berry Lane has many small children used to being able to play on that very quiet street.

Response

Comment noted; no response required (informational point).

Claire Pericelli (November 1, 1989)

Comment 362, page B-117 (FEIR)

The proposed winery definition comes nowhere near providing the protection this valley needs from continued environmental

degradation. Please support the "Environmentally Superior Alternative" to the current proposal.

Response

Comment noted; no response required (position statement).

Rodeno, Robertson, & Association (November 13, 1989)

Comment 363, page B-118 (FEIR)

Thank you for the opportunity to comment on this Draft EIR. It appears to me there are several procedural defects in the manner in which you are going about this review.

Response

Distribution of the DEIR, and compliance with review time periods are the responsibility of the County of Napa. The commenter should consult with County Counsel regarding CEQA compliance.

Comment 364, page B-118 (FEIR)

It appears that the DEIR is one small component of a larger study. It is virtually impossible to comment with any degree of accuracy or certainty without having parts one and two of the MEA available.

Response

See response to comment #325.

Comment 365, page B-118 (FEIR)

It is clear the MEA is a part of the Draft EIR. The CEQA guidelines require the agency use its best efforts and disclose all that it reasonably can (15144). Since the MEA is an existing document and nearly available it is certainly within the scope of the requirement to disclose all that can be reasonably disclosed. The document is defective without that undertaking.

Response

The DEIR for the DWDO was prepared in accordance with the provisions of Section 15161 of the CEQA Guidelines. What this project is intended to accomplish has been fully disclosed. A second document

(MEA) was initiated to evaluate the effects of Wine Industry Growth in general. Pursuant to direction of the Napa County Board of Supervisors the MEA concept was set aside, and a second EIR (Program EIR) will be prepared in accordance with Section 15168. Because an MEA does not provide for public participation, and the Board recognizes the importance of this concept, the second EIR process was initiated. The documents will not be processed concurrently.

The Program EIR may identify additional effects of wine industry growth that could not be mitigated through the proposed ordinance. Additional ordinances or plans may be required to address these aspects of industry growth.

Comment 366, page B-119 (FEIR)

I note in the preparation of the Draft EIR, the consultants have not reviewed any of the EIRs prepared for the wineries in the Highway 29. There may have been other pertinent EIRs prepared about which I have no knowledge. Apparently, the only EIR reviewed was one prepared by the consultant for a rezoning (R117667) and a preliminary subdivision map. There is no indication what this project concerned or what the EIR considered. It appears the consultant has not used its best efforts to find and disclose all that it reasonably can.

Response

The commenter's point is unclear. We have reviewed all available information as it pertains to the DWDO including individual winery EIRs. References have been modified. The issue is not comparing individual wineries, but evaluating the significant effects the DWDO would have on Napa County. To this end, we have disclosed all that was discernable.

Comment 367, page B-119 (FEIR)

The consultant seems to misunderstand the guideline requirement with respect to growth inducing impacts (15127g).

Response

The commenter's citation is incorrect; the section in question is 15126(q). In addition, the commenter has misrepresented the language therein. Specifically, CEQA states "...Discuss the ways in which the proposed project could foster economic or population growth, or the construction...". Economic opportunity need not be tied to

infrastructure improvements to be worthy of discussion, and the effects can be growth-inducing.

Comment 368, page B-119 (FEIR)

The EIR, in large part, seems to be concerned with economic and social changes resulting from the project.

Response

The commenter is confusing the economic model, which was used by the County of Napa to establish the environmental setting, with the analysis of impacts contained in the DEIR. The DEIR has focused its attention on the significant effects of the project, not economic or social changes.

Comment 369, page B-119 (FEIR)

The lengthy discussion on the General Plan and the Ordinance's consistency therewith, seems to be beyond the scope of CEQA. Either the consultant has misread the General Plan, misinterpreted it, or is seeking to rewrite it within the context of this study.

Response

We have neither misread, nor misinterpreted the intent of the General Plan, nor are we attempting to rewrite it. The intent of the General Plan to protect the prime soils of the Agricultural Preserve is very clear. For further clarification the commenter is directed to Response #212 and #306.

