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3. COMMENTS RECEIVED AND RESPONSES OF  
THE LEAD AGENCY

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**COMMENTS RECEIVED AND RESPONSES OF  
THE LEAD AGENCY**

The Comments Received and Responses of the Lead Agency Chapter includes responses to each of the comment letters submitted regarding the Fairfax Conversion Draft EIR. Each bracketed comment letter is followed by numbered responses to each bracketed comment. Any text changed as a result of the responses to comments is shown in ~~striketrough~~ for removed text and in double underline for added text.

State of California  
Department of Fish and Game



**M e m o r a n d u m**

**Letter 1**

Date: December 10, 2009

To: Mr. Allen Robertson, Deputy Chief  
Environmental Protection  
California Department of Forestry and Fire Protection  
Post Office Box 944246  
Sacramento, CA 94244

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RESOURCE MANAGEMENT  
ENVIRONMENTAL PROTECTION

From: Charles Armor, Regional Manager  
Department of Fish and Game – Bay Delta Region, Post Office Box 47, Yountville, California 94599

Subject: Fairfax Conversion Project, Draft Environmental Impact Report, SCH #2004082094,  
Sonoma County

1-1

The Department of Fish and Game (DFG) has reviewed the draft Environmental Impact Report (EIR) and Timber Conversion Permit (TCP) application for the proposed Fairfax Conversion Project (Project). Codorniu Napa, Inc.'s Artesa Vineyards (Applicant) proposes to develop a 190-acre vineyard site located approximately 0.5 to 0.75 miles southeast of the Town of Annapolis in Sonoma County. The proposed Project is located on a broad, flat ridge (Beatty Ridge) between Grasshopper Creek and the Wheatfield Fork of the Gualala River.

1-2

DFG provided initial comments on the proposed Project during the Notice of Preparation (DFG letter dated September 17, 2004). DFG has reviewed the associated and recently submitted Timber Harvest Plan (THP #1-09-058 SON) and participated in the pre-harvest inspection (PHI) on June 16, 2009. DFG intends to provide more detailed comments on the proposed Project as part of the THP review process.

1-3

DFG is providing comments on the draft EIR as a Trustee Agency and Responsible Agency. As Trustee for the State's fish and wildlife resources, DFG has jurisdiction over the conservation, protection, and management of the fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of such species for the benefit and use by the people of California. As a Responsible Agency, DFG requires that the Applicant submit a notification for a Lake and Streambed Alteration Agreement for the proposed Project pursuant to Fish and Game Code 1600 et. seq.

1-4

Project Description

The 190-acre proposed Project proposes to convert approximately 171 acres of timberland and 19 acres of grassland for vineyard development. The proposed conversion areas support primarily second-growth timber and agricultural land associated with past orchard and sheep grazing activities. The conversion of timberland will require a TCP. Approximately 0.41 acres of wetlands are also proposed to be removed. Other Project components include the following: 1) installation of a 9-acre reservoir with a 73-acre-foot capacity which would capture rainfall for vineyard irrigation; 2) 23 acres of perimeter avenues; 3) two acres of driveways and roads; 4) a one-acre corporation yard; 5) 20 acres

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- of graded perimeter slopes, and 6) approximately 24 sediment detention basins to capture vineyard sheetflow. Temporary roads and landings would be constructed during timber harvesting operations. Preserves totaling 134 acres are proposed to be established with a permanent deed restriction on the title of the property for the purposes of protecting sensitive plant species, riparian zones and wetlands. As in-kind mitigation for the loss of wetlands, 1.24 acres of wetland would be created within the Project area.
- 1-5
- DFG received the current (2004) TCP application for the proposed Project subsequent to circulation of the draft EIR. However, there appears to be a slight discrepancy between the conversion acreage indicated in the TCP application (169.5 acres) and in the draft EIR (171 acres). The TCP application also indicates the conversion work period as Fall 2004 to November 15, 2009. The EIR should include accurate and updated information on the project description.
- Impacts to Biological Resources and Conservation Measures
- Special-status Species*
- 1-6
- The proposed Project area is located within a planning watershed that is within the Central California Coast (CCC) Evolutionarily Significant Units (ESU) for steelhead (*Oncorhynchus mykiss*) and coho salmon (*Oncorhynchus kisutch*). Within the CCC ESU, steelhead are listed as "Threatened" and coho salmon are listed as "Endangered" under the Federal Endangered Species Act (FESA). Coho salmon in waters south of Punta Gorda are listed as "Endangered" under the California Endangered Species Act (CESA). The proposed Project contains Patchett Creek, which is a tributary to the Wheatfield Fork of the Gualala River as well as smaller ephemeral streams. A salmonid migration barrier is present on Patchett Creek approximately 4,800 feet downstream of Project boundaries. The Wheatfield Fork supports steelhead and historically supported coho salmon.
- 1-7
- The Gualala River watershed is listed as "Threatened and Impaired" and Forest Practice Rules (FPR) § 916.9 et. seq. applies to timber operations as part of the proposed Project. Project activities should be consistent with the State's recovery goals for coho salmon. Fish and Game Code § 2055 establishes that it is the policy of the State that all State agencies, boards and commissions seek to conserve endangered and threatened species and shall utilize their authority for such purposes.
- 1-8
- Watercourses, wetlands and ponds which are located within the proposed Project area may provide suitable habitat for California red-legged frog (*Rana draytonii*; CRLF) which is federally threatened and a State Species of Special Concern (SSC). Foothill yellow-legged frog (*Rana boylei*; FYLF; SSC) has been documented within the Project area. Preliminary surveys did not detect presence of CRLF; however, the draft EIR states that surveys according to U.S. Fish and Wildlife Service (USFWS) guidelines will be conducted prior to Project operations. If surveys confirm presence, DFG recommends that the Applicant seek technical assistance from USFWS to avoid "take" of CRLF. Protective measures for frogs should include, at a minimum, the establishment of a 30-foot no-cut permanent buffer surrounding suitable frog habitat. The draft EIR states that surveys for the western pond turtle (*Actinemys marmorata*) were conducted in 2006; however, due to the fact that the species occurs elsewhere within the Gualala River watershed and suitable habitat is present within the proposed Project area, additional surveys should be conducted within the Project area prior to operations.
- 1-9

1-10

*Aquatic and Riparian Habitat*

Class II and III<sup>1</sup> streams and their riparian zones are unique habitats and act as sources (and controllers) of energy, water, sediment, nutrients and organic matter to downstream reaches. Any modification of stream flow may affect the differential sorting of substrate, which is important to maintain aquatic habitat such as productive riffles, deep pools, off-channel pools and side channels. Riparian zones maintain shade, protect against windthrow, produce litterfall, and provide important migratory routes for wildlife. Riparian zones also serve to recruit in-stream large and small woody debris which provide habitat, food and shelter for aquatic life, and act as a filter strip for sedimentation from erosion sources located further upslope. In the case of agricultural development projects, riparian buffers also provide measures to protect aquatic and terrestrial resources from potential effects of chemical fertilizers, herbicides and pesticides.

1-11

The Project proposes to grade and fill approximately 299 feet of swales for the installation of sediment retention structures. After settling, the run-off would flow to Class III streams, which may be located between 25 and 75 feet downstream of the sub-basins. In some locations, Class II streams are present less than 400 feet downstream of the sub-basins. Upslope soil disturbance as a result of Project-related activities could have a substantial negative impact on drainage patterns and water quality, and lead to further deterioration of ecologic processes within an already impaired watershed. Sediment basins are typically designed with a sediment removal efficiency of 50 to 75 percent. The capacity to trap sediment is highly dependent on soil type with clay and silt particles having a low probability of settling. Consequently, even if a sediment basin performs as designed, a high proportion of eroded soil will eventually be transported to downstream watercourses. The draft EIR proposes to mitigate for increases in sediment yield by repairing approximately five gully erosion sites within the proposed Project area. Measures to protect aquatic habitat from transport of turbid water to stream systems should also include limiting disturbance and compaction in headwater drainages.

1-12

The draft EIR proposes to establish the standard riparian buffer required under the FPRs for Class III watercourses which is 25 to 50 feet. DFG believes that these mitigation measures do not avoid or reduce impacts to below a level of significance. Effective protective measures for aquatic and riparian habitats include establishing adequate riparian buffer widths such as a minimum 50 to 85 feet on Class III watercourses, wetlands and springs. On Patchett Creek, a minimum of one site potential tree height or 150 feet, whichever is greater, should apply. If riparian vegetation is lacking or sparse on watercourses, then native shrubs and trees should be planted to act as filter strips.

1-13

*Hydrology*

The draft EIR includes an analysis of water supply, and hydrologic, water quality and cumulative watershed impacts which could occur with implementation of the Project. Results of the hydrologic evaluation show that peak run-off would increase by approximately two to five percent with 2, 10 and 100-year storm events as a result of land conversion. These increases would apply when the reservoir is full and all flows are

<sup>1</sup> Board of Forestry definition for stream classification. Class III watercourses do not support aquatic life but have the capacity to move sediment to Class I (fish-bearing) or II (aquatic habitat for non-fish aquatic species) watercourses under normal high flow conditions.

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directed to Patchett Creek. The analysis shows that peak run-off would decrease under "normal conditions" which are when run-off is collected and pumped to the reservoir. Potential effects of rainfall capture on summer base flows in downstream reaches were also evaluated. However, the hydrologic analysis used data collected in a separate watershed located further north (Casper Creek) and was deficient in its use of site-specific data, especially during a dry year such as 2008. Although the hydrologic report states that groundwater recharge could occur as a result of reduced evapotranspiration, the overall impact to downstream seasonal flows is uncertain. The hydrologic evaluation report recommends, and DFG concurs, that additional analyses conducted by a qualified fisheries biologist are needed to more adequately determine whether the proposed Project could adversely affect aquatic resources.

