

## **Mount Veeder Stewardship Council**

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[www.mtveederstewardshipcouncil.org](http://www.mtveederstewardshipcouncil.org)

October 9, 2014

Donald Barrella, Planner  
Napa County Planning Department  
County Administration Building  
1195 Third Street, Suite 201  
Napa, CA 94559

Re: Napa County's Notice of Intent to Adopt a Mitigated Negative Declaration  
Hardin, Wallace Ranch Vineyard Conversion Plan with Agricultural Erosion Control  
Plan No. P13-00208 - ECPA  
No Hearing Currently Scheduled

Dear Mr. Barrella:

The Mount Veeder Stewardship Council submits the following letter in Opposition to the Hardin, Wallace Ranch Vineyard Conversion Plan with Agricultural Erosion Control Plan currently pending before the Napa County Planning Department, and urges the Planning Department to reconsider its intent to adopt a Mitigated Negative Declaration for the Vineyard Conversion Plan and Agricultural Erosion Control Plan.

The goal of the Mount Veeder Stewardship Council is to encourage sustainability of our natural resources and to ensure that the rich biodiversity and rural quality of life in the private and public lands of our pristine watershed are respected, conserved and protected for future generations through education, local community involvement and outreach to government and business stakeholders. At this time, the Mount Veeder Stewardship Council is concerned about the approval of new uses for water, during this serious drought.

Based upon our review of the Hardin, Wallace Ranch Vineyard Conversion Plan and Erosion Control Plan Applications and subsequent submittals, it is our opinion that the Planning Department should not adopt the proposed Mitigated Negative Declaration for several reasons, including, but not limited to the fact that an adequate analysis of actual water available for the project was not performed, nor did the Planning Department take into consideration, while reviewing this application, the fact that Northern California is currently in a serious drought.

### **Notice to Neighbors**

In Napa County, which has a large percentage of large properties located in the County and not in the metropolitan areas The notice which was provided to neighboring properties was limited to those neighbors who own a property within 300 feet of the project property. Given the fact that the impact of the project extends well beyond 300 feet of the subject parcel, the notice by the County should really be extended to a distance of at least 1,000 feet of the subject parcel, to alert neighbors to the proposed project and allow them to contact the applicant directly or contact the County regarding their concerns for the proposed project impacts.

### **No Hearing is Scheduled for this Vineyard Conversion Plan**

The County of Napa has a policy of not having public hearings scheduled prior to the approval of Vineyard Conversion Plans. Instead, the entire process for Vineyard Conversion Plans is surrounded in secrecy. Only neighbors within 300 feet of the property boundaries receive notice. The neighbors and any other project opponents are only given approximately 30 days to provide written comments to the Planning Department. There is no hearing scheduled for vineyard conversion plans, thereby making it almost impossible for opponents to even find out how the Planning Department responds to written comments.

After the Planning Department closes the comment period, opponents of the project are not provided any response to their concerns. All of what the Planning Department does during this process is not provided to the opponents. However, the Planning Department does communicate with the applicant. Eventually the Planning Department makes a determination either to grant the Vineyard Conversion Plan or deny the request.

Opponents are not provided notice of when the final decision is made, thereby depriving the opponents of the project due process and equal protection. In addition, since they do not know what the final determination is or when it is made, it is very unlikely that they will have sufficient time in which to file an appeal of the project when it is granted.

The Planning Department's shroud of secrecy surrounding the vineyard conversion plan approval process almost guarantees an opponent will not have enough information to file a timely appeal, thereby depriving any opponents of their right to due process and equal protection.

A hearing before the Director of Planning, Building and Environmental Services should occur and should receive public notice to allow those opposing the project to attend the hearing.

### **The Project Fails to Consider the Drought**

Currently, the State of California is experiencing one of the most significant droughts in the

State's recorded history. This is the third year of the drought in California. Yet, the Planning Department, in its evaluation of the Hardin, Wallace Ranch Vineyard Conversion Plan and Erosion Control Plan applications, fails to take the drought into consideration. In fact, the proposed Mitigated Negative Declaration does not even mention the word drought in the document, nor is there any discussion as to how the drought might impact the surface water to which the applicant claims to have access.

In low water situations at Lake Berryessa, the applicant must comply with State of California, California Environmental Protections Agency, State Water Resources Control Board, Division of Water Rights, Permit for Diversion and Use of Water, Amended permit 20820, Application 30118, dated and signed September 25, 2001.

The record of water rights submitted by the applicant is incomplete. A portion of the Order for Application 30118, permit 20820, amending the permit by addition of terms and conditions to conform with Order WR 96-002. The signature page and date page are missing in the records.