Comment 370, page B-119 (FEIR)

There seems to be no good definition of the "environment" upon which this ordinance will have an impact. The discussion of context, page nine, talks about changes in the basic economic and social fabric of the County. Clearly without a nexus to physical change, this is contrary to the Guidelines.

Response

As discussed in the DEIR the "environment" in question is the County of Napa, to include its existing population, and its associated quality of life. The commenter remains confused, or has taken out of context, how CEQA allows economic and social effects to be

discussed. Section 15131 states: ".... Economic or social information may be included in an EIR or may be presented in whatever form the agency (County of Napa) desires...." The discussion referenced by the commenter does not treat the economic or social effects of the project as significant effects, only as informational. The paragraph was included at the request of the County.

Comment 371, page B-120 (FEIR)

In that same section, the consultant uses an average tourist visit figure. Averages are deceptive. This average, 102 wineries with 15 tourist visits a week, could be 100 wineries with 5 visits a week and 2 with 500. If the consultant intends to use statistics then the reader should be provided with the full range of statistical tools. In addition to average he should "the median mean and standard deviation".

Response

The commentor's point might be valid if the DEIR were attempting to suggest a conclusion predicated on statistics. The section in question is merely background information provided by the County of Napa, resulting from information obtained through a questionnaire completed by representative wineries. Confidence percentiles, mean average, median average, and the standard deviation would not benefit the reader in understanding background information.

Comment 372, page B-120 (FEIR)

At page 15, the consultant characterizes or predicts the proliferation of "multi-use wineries". Since there currently exists a finite number of wineries in the county, the consultant should provide a tabulation, listing those wineries which are multi-use wineries and those facilities activities and programs likely to attract visitors in general. The impact on each multi-use activity should be evaluated.

Response

The DEIR has characterized what these activities are, and that they are marketing tools, not agricultural pursuits. The commentor is correct in that restrictions should apply equally. However, he is confused with the proposed intent of the DWDO to define and regulate wineries, and some activity that is completely unrelated. The DEIR has not evaluated these impacts because our objective is confined

to those effects associated with the ordinance. As the ordinance does not propose, nor was it intended, to regulate anything other than wineries, this discussion would be irrelevant, and tabulation would not be necessary.

Comment 373, page B-120 (FEIR)

The impact of multi-use activities when they take place in locations other than wineries, should be evaluated. What is the impact of those programs?

Response

See discussion of Alternatives A-107.

Comment 374, page B-120 (FEIR)

If the consultant's proposal is to restrict activities at wineries for the purposes of preserving the agriculture zoned lands, then those restrictions apply equally to all undertakings in the agriculturally zoned lands. Before such restrictions can be imposed, the environmental impact of each such activity must be evaluated. This has not been done in this Draft EIR.

Response

According to CEQA, the mitigation measures only need be discussed if they would cause one or more significant environmental effects. The mitigation proposed will reduce effects, not generate additional ones. If the commenter is concerned with the effects on the industry (i.e., increased costs) CEQA does not recognize this as a concern.

Comment 375, page B-120 (FEIR)

The Draft EIR indicates that the minimum parcel size would have a minimal effect on only about a dozen wineries. Which ones? Since there are a finite number of wineries located in the county, it would appear that a tabulation of the wineries with respect to parcel size is appropriate so that the general reader will understand the basis for these comments.

Response

The commenter is focussing on the Technical Description of the dWDO, not the adequacy of the DEIR. The fact that there are an estimated

"dozen wineries" that would require some administrative action to satisfy the requirement of Section 12418(i) of the DWDO is not significant. It is reasonable to assume that anyone currently operating a winery on less than one acre in an Open Space Area can be readily identified, and work through the process to maintain legal status. Tabulations would be appropriate when County decision makers are considering the merits of the project and how each provision of the DWDO should be implemented.

Comment 376, page B-120 (FEIR)

The Draft EIR uses the terms "agricultural uses" and "nonagricultural uses" throughout the document. Where do these terms come from?

Response

See response to comment #114.

Comment 377, page B-120 (FEIR)

At page 32, the consultant states that projected increases in wastewater generation are significant, and the increased pollutant loads pose a real threat to ground water quality. What is the basis for this statement?