1-14

*Pesticide and Herbicide Use*

The draft EIR states that vineyard operations will include use of several agricultural chemicals (pesticides, herbicides and fungicides), which have been identified as toxic to aquatic life. Agricultural pesticides act as both acute and cumulative stressors for salmonids (National Marine Fisheries Service 2009), amphibians (Relyea *et al.* 2005) and macroinvertebrates (Anderson *et al.* 2006). The draft EIR states that applications of pesticides, herbicides and fungicides may occur between April and July, which is a critical period for the reproductive life cycles of numerous aquatic species. Aquatic communities may be directly or indirectly affected by pesticides via several transport pathways. Pesticides may lead to substantial disruptions in the complex aquatic food web and adversely affect the prey base for many aquatic species. The draft EIR does not analyze and disclose all of the direct and indirect adverse impacts of pesticide use on natural communities.

1-15

*Terrestrial Wildlife Habitat*

Habitat types within the proposed Project area include forestland composed mostly of Douglas-fir (*Pseudotsuga menziesii*) with some redwood (*Sequoia sempervirens*), mostly native grasslands, coastal scrub, riparian, and wetlands. Two northern spotted owl (*Strix occidentalis caurina*; NSO) territories are found within 1.3 miles of the proposed Project area. NSO is federally threatened, a State SSP, and is considered a Board of Forestry Sensitive Species pursuant to FPR § 919.3. NSO surveys were conducted in 2006 and 2007 within the proposed Project area according to USFWS survey protocol. NSO were not detected; however, negative survey results for NSO are valid for two years only. Yellow warbler (*Dendroica petechia*; SSC), western screech owl (*Otus kennicottii*) and red-tailed hawk (*Buteo jamaicensis*) have been observed within the proposed Project area. Birds in the order of Falconiformes and Strigiformes and their nests are protected under Fish and Game Code § 3503.5. Migratory raptors are also protected under the Migratory Bird Treaty Act. If species that are listed as fully-protected under Fish and Game Code § 3511 are present within the proposed Project area, they may not be taken or possessed at any time.

1-16

The draft EIR states that surveys for raptor species other than NSO are proposed to be conducted 30 days prior to Project-related activities. Yellow warbler surveys are proposed to be performed 14 days prior to Project activities. DFG does not consider the avian survey designs and timelines adequate to detect the presence of special-status avian species potentially occupying the proposed Project area. For large, conspicuous nesters such as hawks, eagles, falcons and osprey, a full survey should include two aerial or stand watches

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during the early nesting period (February to early May), and a minimum of two tape-playback surveys during the late nesting season (mid-May to July) conducted by a qualified surveyor. For Accipiters such as sharp-shinned hawk (*Accipiter striatus*) and Cooper's hawk (*Accipiter cooperii*), a full survey should include a minimum of two dawn vocalization surveys in potential habitat during the early nesting season (mid-March to early May) and a minimum of two tape-playback surveys during the late nesting season (mid-May to July). Surveys for nocturnal raptors should be conducted concurrently with NSO surveys, and use the same survey criteria on number of visits, survey stations, and seasonal and relative timing. An adequate yellow warbler survey includes conducting a minimum of three to six visits to stations in potential habitat starting in June (to avoid counting migrants) and ending in late-July. DFG recommends that a full season of raptor and passerine surveys be conducted the year prior to the start of Project activities, and early season surveys be conducted the year of operations.

1-17

If special-status avian species are discovered within the Project area, the draft EIR proposes to establish 300-foot and 100-foot buffers surrounding occupied raptor and yellow warbler nests, respectively. Noise disturbance as a result of Project activities can lead to temporary displacement or abandonment by the adult of a nest, eggs or young. To avoid significant adverse effects of Project-related activities to nesting birds, the project should specify appropriate nest buffers to be a minimum of 500 feet for Accipiters, 1,000 feet for Buteos, and 150 feet for yellow warblers. However, DFG should be consulted prior to operations to discuss effective protective measures for special-status species found within the proposed Project area.

1-18

Furthermore, the draft EIR does not fully address and mitigate for the permanent loss of terrestrial wildlife habitat. Wildlife may be restricted to one of the habitat types found within the proposed Project area or use multiple areas for nesting or denning, foraging and shelter and as migratory and dispersal corridors. Fragmented tracts of land generally have lower diversity and abundance of wildlife species compared to areas with greater connectivity (Noss 1999). Conversion of forestland and grassland increases edge effects, which may subject small mammals and nesting birds to an increased risk of predation by encouraging opportunistic predators such as corvids (crows, ravens and jays). Edge effects also increase the risk of brood parasitism on yellow warblers by the brown-headed cowbird (*Molothrus ater*), which has been observed within the proposed Project area. Large tracts of land provide migratory corridors for wildlife and allow mechanisms for dispersal. The forested habitat surrounding the proposed Project area is currently distributed in a network of patchy, isolated stands, and completion of the Project would lead to further fragmentation. Increased riparian buffer widths as recommended in this letter would lessen the significant impact of habitat fragmentation resulting from the proposed conversion.

1-19

*Botanical Resources*

The draft EIR proposes to establish a 15.6-acre preserve where the majority of the population of thin-lobed horkelia (*Horkelia tenuiloba*) within the Project area is found. Thin-lobed horkelia is listed as 1B by the California Native Plant Society (CNPS). A 4.4-acre preserve would also be established for the Annapolis manzanita (*Arctostaphylos manzanita* x *A. stanfordiana*) which is not CNPS-listed but considered a rare hybrid. Thin-lobed horkelia is found in grasslands and mesic openings within the proposed Project area.

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These grasslands are composed mostly of native grass species such as Pacific small reedgrass (*Calamagrostis nutkaensis*) and annual hairgrass (*Deschampsia danthonioides*).

1-20

Project-related activities which may adversely affect sensitive plant species within the proposed Project area include the introduction and spread of invasive plant species, sediment delivery from both existing seasonal and new temporary roads, herbicide and fertilizer use in vineyards and wetland creation within the preserves. Non-native plant species such as annual rye grass (*Lolium multiflorum*) are proposed to be used as a cover crop in vineyards and as an erosion control measure on disturbed soil. Annual or "Italian" rye grass is a persistent non-native plant species and should not be used within the proposed Project area. Alternatives such as a native grass seed mixture appropriate for the local area or the sterile hybrid Regreen© should be used. Weed-free mulch, native slash, or clean straw are also appropriate for erosion control. A segment of road is located within

1-21

the horkelia preserve but is proposed for decommissioning. To prevent heavy equipment from entering the preserve during harvesting operations and potentially damaging rare plants, preserve boundaries should be indicated by fencing and/or signs prior to harvesting operations. Erosion control should be used on existing and temporary roads in areas where the potential exists for excessive sediment delivery to preserves and existing wetlands. Rare plants located within the preserves could be adversely affected by vineyard run-off containing chemicals, and should be protected by establishing appropriate buffers (e.g. minimum 50 to 75 feet) surrounding the preserves. The draft EIR does not fully

1-22

analyze and disclose all of these potential adverse impacts to sensitive plant species. Additional mitigation measures are necessary to reduce the proposed Project's significant impacts to sensitive plants and native grasslands to below a level of significance.

1-23

The draft EIR does not include a detailed monitoring and adaptive management plan for the conservation easement areas. The adaptive management plan should be supported by scientific studies and ecological expertise and include an actions timeline and funding budget at a minimum. The management plan should apply to rare plant preserves, streamside conservation areas and wetlands, and address the short- and long-term effects of vineyard development on protected areas. The draft EIR should include monitoring (minimum of eight to ten years) to detect changes in the numbers and viability of plant populations, hydrologic and groundwater conditions, encroachment of invasive plants, excessive nutrient loading from herbicide and fertilizer applications in vineyards, and include remediation or restoration actions if needed.

1-24

*Wetland Creation*

Wetlands are proposed to be constructed within the thin-lobed horkelia and manzanita preserves as on-site mitigation for the loss of existing wetlands. The draft EIR does not provide a complete description of this future phase of the proposed Project. Inadequate site selection and design can result in poorly or non-functioning wetland ecosystems. Wetland creation within the preserves could also potentially lead to changes in sub-surface hydrologic conditions and adversely affect rare plants. To ensure successful and effective wetland mitigation, the EIR should include detailed planning and design specifications for the proposed new wetlands, and site-specific data on the soil profile, topography and hydrology at the sites.

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Lake and Streambed Alteration Agreement

Please be advised that any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed requires notification to DFG pursuant to Section 1600 et seq. of the Fish and Game Code. The watercourse classification system used by the FPRs has no bearing on the requirements of Section 1600 of the Fish and Game Code. Issuance of Lake and Streambed Alteration Agreement (LSAA) is subject to the California Environmental Quality Act (CEQA). DFG, as a Responsible agency under CEQA, will consider the EIR for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at [www.dfg.ca.gov/habcon/1600](http://www.dfg.ca.gov/habcon/1600); or to request a notification package, contact the Lake and Streambed Alteration Program at (707) 944-5520.

1-26

Greenhouse Gas Emissions

Pursuant to CEQA Guidelines § 15130, the draft EIR discusses the proposed Project's cumulative impacts on the environment including increased greenhouse gas (GHG) emissions. In its analysis of the proposed Project's impacts on the carbon sequestration potential at the Project site, the draft EIR estimates a loss of approximately 1,179.9 metric tons of carbon absorption as a result of the conversion of 171 acres of timberland and 19 acres of grassland. The proposed Project will also result in the direct release of GHG emissions from equipment use during site preparation, development and maintenance of the vineyards and infrastructure.

