

DEPARTMENT OF FISH AND GAME

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

November 7, 1989



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

Dear Mr. Redding:

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

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

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

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

Mr. Jeffrey Redding

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November 7, 1989

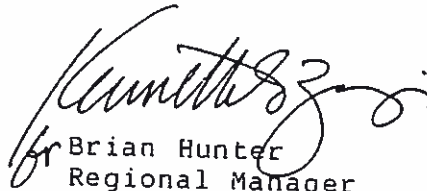
10 least 100 feet from the top of the streambank or other sensitive wildlife habitat area. We further recommend the buffer strip be part of a riparian easement, and the boundaries of the easement be surveyed and recorded prior to development of new wineries.

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

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

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

Sincerely,


for Brian Hunter
Regional Manager
Region 3

Enclosure

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

RECEIVED

NOV 13 1989

11:30 AM

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

November 12, 1989

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

Dear Mr. Selleck:

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

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

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

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

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

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

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

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

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

On another but related subject, the DEIR should explain why private tours/tastings are considered agricultural uses (see p.1 by implication, since these uses are not on the list of non-agricultural uses) and public tasting rooms are considered non-agricultural uses. The DEIR states that "private tours and tasting can, and often do, attract as many visitors as public tours and tasting." The proposed signage mitigation "Not open to the Public" distinguishes between private and public tours/tastings and is therefore a more adequate description of use. Make it clear that the mitigation relates to this point by placing the problem and its proposed mitigation on the same page in your text. It is an acknowledged fact that visitors get around present signage: "Tours and Tasting by appointment Only" by simply arriving first and making an appointment afterwards, if necessary.

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Similarly, the term "marketing" needs definition. 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

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

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

Sincerely,

Francine Davis

Francine Davis
263 Petrified Forest Road
Calistoga, CA 94515

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

- 127 Measure #4 (Cause all illegal uses to be abated or consider legalization through a determination of General Plan consistency, and issuance of a County Use Permit) needs to be more fully explained. How would this work?
- 128 Measure #5 (Find appropriate mechanisms to implement those mitigation measures associated with the MEA) is too passive. Requiring a study is not a mitigation measure.
- 129 9. The Interim Measure (pg. 73 - allowing nine new wineries, or expansions of existing wineries, per year) needs more definition. What are the impacts that justify this? What are other options? Shouldn't something like this be regulated by size of winery or production capacity? The impacts of nine new large wineries per year would be much greater than the impacts of the expansion of nine small wineries.

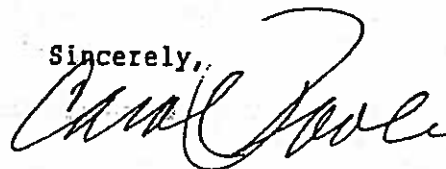
130 Additionally, we think it would be appropriate for the EIR to discuss the ramifications of over-regulation and under-regulation of the wine industry, by government, on the preservation of agricultural land. In other words, at what point does over-regulation make the wine industry not viable, and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

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

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

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

Sincerely,



Carol Poole
Executive Director, NAPAC

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



November 13, 1989 (FAX before noon)

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

Dear Jeff:

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

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

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

The City's general comments are as follows:

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

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

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

The City also wishes to make the following specific comments:

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

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

Thank you for the opportunity to comment.

Yours truly,

Tony
Tony McClimans, City Planner

Attachment: Resolution 86-40

C: City Council
Planning Commission
City Administrator
County Referral File

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

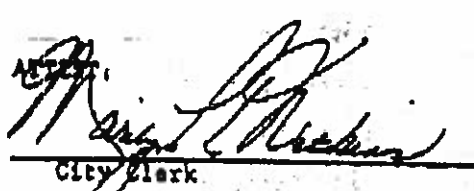
PASSED AND ADOPTED at a Regular Meeting of the St. Helena City Council held on the 27th day of October, 1986, by the following vote:

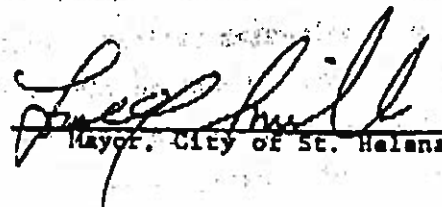
AYES: Councilmen Eldridge, Brown, Hunter, Mayor Smith

NOES: None

ABSTAIN: None

ABSENT: Councilman Whiting


City Clerk


Mayor, City of St. Helena

CITY OF CALISTOGA

In Beautiful



Napa Valley

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

November 9, 1989

RECEIVED

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

NOV 13 1989

DEVELOPMENT

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

General Comments

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

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

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

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

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

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

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

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Specific Comments

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

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

Housing Impacts:

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

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

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

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

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

There are mitigation measures which could lessen these housing impacts:

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

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

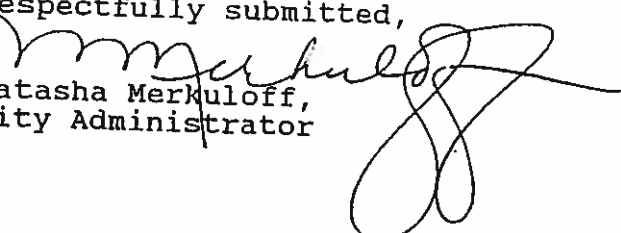
Community Services/Public Safety:

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

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

Thank you for the opportunity to comment.

Respectfully submitted,


Natasha Merkuloff,
City Administrator

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