Response

Characterization of treated winery wastewater effluent was made using data obtained from the Napa County Department of Environmental Management. Based upon these data, it is evident that the wastewater is typically high in BOD, COD, dissolved solids, chloride, and can be low in pH. The data indicate that existing winery treatment facilities are very effective in reducing the BOD and COD levels of winery wastewater, however, the other variable can remain high and potentially degrade groundwater resources in the County. Although the county enforces strict regulations pertaining to treatment systems in order to protect water quality, the groundwater is still affected although impacts are presently insignificant. Projected increases in wastewater generation are significant and the increased pollutant loads pose a very real threat to groundwater quality.

Comment 378, page B-121 (FEIR)

The consultant states on page 41 that during the period since 1968 overall population in Napa County has increased about 40 percent,

at least partially due the growth of the wine industry. On what does the consultant base the assertion that the population increase is due to the growth of the wine industry?

Response

The commenter's point is unclear. As it is recognized that the wine industry is the single largest industry in Napa County, and that it has continued to grow, it is reasonable to assume that some changes in the population have been influenced by such growth. Employment opportunities, service industries, and other business opportunities have no doubt used the success of Napa County wines and wineries to locate in the Valley. The DEIR has not suggested that growth in the Napa Valley is negative, it has merely recognized that growth has occurred.

Comment 379, page B-121 (FEIR)

The traffic section seems unusually confused. At present, total winery trip ends amount to approximately 5.7 percent of the traffic in Napa County, and 21.1 percent of the traffic in North Napa County. The projected increase is 1.1 percent to 6.8 percent of the total traffic in Napa County and 2.4 percent increase to 23.5 percent of the total traffic in North Napa County. In the text, the consultant says that in North Napa County 30 percent of the increase in traffic will be attributed to wineries. At page 63, the consultant says of the total traffic expected in North Napa County, 8.2 percent are due to winery growth. These numbers seem inconsistent and there is no attempt in the document to explain the inconsistencies, or the underlying consistencies.

Response

See response to comment #562-565.

Comments 380, 381, page B-121 (FEIR)

If the concern is activity in the agriculturally zoned lands, the consultant should direct some attention to the 92 percent or 70 percent portion of the traffic that has nothing to do with wineries.

Response

The commenter is correct that wineries only account for a portion of the total traffic, but is confused over what the ordinance can

accomplish. The EIR was directed to examine the DWDO, not County-wide traffic. If the commenter has read through the document he will recall that traffic can only be partially mitigated by mitigation associated with the DWDO. The problem is recognized to be larger than evaluating the effects of defining what a winery is, and what should be the associated uses.

Comments 382, 383, page B-121 (FEIR)

The commenter asks who is employed by the wine industry and at what salary ranges.

Response

The wine industry is a significant contributor to the County's economy, presently providing over 5,000 permanent jobs at a range of salaries. See MEA part 3 Section 2.

Comment 384, page B-122 (FEIR)

The growth inducing impact discussion on page 58 and following seems to ignore the substance of CEQA.

Response

See Response to #367.

Comment 385, page B-122 (FEIR)

The growth inducing impact discussion on page 58 contains several assertions and what may be speculations, also in violation of the guidelines (15145).

Response

The commenter's conclusions regarding Section 15145 of the Guidelines are in error. This section states: "...if, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact..." The DEIR has not violated the intent of CEQA. The determination of speculation rests with Napa County, not the consultant. The assertion is predicated on the Economic Model provided by EPS and approved by Napa County.

See response to comment #222.

Comment 386, page B-122 (FEIR)

I note that in the Cumulative Impact section at page 59, the consultant again refers to the Master Environmental Assessment which is not available to the public at this time.

Response

Comment noted; no response required (informational point).

Comment 387, page B-122 (FEIR)

At page 63, has the consultant taken into account the effect of the approved Cal Trans project which will create a virtually continuous left turn lane from Yountville to St. Helena?

Response

The section has been amended to take this into account. See response to comment #316.

Comment 388, page B-122 (FEIR)

The consultant proposes limitations on the use of Highway 29, at page 67. Has the consultant considered other sources of traffic, for example residential development in Calistoga and St. Helena?

Response

See response to comment #318.

Comment 389, page B-122 (FEIR)

The consultant at page 68 proposes limiting promotional events to charitable purposes only. Why?

Response

See response to comment #31.