1-27

The loss of forestland is a major cause of GHG emissions globally. Through carbon sequestration, forestlands function as a means of reducing net emissions of carbon dioxide and act as long-term carbon "sinks" or reservoirs (Wayburn *et al.* 2007). The associated root system and organic soil in forestlands are also important sources of accumulated carbon. The draft EIR states that forests and soils eventually reach a "saturation point beyond which additional [carbon] accumulation is no longer possible." However, recent studies suggest that even old-growth forests are not carbon neutral since they continue to absorb carbon (Luyssaart *et al.* 2008). The proposed Project will significantly reduce the long-term capacity of a young growing forest to increase carbon stores and reduce the potential to reforest former forests.

1-28

The draft EIR does not fully address the cumulative impacts of both the direct loss of forestland and the diminished sequestration potential of a young forest. The draft EIR, therefore, does not analyze and disclose all of the Project-related cumulative impacts on the environment and does not mitigate the impacts of increased GHG emissions to the extent feasible.

We appreciate your consideration of our comments. DFG personnel are available for consultation regarding resources and strategies to minimize impacts. If you have any questions, please contact Mr. Richard Fitzgerald, Coastal Habitat Conservation Supervisor, at (707) 944-5568.

**Letter 1**  
**Cont'd**

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cc: State Clearinghouse

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## **LETTER 1: CHARLES ARMOR – DEPARTMENT OF FISH AND GAME**

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### **Response to Comment 1-1**

The comment is introductory and does not address the adequacy of the DEIR.

### **Response to Comment 1-2**

The comment is introductory and summarizes the role that the California Department of Fish and Game has played in the processing of the project up until the date of the writing of their letter (December 10, 2009).

### **Response to Comment 1-3**

The comment is introductory and summarizes the Department of Fish and Game's jurisdictional authority. Regarding notification for a Lake and Streambed Alteration Agreement, the DEIR has identified potential impacts to the stream and riparian resources on the project site. On page 3.4-73, the DEIR states that a sump basin, trenches and a rocked ford crossing will be constructed in tributaries on the project site, which will require a Streambed Alteration Agreement from CDFG. Mitigation Measure 3.4-15(a) states that, prior to the issuance of grading permits, the project applicant shall obtain a 404 permit (Clean Water Act) from the Corps. If a 404 permit is obtained, the applicant must also obtain a water quality certification from the Regional Water Quality Control Board under Section 401 of the Clean Water Act, a Notice of Intent (NOI) from the State Water Resources Control Board and a Streambed Alteration Agreement from CDFG. As such, a Streambed Alteration Agreement shall be requested from CDFG to construct these features, and adequate avoidance, mitigation, monitoring and reporting commitments will be included in the application.

### **Response to Comment 1-4**

The comment is introductory and summarizes the Project Description information presented in Chapter 2 of the Fairfax Conversion DEIR. Please see Chapter 1, Introduction, of this Final EIR for the most current description of the project details, including updated acreage for the preserve areas and impacted wetlands. Please also see Response to Comment 1-23 concerning a current description of project impacts to wetlands.

### **Response to Comment 1-5**

The latest THP, which is attached to this Final EIR as Appendix A, lists a total conversion area of 154 acres. This is a few acres less than the conversion area listed in the 2004 TCP application referenced by the commenter. Furthermore, though the DEIR listed a conversion area of 171 acres on page 2-6, the DEIR fully evaluated the impacts of said conversion area, and determined that all impacts could be reduced to a less-than-significant level with implementation of all required mitigation measures. It is typical for a conversion area to be modified as the THP goes through the agency review process and the Fairfax Conversion DEIR project description, and subsequently, the

project description included in the Introduction chapter of this Final EIR, rightly included the minor modifications to the THP aspect of the project that had occurred since 2004.

### **Response to Comment 1-6**

The comment does not address the adequacy of the DEIR, but rather summarizes fisheries information presented in the DEIR.

### **Response to Comment 1-7**

The DEIR acknowledges that the Gualala River is listed as “Threatened and Impaired.” While the DEIR acknowledges that federally endangered Coho salmon are present in the Gualala River basin, according to page 3.4-56 of the Biological Resources chapter of the DEIR, in July and October 1991 Entrix, Inc. conducted a fisheries survey and habitat assessment on a stretch of the Gualala River from the Wheatfield Fork/South Fork Gualala River confluence downstream to the confluence of the South Fork and North Fork Gualala River and Coho salmon were not collected during the study.

According to the Recovery Strategy for California Coho Salmon<sup>1</sup> five goals have been identified to achieve delisting of California Coho Salmon:

- GOAL I Maintain and improve the number of key populations and increase the number of populations and cohorts of coho salmon.
- GOAL II Maintain and increase the number of spawning adults.
- GOAL III Maintain the range, and maintain and increase distribution of coho salmon.
- GOAL IV Maintain existing habitat essential for coho salmon.
- GOAL V Enhance and restore habitat within the range of coho salmon.

Based on the analytical studies conducted for the project on hydrology and sediment control, the proposed project may improve water quality conditions above existing conditions by reducing erosion and increasing summer baseflow through an increase in groundwater recharge. Any increase in summer baseflows would help maintain cooler water and enhance habitat which is beneficial to Coho salmon and steelhead at this time of year.

The Erosion Analysis concluded that the project design is expected to reduce sediment yields by 24 to 39 t/yr. As noted on page 3.7-70 of the Hydrology and Water Quality Chapter of the DEIR, sediment yield under project conditions is reduced owing to the incorporation of sedimentation basins into the proposed project and the repair and prevention of ongoing gully erosion on the project site. Sediment yield from vineyard fields has been largely controlled by erosion control practices, and further limited by construction of sedimentation basins at vineyard drainage outfalls. Sedimentation basins reduce estimated vineyard erosion below pre-project levels (Table 3.7-20 of the Hydrology and Water Quality chapter), resulting in a net decrease in sediment yield of about 8 to 13 t/yr. Additional reductions in sediment yield by erosion BMPs designed to repair and control gully erosion at five sites in the project area is expected to reduce erosion rates by at

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<sup>1</sup> California Department of Fish and Game, *Recovery Strategy for California Coho Salmon*, February 2004.

least 16 t/yr (low range estimates) to 27 t/yr (high range estimates). These estimated sediment savings result in net decreases in sediment yield under project conditions of 24 to 39 t/yr (See Table 3.7-21).

In addition, per Mitigation Measure 3.7-3(b), the DEIR requires a detailed Channel Erosion and Sedimentation Basin Monitoring Plan to be implemented by the project applicant. As stated in Mitigation Measure 3.7-3(b), there is no substantial evidence that hydrologic change will cause significant erosion in Class III channels draining the project area. Channel response to peak flows is controlled by the size of channels, channel substrate, and the proximity of bedrock and boulder controlled channels downstream. Potential erosion of channels draining the project area is limited to varying degrees by these factors. Furthermore, peak discharge for high-magnitude, low-frequency flows (> 5 yr recurrence interval events) under current conditions indicate that the largest increases in peak flows (2 yr recurrence interval events) predicted under project conditions would be well within the range of flows transmitted by the existing channels in most locations. Hence, the potential for significant channel erosion related to peak flow change is limited by several factors.

Given the relatively high variability and complexity of hydrologic and geomorphic processes, channel response to identified potential peak flow increases is somewhat uncertain. While the predictable potential effects of the project with mitigation are not significant, unpredictable events or unexpected responses could have substantial impacts. Consequently, a monitoring program is presented in this mitigation measure. The objective of the monitoring plan is to observe and document erosion response, if any, of Class III channels draining the project area and verify that the magnitude of response does not rise to a significant level. No net increase in sediment yield from the project area is an environmental objective of the project.

In addition, the performance of sedimentation basins will be monitored to provide measurements of vineyard field erosion and sedimentation basin trapping efficiency. These measurements are warranted because they could lead to revisions of predicted vineyard field erosion, which could either increase or decrease the threshold of significance of channel erosion. If monitoring data indicate that sediment yields from the project area are greater than predicted in the pre-project analyses, either from unexpected erosion of Class III channels or higher-than expected delivery rates of sediment eroded from vineyard fields, appropriate on- and off-site erosion mitigation will be developed with oversight by CAL FIRE or an alternative regulatory authority designated by CAL FIRE.

The DEIR also proposes specific mitigation measures to avoid and/or minimize impacts to water quality and quantity during construction. For example, in addition to the requirement for all timber harvesting activities on the project site, including harvest-associated road construction and maintenance, to comply with California Forest Practice Rules water quality protection measures, as described in the Timber Harvest Plan prepared for the proposed project and approved by the Department of Forestry (cf. MM 3.7-2(a)), the DEIR requires the project applicant to implement a detailed Post-construction Monitoring Plan that is intended to supplement the project ECP and SWPPP for the first winter season after project construction (cf. MM 3.7-2(i)). This monitoring plan shall be implemented for areas where site preparation has occurred in the prior construction season, including soil preparation, grading and drainage

installation. The first-year post-construction monitoring requirement is fulfilled if the monitoring period follows all grading and drainage work, regardless of whether vineyard planting and cover crops have been established. If site preparation work is conducted, but final grading and drainage installation is not complete, this monitoring plan will extend to the subsequent winter until final grading and drainage work is complete.

Therefore, the project would be consistent with the State's recovery goals for Coho salmon.

### **Response to Comment 1-8**

The project biologist, Monk & Associates (M&A), has been studying the biological resources of the project site over the last three years. In the summer of 2009, M&A conducted USFWS-approved protocol surveys for CRLF on the project site in accordance with the *Revised Guidance on Site Assessments and Field Surveys for the California Red-Legged Frog*<sup>2</sup>. The CRLF survey methodology was approved by Mr. Chris Nagano of the USFWS (USFWS File No. 81420-2009-TA-0670). M&A completed a full USFWS CRLF protocol survey. Formal surveys for CRLF commenced May 26, 2009 and were completed July 21, 2009. CRLF were not identified on or immediately adjacent to the project site during these protocol surveys.