### **The Applicant and County Fail to Address Actual Water Available for the Project**

Not only does the Planning Department fail to consider the drought, it fails to require the applicant to provide any actual water availability data in support of its application. While the applicant does say that it has a permit to withdraw water from an existing surface water source, at a rate of up to 245 acre feet per year, there has been no evaluation that there is such a volume of surface water available from the source of water for the project. There is no data to determine if there is really any such amount of water available for the applicant to use. A permit, on a piece of paper, does not equate to actual water available for the project, but rather, only the right to use water, if in fact, there is water available.

Furthermore, the amount of water used by the existing vineyard, appears to be based upon numbers provided by the County, using one of the County's infamous formulas, rather than based upon actual records showing what the actual amount of water is which is being used by the existing 64 acre vineyard.

The lack of analysis of the water availability for the site, by the applicant and the Planning Department, as well of the lack of consideration of the current drought, and how the drought has and will impact the water availability from the surface water at the site, the lack of required controls for water usage on the project, to deal with what could be a prolonged drought, all suggest that the Planning Department failed to perform a thorough review of the actual water available for this project. Instead, the Planning Department appears to have just accepted the information which the applicant decided to provide in their application, without verification, and whether the information is correct or not, does not seem to have been considered.

If the applicant is incorrect about the amount of water which is available from the surface water source during this drought, the applicant may be in a position where it does not have enough water for the existing and proposed vineyard on the property. If the applicant runs out of water for the proposed vineyard, where will that water come from? Has the Planning Department even considered this scenario?

Under section IX Hydrology of the Mitigated Negative Declaration, Conditions of Approval, groundwater use for new vineyard acreage is prohibited under this Erosion Control Plan. Well monitoring with water meters and posted monthly recordings should be required to verify this prohibition.

Furthermore, in this section, Discussion b, there is no mention of completion of only two of the five permitted reservoirs, even after applicant received a time extension from the State Water Resources Control Board to complete the reservoirs, dated 9/25/2001. They still have not completed three of the five reservoirs during this extension, having only complete one on parcel 108110020 on 7/5/2006. The applicant is extremely slow to comply and the extension in time and the additional reservoirs should be vacated by the State Water Resource Control Board.

Some problems with the application and the Mitigated Negative Declaration: First, in Attachment A, Supplemental Project information, the water source is listed as a reservoir, which is incorrect, since the water comes from Pope Creek and surface water rights. Second, the project parcel size and location is not the same as the Water Rights Application 30118 and Amended Permit 20820. Four parcels are included in the Application and Mitigated Negative Declaration, specifically APNs 018 110 023, 018 110 020, 018 110 024, 018 110 025, however, the water rights included parcel 018 110 022 which is not included in the application. The Water Availability Analysis and Mitigated Negative Declaration are incorrect since the water rights include a parcel outside of the project and the amount of surface water available from Permit 20820, at 245 acre feet per year, does not account for the water used in parcel APN 018 110 022 , which would reduce the available water to the project.

Finally, the Place of Use of water license 20820 includes land in parcel 018010020, which is not included in the project. Development of project should not commence or occur until evidence has been provided to the County that the Place of Use has been changed to cover this discrepancy, or until a modification of P13-00208-ECPA has been processed to evaluate the reduction in available water to the project.

The adoption of a Mitigated Negative Declaration for this project is not appropriate. At the very minimum, the applicant should be required to provide an in-depth water availability analysis and comply with CEQA and be required to perform an Environmental Impact Report addressing water availability, water conservation measures, as well as water availability for fire protection.

Based upon the information submitted by the applicant, it is allegedly using 35 acre feet of water per year for the existing 64 acre vineyard; however, this is based upon the County's formula and not actual metered usage. The 35 acre feet of water equates to 11,404,800 gallons of water per year for the 64 acre vineyard. Based upon the County's formula, and no actual usage data, the proposed vineyard would use an additional 47 acre feet of water per year for the proposed 95 acre vineyard, which equates to 15,315,017 gallons of water per year for the proposed section of vineyard. The total amount of water which would be used, after the installation of the proposed vineyard is 82 acre feet per year, or 26,719,817 gallons per year, according to the County's formula.

The proposed Mitigated Negative Declaration, on page 26 of 39 states that "the proposed project is anticipated to result in less than significant impacts to groundwater supplies, groundwater recharge, local groundwater aquifer levels, and well interference or drawdown effects on nearby wells." It also goes on to say that it would not have an adverse impact on water quality.

To say that the increased water usage of 15.3 million gallons of water per year, for the proposed 95 acre vineyard will result in less than significant impacts to groundwater or water quality is hard to believe.