Comment 390, page B-122 (FEIR)

Has the consultant considered as a mitigation measure requiring the wineries to charge for tours and tasting? In order to control traffic, has the consultant considered toll gates at the border to Napa County?

Response

The consultant, as suggested by the commenter, has not given any consideration to placing toll gates at the borders of Napa County. County Counsel has advised that requiring a fee for tasting presents legal problems.

Comment 391, page B-122 (FEIR)

The consultant has obviously not reviewed the procedures in Napa County. At present, all applications are required to have an initial study and that it be circulated for comment. Projects routinely do archaeological research and secure sites which are potentially or particularly sensitive.

Response

On the contrary, the consultant has invested a great deal of time in reviewing current procedures. Field investigations by Department staff are not the same as those conducted by a qualified archaeologist.

Comment 392, page B-122 (FEIR)

The consultant has apparently not reviewed the current requirements of the California Division of Forestry.

Response

On the contrary, text changes made on page A-103.

Comment 393, page B-122 (FEIR)

While most of the County is protected by a volunteer fire service how many of those volunteers work in vineyards or wineries?

Response

The places of employment of volunteer fireman is not relevant to the ability of the district to provide necessary services.

Comment 394, page B-123 (FEIR)

I note the CEQA Guidelines anticipate a DEIR would normally be less than 150 pages for proposals of unusual scope or complexity less than 300 pages. The mere lack of volume suggests a lack of consideration.

Response

The critical element of any EIR is not the number of pages, but satisfying the standards of adequacy. Consultation with County staff led to the conclusion that the EIR on the DWDO should be critically focused on the effects of the ordinance. The document has accomplished that objective. The commenter has also ignored two technical appendices that are companion documents to the DEIR.

Walter R. Schlegel (October 21, 1989)

Comment 395, page B-124 (FEIR)

Not only has Sterling Winery had dinners and parties, but fashion shows, art shows, and evening tours.

Response

Comment noted; no response required (informational point).

Comment 396, page B-124 (FEIR)

I have called the winery several times because they played chimes at 3 a.m. in the morning. At times, Greyhound buses have left the winery after 10:00 p.m. creating noise by revving engines. At times there is loud music and yelling in the parking lot. Tourists going north on Highway 29 slow down, stop and proceed past to go to Dunaweal Lane; just recently there was a rear-ender approximately 50 yards from the lane that enters our property.

Response

Noise and traffic mitigations have been amended; see pages A-84 and A-88.

Comment 397, page B-125 (FEIR)

I totally agree with Norma Tofanelli on questionable marketing techniques.

Response

See response to comments #567-570.

Comment 398, page B-125 (FEIR)

I have jogged Dunaweal Lane for years and have seen traffic increase almost ten fold, more trucks and tour buses. A once quiet lane has almost turned into a freeway.

Response

Noise and traffic mitigations have been amended; see pages A-84 and A-88.

Paul G. Smith (November 13, 1989)

Comment 399, page B-127 (FEIR)

The DEIR fails to comment on the ability of the County to enforce a new ordinance.

Response

The County has the ability and the personnel to enforce their ordinances. It is the responsibility of the County to ensure that any ordinances that are adopted will be enforced. Funding may be derived from permit fees to ensure the industry is both paying for and receiving services necessary. Adoption of an ordinance that is unenforceable would cause a continuing degradation of the environment.

Comment 400, page B-128 (FEIR)

Existing zoning law adequately protects future subdivision of AP and AW zones.

Response

Refer to Response #212.

Comment 401, page B-129 (FEIR)

The DEIR implies that wine industry growth is detrimental to the "quality of life" of Napa County, compared to what? Does growth of

wineries actually provide the basis for strengthening the Ag Preserve by limiting residential and "generic" industrial growth.

Response

The DEIR does not confront wine industry growth, only the significant effects of the DWDO. Provisions of the DWDO could have a negative effect on the existing quality of life of Napa County unless mitigated. The issue of "quality of life" is not comparative, it is what makes Napa County unique. Every populated area has specific issues that the general population perceive as important to why they have chosen to live there. The DWDO, as submitted, would not strengthen the intent of the Ag Preserve.

Comment 402, page B-130 (FEIR)

The DEIR does not adequately address the fiscal impact of this result (SWE) on Napa county.