After conducting multiple surveys for California red-legged frogs over a 3-year period on the project site, CAL FIRE has determined, based on M&A's expert analysis that the red-legged frog is unlikely to be present on the project site. Patchett Creek would have to remain inundated into and through August in order for the California red-legged frogs to successfully complete a breeding cycle. While a few small pools persist in Patchett Creek in the late summer months, they occur under heavy forest canopy in an almost complete absence of sunshine. The pools are small, shallow, crystal clear, and cobbled with an absence of mud or escape vegetation. The rocky substrate and clear water in the absence of shoreline vegetation is generally not a condition that would support red-legged frogs. Finally, no red-legged frogs, egg masses or larvae have ever been observed in Patchett Creek or the other onsite ephemeral tributaries during appropriately timed surveys. In consideration of negative findings during extensive surveys for CRLFs, and an absence of suitable breeding habitat that could support this frog, CAL FIRE has determined, based on the expert analyses, that the CRLF does not occur on or immediately adjacent to the project site.

M&A also conducted multiple diurnal and nocturnal surveys for CRLF in accordance with the methods detailed in the USFWS' CRLF survey protocol at all accessible "suitable breeding habitats" within 3 miles of the project site, including the Wheatfield Fork of the Gualala River closest to the project site, two man-made vineyard reservoirs, and one man-made reservoir in forested habitat. CRLFs, their eggs or larvae were not observed at any time during these offsite surveys. As such, CAL FIRE has determined, based on the expert analyses, that the project site does not likely provide a migration corridor for the CRLF. In consideration of the on and offsite surveys conducted for CRLFs, and a complete absence of adult and/or larval CRLFs on the

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<sup>2</sup> USFWS (U.S. Fish and Wildlife Service). 2005. Revised guidance on site assessments and field surveys for the California red-legged frog. August 2005. 26 pps.

project site, CAL FIRE has determined, based on the expert analyses, that the proposed project will not impact the CRLF.

As discussed in the DEIR, foothill yellow-legged frogs are present in Patchett Creek on the project site. M&A has been noting foothill yellow-legged frog occurrences on the project site over the last three years. These observations and M&A's continued studies also corroborate the statement in the DEIR that M&A knows of no known location where the foothill yellow-legged frog co-occurs with the CRLF.

There is a seasonal distribution of foothill yellow-legged frogs in Patchett Creek on the project site. This frog is present in the winter, spring, and early summer months on the project site. The foothill yellow-legged frog uses the upper reaches of Patchett Creek on the project site in the winter and early spring months. By late spring, the upper reaches of Patchett Creek dry and the foothill yellow-legged frog retreats to the mid to lower reach of Patchett Creek on the project site. By mid-summer, the foothill yellow-legged frog completely disappears from these small shaded pools, likely retreating further downstream off the project site to the lower reaches of Patchett Creek where there is persistent water and larger pools that afford protection from predators.

The foothill yellow-legged frog, which is associated exclusively with the flow zone of Patchett Creek, will be protected by no-cut permanent buffers throughout the length of Patchett Creek on the project site. Buffers will exceed the 30-foot setback requirement discussed by the commenter. Buffers will be a minimum of 100 feet from the top of bank, and will average approximately 210 feet off the top of bank of this creek. As foothill yellow-legged frog habitat is restricted to a permanent water source, CAL FIRE believes, based on the expert analyses, that the foothill yellow-legged frog will be fully protected by the buffers that have been established for Patchett Creek.

### **Response to Comment 1-9**

Regarding the potential presence of western pond turtles on or immediately adjacent to the project site, CAL FIRE has determined, based on the expert analyses, that this turtle would not be impacted by the proposed project. The proposed project site does not provide suitable western pond turtle habitat. Patchett Creek, the largest tributary on the project site, is an intermittent creek that dries down to a few relatively small pools in late July. These pools occur in rocky substrates under dense tree canopies. The water is crystal clear and less than a foot deep. The largest pools in Patchett Creek on the project site, in M&A's opinion, are too small to be used by western pond turtle. Patchett Creek also is 100 percent shaded for many hundreds of feet up and downstream of the small perennial pools that persist past July after the remainder of the creek typically dries. Accordingly, there is no suitable basking habitat associated with the perennial pools. Western pond turtles require basking sites that are exposed to direct sunlight. There are no perennial pools that are large enough or that have sun exposure for more than a few fleeting moments a day at best. Because the pools that remain through the summer are small and have crystal clear water which would not provide western pond turtles with necessary escape cover, CAL FIRE has determined, based on the expert analyses, that western pond turtles would not be found on or near the project site.

M&A biologists have conducted approximately 20 surveys in the tributaries of the project site outside of the CRLF surveys over the last three years. Western pond turtles have never been observed at any time in the tributaries on the project site. M&A's surveys for western pond turtle are further detailed in Response to Comment 7-11. CAL FIRE believes they have robust data demonstrating that the CRLF and western pond turtle do not occur on or adjacent to the project site. Accordingly, these species would not be impacted by the proposed project.

### **Response to Comment 1-10**

Modifications to flow resulting from the vineyard conversion project may affect the differential sorting of substrate, which in turn may affect aquatic habitat for fish and amphibians. As stated in the DEIR, fish do not occur in the creeks on the project site. Approximately 0.25 mile below the project site, there are three consecutive vertical drops along Patchett Creek totaling approximately 180 feet that block all aquatic species' movement upstream of the Wheatfield Fork of the Gualala River. Therefore, modifications to flows and substrate sorting would not impact fish habitat. On the project site, amphibian habitat consists of rock pools in the southern half of Patchett Creek. As the pool substrate consists of hard rock, it would not be subject to differential sorting. Productive riffles are typically significant to spawning anadromous and/or other fish species.

As described in the DEIR, the proportion of the project site and Patchett Creek watershed affected by runoff collection is relatively small, and the potential impact on flows diminishes rapidly with increasing drainage area. Hence, for the downstream portions of Patchett Creek and the Wheatfield Fork, no significant adverse impact on aquatic habitat is expected.

Fish and Game Code 1602 exerts regulatory authority over the bed, bank, and channel of tributaries, and over riparian vegetation associated with tributaries. As discussed more fully in Response to Comment 1-12 below, the tributaries and associated riparian vegetation on the project site will be fully protected by creek buffers in accordance with Section 1602 of the Fish & Game Code and the Forest Practice Rules (FPRs), as otherwise prescribed as part of the proposed project. Along Patchett Creek, there is a weakly formed riparian community represented mostly by interior live oaks (*Quercus wislizeni*), California hazelnut (*Corylus cornuta* var. *californica*), and a few California bay laurels (*Umbellularia californica*). In the northeastern corner of the project site, this habitat occurs along the west side of Patchett Creek and follows up a side tributary east towards Annapolis Road. All of the riparian habitat in Patchett Creek (100 percent) will be preserved. In total, there is an 11.2 acre set-aside over this portion of the project site to protect the upper reach of Patchett Creek and its riparian habitat, which also is suitable yellow warbler habitat. This preserved area is shown in the revised Vineyard Plan dated November 17, 2010. This riparian habitat will be preserved via a permanent deed restriction recorded on the title of the land and will follow the title of the property in perpetuity.

No Class III tributary on the project site supports riparian vegetation. Rather, these tributaries support forested habitats that are non-distinguishable from the remainder of the second growth forested community on the project site. Thus, CDFG's jurisdiction pursuant to Section 1602 of the Fish and Game Code would be to the top-of-bank for all Class III tributaries on the project

site. As such, buffers that will be established along tributaries all comply with the FPRs and with Fish and Game Code 1602.

### **Response to Comment 1-11**

Potential increases in the delivery of turbid water to streams systems are mitigated in part by reducing erosion rates from existing gullies on the project site and in part by a combination of multi-functional conservation measures. These include runoff detention in the irrigation reservoir of a substantial runoff volume, avoiding disturbance of sensitive areas in headwater drainages, and by wetland and other biological mitigation areas. While smaller detention basins do not have sufficient volume and surface areas to allow silt and clay size sediment to settle, the irrigation reservoir that collects runoff from about 39 acres of the vineyard area will allow for substantial reduction of turbidity from this portion of the project area. Setbacks from stream channels reduce potential increases in runoff and provide undisturbed areas adjacent to streams where runoff and any minor amounts of sediment transported from disturbed areas may potentially be detained. Vineyard cover crops throughout the project area will maintain substantial soil permeability and will slow the rate of runoff and the potential mobilization of fine sediment that creates turbid runoff. Wetlands in the project area that are preserved total 3.15 acres. Impacts would occur to 0.197 acre of Corps jurisdictional waters of the United States and to 0.106-acre of isolated wetlands, the latter falling under the jurisdiction of the RWQCB. Total impacts to waters of the United States and State are 0.303-acre. This wetland loss is mitigated at a 2:1 ratio by creation of approximately 0.606 acre of wetlands in two separate mitigation areas. Additional substantial portions of the project area include 15.6 acres of horkelia reserve, 1.6 acres of Manzanita reserve and 2.8 acres of combined manzanita and wetland reserve.

### **Response to Comment 1-12**

According to the Forest Practice Rules (FPRs), required buffers for Class II tributaries are between 50 and 100 feet from top of bank. Buffer widths are based upon tributary side slopes as follows: for 0 to 30 percent side slopes, 50 foot buffers are required; for 30 to 50 percent side slopes, 75 foot buffers are required; and for greater than 50 percent side slopes, 100 foot buffers are required. Pursuant to Section 1602 of the Fish and Game Code, CDFG's regulatory authority extends to the top-of-bank of any tributary, and in practice extends to the outside edge of riparian canopy associated with a tributary.

Sonoma County setback requirements are 100 feet for streams that have been designated in the 2020 General Plan (Figure OSRC-5a), and 25 feet for streams not designated in the General Plan. The Sonoma County Grading, Drainage and Vineyard and Orchard Site Development Ordinance (no. 5819) requires 25 foot setbacks from the top of bank for watercourses with slopes less than 15 percent; and wetland setbacks 50 feet from the delineated edges. Vegetative filter strips may be installed in wetland setback areas. Grassy avenues and turnarounds for agricultural crops may be located within vegetative filter strips.