### **The County Fails to Consider, the Cumulative Impact of the Project on Napa County**

The cumulative impact of withdrawing an additional 15.3 million gallons of water per year from surface water sources will have a cumulative impact on water quality, water volume and the habitat upon which fish and wildlife rely in the Pope Creek Lower Reach and the Burton Creek Drainages. Yet, the increased removal of water, in the amount of 15.3 million gallons of water per year, and how it will impact the habitat for fish and wildlife has not been discussed in the Mitigated Negative Declaration. There should be a thorough analysis of how the removal of the additional 15.3 million gallons of water per year from the Pope Creek Lower Reach and the Burton Creek Drainages will impact the habitat for fish and other wildlife which rely upon these surface waters.

Before any issuance of a Mitigated Negative Declaration for the Hardin, Wallace Ranch Vineyard Conversion Plan application, the applicant and the County must consider how the addition of yet another vineyard, will impact the County as a whole. There has been no such consideration or discussion of how the continued approval of vineyard after vineyard will impact the County of Napa. At what point does the County reach a level of saturation of vineyards? This analysis should consider all predictable and cumulative impacts such as traffic, noise, waste water, water, air, carbon and quality of life for those of us who call Napa County our home.

### **Adoption of a Mitigated Negative Declaration for the Hardin, Wallace Ranch Vineyard Conversion Plan Would Set a Bad Precedent in the County**

In the County of Napa, approval of a vineyard conversion plan application must comply with California law, including the California Environmental Quality Act, as well as County policy. As set forth above, the Hardin, Wallace Ranch Vineyard Conversion Plan application fails to comply with CEQA.

There has been no discussion by the Planning Department addressing this drought and how the drought impacts water availability on the applicant's parcel.

The adoption of a Negative Declaration for the Hardin, Wallace Ranch Vineyard Conversion Plan, at this time, without an adequate study of the actual amount of water available for the project, would set the stage for a whole class of applications, whose cumulative impacts would severely harm the County, its resources, and their neighbors.

Accordingly, this vineyard conversion application and any upcoming applications should be seriously weighed by the Planning Director, and should contain a complete and thorough analysis of actual water availability, during this, California's worst drought, in the history of the State.

The County should also have a requirement in every Negative Declaration or Mitigated Negative Declaration issued in Napa County that the applicant be required to install and maintain a system to monitor the actual amount of water used to both existing and new vineyards on an annual basis.

### **Greenhouse Gas Checklist**

The County of Napa uses a Greenhouse Gas Checklist for Use Permit Applications; however, upon inquiry, Mr. Barrella, the Planner on this particular application, advised Ms. James that the County of Napa does not require applicants for Vineyard Conversion Plans to complete the Greenhouse Gas Checklist. The Mount Veeder Stewardship Council believes that the Greenhouse Gas Checklist is a useful document, it provides information to the County and the public about what measures the applicant is willing to undertake to reduce their green house gas emissions on the particular project. In addition, the Checklist educates the applicant of measures which they can implement to reduce greenhouse gas emissions.

Furthermore, the applicant on this project has decided not to have the new portion of the vineyard certified as Napa Green. Any new vineyard project in the County should be obtaining some type of certification for new vineyards, whether it be Napa Green or another type of certification.

### **Conclusion**

The Mount Veeder Stewardship Council objects to the adoption of a Mitigated Negative

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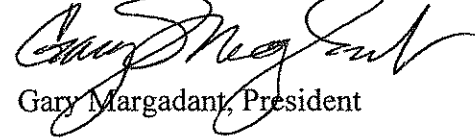
Declaration for the Hardin, Wallace Ranch Vineyard Conversion Plan and Erosion Control Plan Applications on the basis that there has been no consideration of the current drought, no consideration of the actual amount of water available for the proposed vineyard, other than reliance on a permit to withdraw water from a surface water source, without even evaluating whether or not there is actually enough water for the proposed 95 acres of new vineyard.

The Mount Veeder Stewardship Council respectfully requests that the Planning Director not adopt the Mitigated Negative Declaration for the Hardin, Wallace Ranch Vineyard Conversion Plan and Erosion Control Plan Applications, and instead have the applicant conduct an Environmental Impact Report, addressing water availability in the midst of the current drought.

The Mount Veeder Stewardship Council also requests that it receive written notification of the Director of Planning, Building and Environmental Services decision, as soon as the decision has been made. The written determination may be submitted to Mr. Margadant and Ms. James via email at [gsmargadant@gmail.com](mailto:gsmargadant@gmail.com) and [ejames@pollockandjames.com](mailto:ejames@pollockandjames.com).

Respectfully Submitted.

MOUNT VEEDER STEWARDSHIP COUNCIL

A handwritten signature in black ink, appearing to read "Gary Margadant", is written over the printed name.

Gary Margadant, President