Response

Economic impacts of this nature are not an EIR issue.

Comment 403, page B-130 (FEIR)

The DWDO fails to quantify what the impact will be on the additional visitor serving facilities if the "small use permit exempt winery" were allowed to continue.

Response

The comment is directed towards the DWDO, not the adequacy of the DEIR. Because the DWDO calls for the elimination of the SWE the discussion proposed is academic.

Comment 404, page B-130 (FEIR)

These small facilities presently cannot legally conduct public tours or tastings or other visitor activities. Is it really a question of winery size or permitted uses, or is it rather a question of enforceability of the existing and future law?

Response

The DEIR only considers enforceability to the extent mitigation can be reasonably enforced. Implementation is an administrative function that can only be solved through County processes.

Comment 405, page B-131 (FEIR)

The DEIR fails to provide data to support parcel size limitation.

Response

Refer to Response #212.

Comment 406, page B-132 (FEIR)

The DEIR does not address fiscal impacts.

Response

Economic impacts of this nature are not an EIR issue.

Comment 407, page B-133 (FEIR)

The term "incentive" should be replace with the term "loophole" regarding use permit exemptions.

Response

The EIR will retain the word incentive. According to the language contained in the DWDO all future facilities will be subject to a conditional use permit.

Comment 408, page B-133 (FEIR)

The DEIR does not comment as to whether by merely requiring a winery to obtain a use permit, there will be improved control due, presumably, to increased county enforceability.

Response

The DEIR has stated unequivocally that it supports the concept of conditional use permits for all future wineries. This will provide a mechanism whereby improved control via regulation may be obtained.

Comment 409, page B-134 (FEIR)

The DEIR should explain the effects of minimum parcel size as discussed on page 16 of the DEIR.

Response

The commentor is confusing recommendations contained in the DEIR with an evaluation of the DWDO. Page 16 of the DEIR is part of the technical description of the project, and evaluates provisions of the Ordinance. The DEIR's recommendation of maintaining 40 acre minimums is a product of the analysis contained in the environmental setting, impacts and mitigation. It is predicated on policies contained in the General Plan regarding the Agricultural Preserve, primarily ensuring that prime soils will be used only for agricultural purposes. The Napa County Assessor has advised that the data requested cannot be supplied.

Comment 410, page B-135 (FEIR)

The DEIR inadequately addresses fiscal impacts.

Response

Economic impacts of this nature are not an EIR issue.

Comment 411, page B-135 (FEIR)

How will the "new" ordinance be enforced? How will this enforcement be funded? What will be the impacts if the "new" ordinance is not enforced?

Response

Refer to response to comments #404, #286. The impacts would be continued degradation of the environment.

Comment 412, page B-135 (FEIR)

The DEIR does not comment on the increased demand on County staff precipitated by the elimination of "use permit exempt" winery category; all wineries would require complete use permit processing.

Response

Implementation of the ordinance when adopted is the responsibility of the County. See response to comment #286 regarding economic impact to County agencies.

Comment 413, page B-135 (FEIR)

Will the County be able to enforce proposed visitor restrictions better than they now enforce existing "tours by appointment only"?

Response

The DEIR cannot respond to the adequacy of current enforcement practices. The mitigation proposed is enforceable, and the County has the capability to fulfill this obligation. How they accomplish this is an administrative function of the County.

Comment 414, page B-136 (FEIR)

The commenter states that the DWDO [sic: DEIR] fails to quantify the effect of the elimination of the small winery use permit exemption.

Response

The Winery Forecast (Section 2) of MEA Part 3, accounts for the elimination of the small winery use permit exemption under the DWDO on pages 25, 27 and 35. Under the DWDO, the percentage of new small winery capacity was reduced from 37 percent to 23 percent of all new winery capacity, and the size of the "average" small winery was increased from 19,000 gallons to 26,000 gallons, based on the proportion and average size of small wineries created under use permit over the last seven years. It would be virtually impossible to quantify how many, and where, small wineries would develop if the SWE were left in tact.

Comment 415, page B-137 (FEIR)

The DEIR fails to specifically identify to what extent the small owner operator, or "use permit exempt" facility may be self sufficient.