Figure 3-1 below provides a full description of setbacks along Patchett Creek. Protected buffers will average approximately 210 feet off the top-of-bank of this creek. The northern reach of Patchett Creek falls outside of the Timber Harvest Planning Area and thus local setbacks are not subject to the FPRs. Similarly, the northern reach of Patchett Creek on the project site is not designated in the 2020 General Plan (Figure OSRC-5a) and thus a 25-foot setback is enforceable under the General Plan. Regardless, protected buffers have been revised to provide a minimum 100-foot setback from the top of bank along the northern reach of Patchett Creek.

Riparian vegetation will be fully protected by creek buffers that are established for Patchett Creek in accordance with Section 1602 of the Fish & Game Code and as otherwise prescribed as part of the proposed project. There is a weakly formed riparian community represented mostly by interior live oaks (*Quercus wislizeni*), California hazelnut (*Corylus cornuta* var. *californica*), and a few California bay laurels (*Umbellularia californica*). In the northeastern corner of the project site, this habitat occurs along the west side of Patchett Creek and follows up a side tributary east towards Annapolis Road. All of the riparian habitat in Patchett Creek (100 percent) will be preserved. In total, there is an 11.2 acre set-aside over this portion of the project site to protect the upper reach of Patchett Creek and its riparian habitat, which also is suitable yellow warbler habitat. This preserved area is shown in the revised Vineyard Plan dated November 17, 2010. This riparian habitat will be permanently preserved via deed restriction.

Within the 11.2 acre set-aside, between Annapolis Road and the first tributary entering Patchett Creek from the west, average creek buffer widths on Patchett Creek will be 154 feet from top of bank on the west side of the creek and 216 feet on the east side of the creek. Between the first tributary and the second western tributary further to the south, average setbacks on Patchett Creek will be 126 feet to the west and 243 feet to the east. A Planting Plan has been prepared to add native shrubs and trees to the upper reaches of Patchett Creek areas where riparian vegetation is lacking or sparse.

Wetland setbacks are a minimum of 25 feet from the delineated edge. An additional 25-foot vegetated filter strip separates the wetland setback from the proposed vineyards. Thus, wetland setbacks are consistent with a request for 25-foot setbacks at this location from Mr. Stephen Bargsten of the RWQCB, as stated in the second Preharvest Inspection on February 16, 2010. Wetland setbacks in this area are also consistent with Sonoma County Grading, Drainage and Vineyard and Orchard Site Development Ordinance (no. 5819).

Further to the south, the portion of Patchett Creek that falls within the Timber Harvest Area is classified as a designated stream per the 2020 Sonoma County General Plan (Figure OSRC-5a). This stream designation starts east of the proposed sump pump, where a stream enters Patchett Creek from the east (see Sheet C3 of the Vineyard Plan). In accordance with Policy OSRC-8b of the 2020 General Plan, creek setbacks would be a minimum of 100 feet from top of bank from this point in Patchett Creek southward until it exits the project site. The 100-foot setback would also comply with the 2010 FPRs buffer requirements for Class II tributaries.



South of the second tributary entering Patchett Creek from the west (OW34 on Sheet C3 of the Vineyard Plan), the forested reach of Patchett Creek will be protected by buffers that are a minimum of 150 feet from top of bank, and will extend as far out as 430 feet from top of bank due to the preserves that will be established along this creek. Average buffer width on the west side of the creek will be 214 feet from top of bank, and 287 feet on the east side of the creek. As such, creek setbacks in this portion of Patchett Creek easily exceed the 2010 FPRs buffer requirements for Class II tributaries and the 100 foot buffers required by Sonoma County General Plan requirements.

When the project was planned, the regulations for Class III stream protection in the FPRs required that riparian setbacks for Class III tributaries, as stated in CDFG's comment, be designated between 25 and 50 feet. Under the proposed project, all minimum Class III tributaries buffers were in compliance with the FPRs. Under the modified 2010 FPRs, the minimum buffer was revised to a minimum of 30 feet from Class III tributaries. Accordingly, all minimum buffers along Class III tributaries have been changed to reflect the new 2010 FPRs setback requirements. Pursuant to the 2010 Forest Practice Rules, the established setbacks for the proposed project on 0 to 30 percent side slopes are 30 feet. Similarly pursuant to the 2010 FPRs for slopes greater than 30 percent, minimum 50 foot buffers have been established. All Class III setbacks are now at a minimum of 30 feet from the top-of-bank, and in many cases extend much further up to 100 plus feet from the top of bank of Class III tributaries. For example, buffers established along a Class III tributary dubbed by residents as Red Fern Creek in the northwest corner of the project site will range from a minimum of 30 feet to a maximum of 150 feet, with an average protected buffer width of 85 feet.

No Class III tributary on the project site supports riparian vegetation. Rather, these tributaries support forested habitats that are non-distinguishable from the remainder of the second growth forested community on the project site. Thus, CDFG's jurisdiction pursuant to Section 1602 of the Fish and Game Code would be to the top-of-bank with respect to Class III tributaries on the project site. As such, buffers that will be established along tributaries all comply with the FPRs and with Fish and Game Code 1602 which exerts regulatory authority over the bed, bank, and channel of tributaries, and over riparian vegetation associated with tributaries.

### **Response to Comment 1-13**

Project impacts on flows in Patchett Creek and the Wheatfield Fork Gualala River were evaluated using the best available data in the region that document the effects of removal of forest vegetation on runoff. These data are from a watershed study conducted by the USDA Forest Service Pacific Southwest Experiment Station Redwood Sciences Lab in cooperation with the Jackson Demonstration State Forest at Caspar Creek in coastal Mendocino County. Data regarding stream flow and the effects of vegetation conversion on runoff from the project site and Patchett Creek are not available. Site-specific watershed data that were available were used, including rainfall, drainage area and soil characteristics, to the extent applicable. The effects of the project on flows downstream were evaluated by a professional hydrogeologist, O'Connor Environmental, Inc., using hydrologic models and algorithms supported by the Caspar Creek study. With respect to potential downstream effects of flow captured by the reservoir collection system, it is expected that increased annual runoff, storm runoff, and summer baseflow observed

in Caspar Creek and attributed to reduced evapotranspiration and reduced interception losses resulting from timber harvest will compensate for reduction in runoff from filling the reservoir. As described in the DEIR, the proportion of the project site and Patchett Creek watershed affected by runoff collection is relatively small, and the potential impact on flows diminishes rapidly with increasing drainage area. Hence, for the downstream portions of Patchett Creek and the Wheatfield Fork accessible to anadromous fish, no significant adverse impact on flow conditions are expected.

#### **Response to Comment 1-14**

The DEIR includes an analysis of the potential use of agricultural chemicals on-site, with the important caveat, as noted on page 2-22 of the DEIR, that the applicant intends to use integrated pest management (IPM) in the maintenance of the vineyard. IPM focuses on long-term prevention or suppression of pest problems with minimal impacts to human health, the environment, and non-target organisms by emphasizing the use of non-chemical pest control methods. As a part of the proposed vineyard development and maintenance, chemicals would only be used when feasible alternatives do not exist. Non-chemical methods of pest control may include, but are not limited to, selection of disease-resistant planting stock; timing of activities to avoid peak infestation periods; proper organic waste disposal and irrigation practices; use of traps; use of fencing; enhancement of predator habitat, such as installation of nest boxes for raptors or bats; and importation of beneficial insects and/or bacteria.

As noted on page 3.8-16 of the DEIR, agricultural chemicals may be used when needed to avoid sustained economic damage. As a result, the applicant has prepared a Pesticide Management Plan (PMP). A detailed outline of the PMP is included on pages 3.8-16 to 3.8-27 of Chapter 3.8, *Hazards*, of the DEIR. Regarding the list of potential agricultural chemicals that may be used on-site, which is included in Table 3.8-2 of the DEIR, the following changes should be noted (See Response to Comment 7-9 for further detail).

Mancozeb is a carbamate fungicide that is used by an ever-decreasing number of vineyards in Sonoma County, but now falls low on the list of chemicals. At the time of the writing of this Final EIR (July 2011), Artesa no longer uses this chemical. Therefore, it is necessary to clarify the current information contained in Table 3.8-2 of the DEIR, which lists dithane (mancozeb) as a potential agricultural chemical to be applied on-site. While dithane (mancozeb) was used much more frequently in the past in the industry, there are now many more fungicides that are at least as effective as dithane (mancozeb), but, importantly, pose a lower risk to receptors. The list of chemicals included in Table 3.8-2 of the DEIR is based upon the vineyard manager's then-current review of the previous few years of limited chemical usage at all of Artesa's vineyards. Given the fact that the DEIR was released in June 2009, the chemical inventory review performed by the vineyard manager during preparation of the DEIR now reflects the chemicals used by Artesa 3-5 years ago. The agricultural chemistry has improved considerably over the last 3-5 years. While Artesa has used dithane (mancozeb) in the past in rare circumstances, this chemical is no longer being used, as there are now many options, which are

better than dithane (mancozeb) from an environmental perspective.<sup>3</sup> As a result, Table 3.8-2 of the DEIR, *Agricultural Chemicals to Potentially be Applied Onsite*, is hereby revised (see Response to Comment 7-9) to remove dithane (mancozeb) from the list of potential chemicals. Furthermore, Table 3.8-2 is revised to remove the fungicide Abound as Artesa no longer uses this chemical due to concerns that target organisms have developed a resistance; and while Nexter is still in use in the greater industry, it is hereby removed from Table 3.8-2 due to new, lower impact alternatives being used by Artesa as of late. Similarly, Pristine and Applaud have been added to Table 3.8-2 given that these chemicals are lower impact alternatives (compared to those hereby deleted from the table) that more accurately represent what is being used today by both Artesa and the greater industry.

Intrepid is also hereby added to Table 3.8-2 out of an abundance of caution to address the limited potential for crop damage by the light brown apple moth and European grapevine moth, both of which are new pests since the initial preparation of Table 3.8-2 of the DEIR.

Lastly, as a result of public comment and further consideration by the vineyard manager and project applicant, the decision has been made not to utilize POEA surfactants; rather, only surfactants approved for use near water, such as Latron. Therefore, CMR Silicone Surfactant is hereby deleted from Table 3.8-2.

Artesa only uses contact herbicides that minimize, if not eliminate, the chance of off-site impacts. Table 3.8-2 of the DEIR, as revised in this Final EIR, lists agricultural chemicals that the applicant would use in the event of a pest outbreak. Table 3.8-2 of the DEIR does not quantify the amounts of pesticides to be used because they would only be applied in the event of a pest outbreak, at which time the applicant would use the appropriate chemical using quantities in strict accordance with the label instructions and any applicable usage guidelines. The applicant will not use any agricultural chemical that is not legally sanctioned for use, nor will such use violate any rule or regulation.

The use of such legally sanctioned and regulated agricultural chemicals would not have an effect on downstream aquatic organisms that can be substantiated or quantified as a direct specific effect of their application in the proposed vineyards. While the commenter's concerns are understandable and hereby noted, scientists have not demonstrated that the proposed chemicals to be used would have a significant effect on the environment when used in accordance with label instructions. It would take many years of study to develop an assessment of such impacts, and specifically speaking, the proposed vineyard would have to be in operation so that studies could be directly related to the vineyard. CEQA requires use of current information, and at this point in time, there is no evidence that would indicate that the application of the proposed chemical constituents would have a significant effect on organisms downstream of the project site.

As stated in section 3.8-4 of the DEIR, to ensure that impacts to downstream aquatic life are minimal to none, the applicant's vineyard management program draws on the best scientific

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<sup>3</sup> Personal communication between Raney Division Manager, Nick Pappani, and Dr. Don Clark, Artesa Vineyard Manager, May 27, 2010.

information available regarding land management and pest control methods. These methods include the use of the University of California's Integrated Pest Management (IPM) program, specifically designed to promote environmentally and economically sustainable grape production, as well as state-of-the-art best management practices (BMPs).

As noted on page 3.8-27 of the DEIR, in addition to the use of IPM, the Fairfax Conversion project will be enrolled in the Fish Friendly Farming Program. This certification program, which is run by the non-profit California Land Stewardship Institute, supports the development of environmentally friendly land management practices that meet the high environmental standards required to improve conditions for salmon and trout downstream. One of the primary goals of the Fish Friendly Farms program is to limit chemical use in order to reduce impacts on fish species. When the program is completed, the site will be certified through the National Marine Fisheries Service, California State Regional Water Control Board, and the County Agricultural Commissioner.<sup>4</sup> The applicant will also be enrolled in the California Association of Winegrape Growers' Sustainable Winegrowing Program, through which chemical use is reduced through the implementation of Beneficial Management Practices. Thus, CAL FIRE is drawing on the knowledge of the local scientific, environmental and regulatory communities, and working cooperatively with them to ensure that the proposed project minimizes the use of agricultural chemicals and impacts to aquatic wildlife to the maximum extent practicable.

#### *Protection of Aquatic Environments and Sensitive Plant Species*

Loading, mixing, and rinsing operations would be conducted a minimum of 500 feet from the Horkelia Preserve, as well as ponds, streams, wetlands, wells and other aquatic environments. A minimum 25-foot buffer shall be maintained between the targeted spray area and aquatic environments and the Horkelia Preserve. All spraying will be conducted downwind from aquatic environments and the Horkelia Preserve. In fact, the existing and proposed (i.e., created

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<sup>4</sup> The Fish Friendly Program involves several steps. First, Owners or managers of vineyards voluntarily enroll their property in the Fish Friendly Farming (FFF) program. Secondly, through a series of mandatory workshops, each farmer will work with the FFF program staff to complete a Farm Conservation Plan for their property. The Farm Conservation Plan inventories and evaluates natural resources and practices on the entire property, not just agricultural lands. This approach assures a comprehensive program to achieve environmental quality and improvement. Following the workshops, the FFF program provides professional one-on-one technical assistance to each landowner/manager to complete the Farm Conservation Plan. This allows for all sediment sources and stream and river riparian corridors and water sources to be evaluated by an ecologist or other scientist. Various projects such as creek restoration and revegetation, water supply facility retrofit, road repair, and erosion site repair are identified in the Plan as well as the documentation of environmentally friendly management practices such as the use of cover crops or no-till practices. As a result, each Farm Conservation Plan is completely unique to each site. Thirdly, when the Farm Conservation Plan is completed the site is certified through a third party review of the property and the Plan. The certification team is made up of the National Marine Fisheries Service, California State Regional Water Control Board, and the County Agricultural Commissioner. Subsequent to certification, the farmer takes steps to implement the actions and projects identified in the Farm Conservation Plan. Simple changes in management practices are given a shorter time frame for implementation, while larger projects such as restoration or road repair have longer time frames. CLSI continues to work with the owner to cost-share implementation of major projects. In addition, the farmer annually documents actions through photo-monitoring. After 5-7 years, a certified site goes through the process of re-certification, to ensure that the designated actions have been implemented and to update the Farm Conservation Plan if needed.

wetlands) on-site aquatic features located closest to proposed vineyard blocks are those features nearest vineyard Unit 4 and 5a. The area between open water and proposed vines is over 0.6-acre, with maximum, minimum, and average offsets between open water and vine rows of 107 feet, 33 feet, and 62 feet, respectively. Unit 5a is separated from the existing and proposed aquatic features by a driveway and two fences, with the distance between open water and vines being about 60-65 feet.

The vineyard plants are dormant from perhaps November through budbreak in April. Under dormancy, spraying operations would not be expected to occur in late fall or winter, with the exception of an herbicide spray in mid-winter (Dec/Jan) for early season weed control. This will be done with a Roundup-type product with no POEA surfactants. As is standard, safe and prudent practice, herbicides are never sprayed when there is a forecast of rain for 48 hours or more, or when there is standing water in the area to be sprayed. The product is directed at the low-growing vegetation near ground level from a height of approximately 12 inches above the ground, so the chances of drift are absolutely minimal. If deemed necessary, early season fungicides and a second herbicide spray would occur at early shoot growth (April-May). Most potential sprays are fungicides and occur from May-July, at which point in time most of the on-site aquatic features would be dry. Any other pesticide application would almost certainly be a spot treatment (not over the entire property) and only in response to an economically significant pest.

#### **Response to Comment 1-15**

Please see the “Ongoing Northern Spotted Owl Surveys” section of Chapter 1.0, Introduction and List of Commenters, of this Final EIR for a detailed description of the forest habitat conditions on the project site as well as the northern spotted owl survey regimen and results. As stated on page 1-16 of this Final EIR, the proposed project will not result in significant adverse impacts to the northern spotted owl and additional mitigation measures are not warranted for this species. Therefore, as no new or substantially more severe environmental impacts associated with northern spotted owls have been identified, recirculation of the EIR is not required (CEQA Guidelines, § 15088.5).

#### **Response to Comment 1-16**

The commenter states: “DFG does not consider the avian survey designs and timelines adequate to detect the presence of special-status avian species potentially occupying the proposed Project area.” *“The draft EIR states that surveys for raptor species other than NSO are proposed to be conducted 30 days prior to Project-related activities. Yellow warbler surveys are proposed to be performed 14 days prior to Project activities.”* In addition, the commenter states that: *“An adequate yellow warbler survey includes conducting a minimum of three to six visits to stations in potential habitat starting in June (to avoid counting migrants) and ending in late-July. DFG recommends that a full season of raptor and passerine surveys be conducted the year prior to the start of Project activities, and early season surveys be conducted the year of operations.”*

M&A’s principal biologist Mr. Geoff Monk discussed these comments with Ms. Brenda Blinn of the CDFG during the second pre-harvest inspection site visit on February 16, 2010. In particular,

the comments that stipulate “that a full season of raptor and passerine surveys be conducted the year prior to the start of Project activities, and early season surveys be conducted the year of operations” were discussed. In the onsite discussion, Mr. Monk stated that all riparian habitat associated with Patchett Creek was being preserved (see Response to Comment 1-12 above) and because this is where yellow warblers would be most likely to nest on the project site, there is little chance that nesting yellow warblers could be impacted by the proposed project. Mr. Monk showed Ms. Blinn the protected habitat and acknowledged that in the western United States, the yellow warbler is most commonly found nesting in riparian woodlands, but can also nest in coniferous forests with brushy understory<sup>5,6</sup>. Typically when they nest in coniferous forests it is near riparian habitats. It should be noted that only one yellow warbler has been observed on the project site during a survey conducted on April 27, 2006 in a forested area adjacent to Annapolis Road and distant from the riparian habitat located on the northwest side of the project site. This bird was likely a late migrant passing through the site. Regardless, it was acknowledged that surveys would be completed in June and July 2010 that would effectively determine if yellow warblers are nesting on the project site in habitats within the riparian or adjacent habitats.

In accordance with recommendations from the California Department of Fish and Game, M&A conducted 4 tape-playback surveys in suitable yellow warbler nesting habitat in 2010 and yellow warblers were not detected on the project site. In 2011, 5 similar surveys for yellow warblers were conducted in May and June. Once again, no yellow warblers were detected on or adjacent to the project site.