Response

The issue is not relevant to the adequacy of the EIR to address significant environmental effects.

Comment 416, page B-138 (FEIR)

The commenter points out that many small wineries use septic systems rather than ponds to dispose of wastewater. This tendency should

be reflected in the analysis of the impact of the elimination of the small winery use permit exemption.

Response

The tendency of smaller wineries to utilize septic systems has been incorporated into the analysis. An error in the estimating relationships of square feet of waste disposal area per 1,000 gallons production capacity for medium and small wineries has been corrected. This correction results in significantly lower quantities of waste disposal area. DEIR Table 1, page 27, has been corrected accordingly.

Comment 417, page B-139 (FEIR)

The DEIR is inadequate as it fails to recognize the positive role small wineries play in maintaining agricultural and watershed lands. The DEIR does not adequately recognize the contribution the use permit exempt wineries have made, and would continue to make in retaining agricultural lands.

Response

Wineries, regardless of their size, do not maintain agricultural and watershed lands. Any development on agricultural lands eliminates soils that otherwise would be used for agricultural purposes. Wineries are agricultural product processing facilities, not agricultural products. Although the two are not incompatible, they are not necessarily consistent. The commenter's point however that small wineries often use existing structures, sometimes of historic significance, is valid.

Comment 418, page B-140 (FEIR)

The DEIR should provide data to support the requirement of 40 acre minimums. In other words, how many 40- or 10-acre parcels are available in Napa County for winery development?

Response

The issue is not how many parcels may be available for development, but does the County wish to preserve the Agricultural Preserve for agricultural production. The General Plan is very clear that the only activity that should occur on prime soils is agricultural production. Establishing wineries on these soils is in direct

conflict with the intent of the General Plan. The commenter is referred to Response #212 for additional information.

Comment 419, page B-141 (FEIR)

The DEIR fails to adequately assess design review as a proposed mitigation.

Response

This section of the DEIR has been expanded.

Comment 420, page B-141 (FEIR)

The DEIR fails to assess the contributions of the small wineries which may use a pre-existing structure for its operations, and by current law is not open to public tours and tastings.

Response

It is acknowledged that the use of existing structures, particularly those that do not require expansion into the AP/AW area is beneficial, insofar as it reduces competition for prime agricultural soils. Subject to the use permit provisions of the DWDO this activity should be encouraged.

Comment 421, page B-142 (FEIR)

I suggest the broad issue of project scope be added to the list of design review elements.

Response

The commentor's suggestions are usually reserved for review by a County Planning Commission, not a Design Review Board.

Comment 422, page B-143 (FEIR)

Requirements for a Design Review Board should be amended to read: "the County of Napa, in conjunction with appropriate members of the wine industry and agricultural communities, should undertake development and adoption of winery design and guidelines for use in design review".

Response

We concur that members of the industry and the agricultural communities should be included in developing design review guidelines but not exclusively. Any board appointed by the supervisors should represent the entire community, not a select segment. The laws concerning conflict of interest cannot be circumvented by a decree of immunity. Decision-makers that may have a vested interest in a particular project must maintain their credibility with their constituents by removing themselves from the process. The text has been amended accordingly.

Richard M. Steltzner (Steltzner Winery) (November 13, 1989)

Comment 423, page B-144 (FEIR)

The numbers of wineries in Napa County using a 1968 baseline of 30 and 1986 having a number of 186 neglects the fact that before 1906 there were over 300 wineries in the Napa Valley on a land base of 7000 acres versus today's 31,000 acres. This would lead one to believe that there is excess and idle capacity available within the industry.

Response

The types of facilities that may or may not have existed prior to 1906 have little bearing on the problems confronting Napa County in 1989. The intensity of use, and the availability to the public are not consistent factors. One cannot compare a modern day winery operation with turn-of-the-century activities and rationalize that there must be idle capacity. One of the motivating factors causing the drafting of the DWDO was the necessity of responding to changes throughout the industry, particularly in defining what is a winery by today's standards.

Comment 424, page B-144 (FEIR)

The importance of the Napa Valley contribution to the world wine scene is that it is based on quality. The success of Napa is based on its climate, geographical location, but most of all the dedication of the people within the community who pursue uncompromised quality of a wine product.

Response