Yellow warbler nesting surveys covered all suitable yellow warbler nesting habitat on the project site. These 2011 surveys for yellow warblers are in a timeframe that is approximately one year in advance of any realistic timeframe for commencement of the proposed project. M&A determined that orange-crowned warblers (*Vermivora celata*) and Wilson’s warblers (*Wilsonia pusilla*) are common nesters on the project site. Other warblers observed during project site surveys included black-throated gray warbler (*Dendroica nigrescens*) and MacGillivray’s warbler (*Oporornis tolmiei*). The latter two warblers are uncommon and were not observed nesting. Thus far, no special-status warblers have been observed on the project site since the original yellow warbler observation on April 27, 2006. In Sonoma County, the earliest confirmation date for start of breeding for yellow warblers is June 15 and the latest is June 29<sup>4</sup>. Any nesting warblers identified during preharvest nesting surveys the year that timber harvesting activities would commence would be protected by non-disturbance buffers until a qualified biologist confirms that the nesting attempt is completed and that young have reached independence from the nest site. The size of the nesting buffer would need to be determined in the field by a qualified ornithologist, but should be no less than 100 feet between the nest site and the construction area.

Regarding potential impacts to nesting raptors, the commenter states the following:

*“For large, conspicuous nesters such as hawks, eagles, falcons and osprey, a full survey should include two aerial or stand watches during the early nesting period (February to early May),*

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<sup>5</sup> Burridge, B. (ed). 1995. *Sonoma County breeding bird atlas: detailed maps and accounts for our nesting birds*. 216 pp. Madrone Audubon Society, Inc.

<sup>6</sup> Fix, David & Andy Bezener. 2000. *Birds of Northern California*. Lone Pine Publishing.

<sup>4</sup> Burridge, B. *op. cit.*

*and a minimum of two tape-playback surveys during the late nesting season (mid-May to July) conducted by a qualified surveyor. For Accipiters such as sharp-shinned hawk (Accipiter striatus) and Cooper's hawk (Accipiter cooperii), a full survey should include a minimum of two dawn vocalization surveys in potential habitat during the early nesting season (mid-March to early May) and a minimum of two tape-playback surveys during the late nesting season (mid-May to July)."*

In response to this comment, it should be noted that there have already been multiple years of raptor nesting surveys by both North Coast Resource Management (2001) and Monk & Associates (2006, 2010, and 2011). Raptor nesting surveys led by Mr. Monk on the proposed project site were thoroughly planned and executed in a manner that would maximize opportunities for locating nesting raptors. M&A's systematic nesting surveys failed to identify any nesting raptor species on the project site in 2006, and 2010 and 2011. Similarly spot and opportunistic raptor nesting surveys conducted in 2008 also failed to identify any nesting raptors on or adjacent to the project site.

The raptor nesting methods alluded to above in CDFG's comment, particularly the aerial or stand watches can be quite effective for locating a territorial pair of raptors in a specified geographic region. Aerial or stand watches are the most effective way to identify an Accipiter nesting territory in the early spring when surveying broad expanses of habitat. Typically these methods are used on very large project sites (many hundreds if not thousands of acres). For smaller project sites like the proposed project site, there is no better method than simply walking systematic surveys over every portion of the project site looking for sign and territorial responses from Buteos and Accipiters (and other raptors) at the time they are nesting. The territorial response elicited from nesting diurnal raptors is a very effective means of detection on relatively small project sites such as the proposed project site.

The 324-acre project site and its surrounding habitats were very effectively and systematically surveyed for nesting diurnal raptors in 2006, 2010, and 2011 when these raptors could be expected to be nesting. Nesting raptors of any species have not been found on the project site. In addition, raptor nesting surveys will be completed in any year there are timber operations, no earlier than 14 days prior to harvesting. Nest survey techniques will include stand watches and vocalization surveys, in addition to systematic transect surveys of the project site.

### **Response to Comment 1-17**

It should be noted that most raptors are "traditional nesters," nesting if not in the same nest from year to year, at least nesting within the same nesting territory from year to year. Buteos and Accipiters typically have alternate nesting sites that are reconstructed at or near the previous year's nesting site, provided there is no uncharacteristic or undue disturbance occurring within the nesting territory. If nesting raptors are found during the preharvest nesting surveys, non-disturbance buffers will be established per CDFG recommendations. That is, nest buffers will be a minimum of 500 feet for Accipiters and 1,000 feet for Buteos. These nest buffers and any modification in the size of nest buffers will be discussed with CDFG prior to harvesting timber or clearing vegetation any closer than 1,000 feet from located nests.

Regarding potential impacts to nesting nocturnal raptors such as screech owls, barn owls, and great horned owls, M&A has heard these species during NSO surveys. Barn owl and great horned owl were heard on occasion, and western screech owls were heard routinely calling from timber located off the project site to the east of the proposed horkelia preserve.

During a nocturnal survey on August 11, 2010, a barred owl was detected on the project site for the first time. A pair of barred owls has since been detected at various locations on the project site in three subsequent surveys conducted in 2011. Thus, M&A can confirm that an active barred owl territory is now established that includes the majority of the project site. The recovery plan for the NSO notes the extent of completion and interaction between the NSO and barred owls, and discusses that hybridization among barred owls and NSOs occurs occasionally, and such “hybridization with the barred owl is considered to be ‘an interesting biological phenomenon that is probably inconsequential, compared with the real threat – direct competition’” between the two subspecies for food and space (2008 Final Spotted Owl Recovery Plan, p. 65-67, citing Kelly and Forsman 2004:808; see also *id.* at pp. 43-44.; 2010 Draft Spotted Owl Recovery Plan, pp. 85, 109). This phenomenon was observed in the vicinity of the project site.

Barred owls are among the more than 800 bird species protected under the Migratory Bird Treaty Act. Potential impacts to such species are discussed in detail in the DEIR, and mitigation measures are identified to ensure that impacts to birds protected pursuant to the Migratory Bird Treaty Act will be less-than-significant. The confirmed presence of barred owls on the site does not change the analysis or conclusions presented in the DEIR.

As a fail-safe, nest detection methods would be implemented if harvesting/conversion would occur between February 1<sup>st</sup> and August 31<sup>st</sup>. Wildlife biologists would be required to conduct focused systematic bird nesting surveys within 100’x 100’ plots of land immediately in advance of timber harvesting/land conversion. If nests are found, appropriate nest buffers would be established consistent with buffer distances above for nesting diurnal raptors. All nest buffers would be discussed with CDFG if any timber or vegetation removal is proposed any closer to 1,000 feet from any located raptor nest. These nest buffers and any modification in the size of nest buffers will be discussed with CDFG prior to harvesting timber or clearing vegetation any closer than 500 feet of Accipiter nests and 1,000 feet of Buteo nests. Nest buffers would be maintained until a qualified raptor biologist confirms that the nesting attempt is completed and that young have reached independence of the nest.

As a result, Mitigation Measure 3.4-5 on pages 3.4-136 and -137 is hereby revised as follows:

Mitigation Measure(s)

Implementation of the following mitigation measures will ensure that the proposed project would not result in take of the nesting raptors. Accordingly, implementation of the measures below would reduce impacts to the nesting raptors to levels regarded as *less-than-significant*.

3.4-5            Raptor Nesting surveys shall be conducted *no earlier than* 30 days prior to commencing with any tree/brush removal or any earth-moving activity

*if this work would commence between February 1<sup>st</sup> and September 1<sup>st</sup>. The raptor nesting surveys shall include examination of all trees on the project site and, if possible owing to land access issues, within 5001,000 feet of the entire project site, if possible, and not just trees slated for removal. All stick nests and all tree cavities shall be examined for evidence of nesting raptors.*

*If an active raptor nesting site is identified, then non-disturbance buffers will be established per CDFG recommendations. That is, nest buffers will be a minimum of 500 feet for Accipiters and 1,000 feet for Buteos. These nest buffers will be maintained until the nest site(s) are vacated by the nesting raptors, typically after young fledge and disperse. Any modification in the size of nest buffers will be discussed with CDFG prior to harvesting timber or clearing vegetation any closer than 1,000 feet from identified active nests. ~~If nesting raptors are identified during the surveys a 300-foot radius around the nest tree must be demarcated with a double stand of bright orange flagging tape tied 5 to 8 feet above the ground. If the tree is adjacent to the project site then the buffer shall be demarcated per above where the buffer occurs on the project site. The size of the buffer may be altered if a qualified raptor biologist conducts behavioral observations and determines the nesting raptors are well acclimated to disturbance. If this occurs, the raptor biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to the nesting raptors. Any buffer that is established that is less than 150 feet shall require behavioral monitoring by a qualified raptor biologist until such time that the young fledge. In the event the smaller buffer is not sufficient to protect the nesting birds the monitoring biologist shall have the right to re-establish a larger buffer up to a 300 foot buffer. No tree or brush removal, earth moving activities, or human intrusion (except by biologists or individuals accompanied by a qualified raptor biologist) shall occur within the established buffer until it is determined by a qualified raptor biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones. This typically occurs by August 1. This date may be earlier than August 1, or later, and would have to be determined by a qualified raptor biologist.~~*

### **Response to Comment 1-18**

The commenter notes that “the forested habitat surrounding the proposed Project area is currently distributed in a network of patchy, isolated stands...” Habitat fragmentation on the project site is a consequence of man settling this region in the last 100+ years. A lumber mill was in operation on the project site on and off from 1938 to 1946<sup>7</sup>. Most recently, the project site was

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<sup>7</sup> Tom Origer & Associates, 2008. *Report on Supplemental Studies for the Artesa-Fairfax Project, Annapolis, Sonoma County, California.* May 5. Revised June 23

completely logged 40 or so years ago and the central northern portion of the project site was used for sheep production and apple orchards until the early 1960's. As a result of these anthropogenic influences, the forest on the project site is in an early seral stage and consists of tan oak and young Douglas firs with a brushy understory. The site does not support old-growth forest, and all vegetation and wildlife that occupy late seral stage communities have been effectively removed from the site. The plants and animals remaining are more adapted to thriving in disturbed or fragmented conditions. Thus, many of the significant effects of habitat fragmentation have already taken place on the project site.

In accordance with Appendix G (Environmental Checklist Form) of the CEQA Guidelines, implementing the proposed project would have a significant biological impact if it would have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by CDFG or USFWS. The proposed project would also have a significant biological impact if it would have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFG or USFWS. There are no provisions in the CEQA Guidelines regarding habitat fragmentation.

Per the above discussion of riparian buffers in Response to Comment 1-12, all proposed buffers from Patchett Creek are in full compliance or exceed that required by the Forest Practice Rules, Fish and Game Code 1602, and/or Sonoma County's General Plan. In addition, all species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by CDFG or USFWS would be protected in the preserves that will be established on the project site as part of the proposed project. Areas that will be cleared for vineyards currently do not support known protected wildlife species with the exception of nesting birds. Nesting birds would not be impacted by the proposed project. Please review mitigation measures that are required to protect nesting birds (Mitigation Measures 3.4-4 through 3.4-7 of the DEIR, as revised in this Final EIR).

Finally, the project site is 324 acres and the footprint of the total proposed project is 186 acres. The remaining 151 acres of the project site will be set aside/preserved in permanent deed restrictions that follow the title of the land in perpetuity (See Figure 3-1, *Project Preserve Areas*). Thus, approximately 46.6 percent or nearly one-half of the project site will be preserved permanently to protect biological resources. This is an outstanding preservation plan that far exceeds industry standards. Accordingly, any additional habitat fragmentation that will result from the proposed project will not have a significant biological impact pursuant to CEQA.

### **Response to Comment 1-19**

The comment does not address the adequacy of the DEIR, but rather summarizes botanical information presented in the DEIR.

## Response to Comment 1-20

Herbicide and fertilizer use in vineyards: The proposed horkelia preserve is located outside of the watershed of the proposed vineyard, and therefore would not be subject to agricultural runoff. This preserve is also bordered by non-project site lands to the north, west and east of the preserve and thus no vineyards are proposed to be planted immediately to the north, west, or east of the horkelia preserve. To the south, the proposed horkelia preserve will be separated from the proposed vineyard by an 18.5-acre Class III stream buffer, which will be permanently preserved via a deed restriction. The vineyard would be as close as 30 feet to an area that supports forest within the horkelia preserve, and as far as 300 feet away from the edge of the horkelia preserve. The actual distances between the closest occurrences of thin-lobed horkelia plants and the vineyard will far exceed 300 feet. As such, CAL FIRE believes, based on the expert analyses, that the Class III buffer would be all that is necessary to protect the horkelia preserve from the proposed vineyard.

It should be noted that special-status plant preserves located adjacent to vineyards are known to successfully support rare plants and created wetlands. The vernal pools at the Alton Lane site in Santa Rosa have been completely surrounded by vineyards on three sides for over 18 years and support a breeding population of the federally listed endangered California tiger salamander (*Ambystoma californiense*). The Alton Lane seasonal wetlands also support sensitive aquatic invertebrate species such as California linderiella (*Linderiella occidentalis*) and many other more common invertebrates. Also present in created wetlands at this mitigation site in large numbers are federally listed endangered plants that include Sonoma sunshine (*Blennosperma bakeri*), Burke's goldfields (*Lasthenia burkei*), Sebastopol meadowfoam (*Limnanthes vinculans*) and Pitkin marsh lily (*Lilium pardalinum* ssp. *pitkinense*)<sup>8</sup>. Other special-status plants that have occurred for many years at the Alton Lane mitigation wetland preserve include dwarf downingia (*Downingia pusilla*) and seaside tarplant (*Hemizonia congesta* ssp. *congesta*). The use of pesticides, herbicides, and fungicides in the vineyards surrounding the Alton Lane mitigation site have had no measureable negative effects on aquatic invertebrates, special-status amphibians, or special-status plant species that include federal listed plants at Alton Lane. In fact, over the last 18 years the number of special-status populations as well as the number of special-status species have greatly increased. Accordingly, CAL FIRE believes, based on the expert analyses, that herbicide and fertilizer use in adjacent vineyards located to the south and northeast of the horkelia preserve will have no negative influence on plant success in the horkelia preserve proposed as part of the proposed project. See also Response to Comment 1-14 for more details on the best management practices (BMPs) that will be implemented as part of the Pesticide Management Plan prepared for the proposed project.

Introduction and spread of invasive plant species: CAL FIRE agrees with CDFG that additional measures should be taken to ensure that non-native plant species do not become established within the conservation easement areas. As such, Mitigation Measure 3.4-1 on page 3.4-127 of the DEIR is hereby revised below (Response to Comment 1-23) to require the use of native seed mix or sterile seed for cover crop or erosion control.

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<sup>8</sup> California Natural Diversity Data Base (CNDDDB). 2010. *RareFind* 3.2. California Natural Heritage Division, California Department of Fish and Game, Sacramento, CA.

### **Response to Comment 1-21**

Sediment delivery from both existing and new roads: Per CDFG's request, Mitigation Measure 3.4-1 on page 3.4-127 of the DEIR is hereby further revised (see Response to Comment 1-23) to require wildlife-friendly fencing around the horkelia preserve. Permanent preserve fencing will prevent forest harvesting or vineyard equipment from entering the preserve. To prevent sediment runoff, all necessary erosion and sediment controls will be in place during activity associated with the construction of the access road west of the horkelia preserve. Note that there will be no vineyard blocks created north, west, and east of the horkelia preserve, and that a vineyard block that will be planted to the south does not drain towards the horkelia preserve. Thus, there are no expected erosion or sediment deposit issues from proposed vineyards that occur in the vicinity of the horkelia preserve. All exposed soil and other fills on existing and new roads will be permanently stabilized prior to project inception. An erosion control plan will be submitted to the Regional Water Quality Control Board and Sonoma County, showing effective BMPs for the project that will control the threat of erosional deposits and sediment runoff.

### **Response to Comment 1-22**

Please see Responses to Comments 1-20 and 1-21.

### **Response to Comment 1-23**

The DEIR does not prescribe an "adaptive management plan" as mitigation for impact to biological resources. Please note that there have been relatively few "adaptive management plans" that have been successfully implemented and typically it has been by the Federal and/or State Government for very large-scale projects. While a mitigation monitoring plan is warranted for the proposed project's impacts to wetlands, to thin-lobed horkelia, and to Annapolis manzanita, CAL FIRE has determined, based on the expert analyses, that an appropriate level of mitigation that would reduce impacts to levels regarded as less-than-significant pursuant to the CEQA consists of a mitigation monitoring plan with both monitoring requirements and remedial actions in the event that success criteria are not met by the mitigation features after a set number of years.

As detailed in the DEIR, Impact Statement 3.4-15, a wetland mitigation plan is incorporated into the project description and would be implemented over a five-year period. Impacts to wetlands would be compensated for at a 2:1 ratio, or for each square foot of impact to wetlands or "other waters," two square feet of new wetlands or "other waters" (relative to the impacted feature) would be created. The mitigation prescription in the DEIR stated that in total 0.414-acre of waters of the United States and State would be impacted by the proposed project. Owing to further resource agency review and requirements for the project, impacts to waters of the U.S. and State is now reduced to 0.303 acres. Accordingly, in total 0.606 acres of new wetlands and/or other waters (relative to the impact) must be constructed on the project site.

Annual monitoring and reporting of the performance of the created wetlands shall be required. Monitoring reports shall be submitted to the RWQCB and the Corps annually. At the end of the five-year monitoring period a determination shall be made by the Corps that the created wetlands

have or have not met criteria to be mapped as seasonal wetlands or other waters of the U.S. and State. In the event that mitigation wetlands are determined not to meet wetland criteria established in the Corps 1987 Wetland Delineation Manual<sup>9</sup> in combination with the 2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region<sup>10</sup> the project sponsor shall be required to complete remedial actions expected to correct deficiencies, or otherwise shall be required to purchase mitigation credits from a qualified wetlands mitigation bank as approved by the Corps and RWQCB.

All other impact and mitigation requirements presented in the DEIR, Impact 3.4-15, Mitigation Measures 3.4-15(a), (b), (c), and modified above remain in force. This mitigation prescription reduces impacts to waters of the U.S. and State to a level regarded as less-than-significant pursuant to the CEQA.

Regarding impacts to thin-lobed horkelia and Annapolis manzanita, neither plant is protected under either the State or Federal Endangered Species Acts and/or protected pursuant to any special state or federal regulation or law. Establishment of the 15.6-acre horkelia preserve in combination with the immediately adjacent 18.5-acre Class III set-aside is a generous mitigation prescription for the few horkelia plants that might be impacted by the proposed project. Similarly, the 4.4 acres of permanent set-aside for Annapolis manzanita is again a generous mitigation prescription for a plant that has not been formally described as a species. Nor is it protected under either the State or Federal Endangered Species Acts and/or protected pursuant to any special state or federal regulation or law.

Regardless, in consideration of CDFG's request for monitoring above the proposed mitigation for impacts to minor numbers of thin-lobed horkelia and Annapolis manzanita, a five-year monitoring plan will commence upon completion of the vineyard. This monitoring shall be completed concurrently with mitigation wetland monitoring. Vegetation analyses shall be completed in each preserve and relative and total cover indices shall be collected each year for both sensitive species over the five year monitoring period. Methods for monitoring and reporting requirements are presented in the revised Mitigation Measure 3.4-1 and 3.4-2 (cf. page 3.4-127 of the DEIR), as follows:

- 3.4-1 *Prior to the issuance of a grading permit, the applicant shall establish a 15.65-acre preserve on lands that ~~has~~have been designated on the west side of the project site that will protect the largest population of thin-lobed horkelia from the proposed project impacts (Figure 3.4-4). This preserve will be dedicated in a permanent deed restriction recorded on the title of the property that shall run with the land in perpetuity.*

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<sup>9</sup> U.S. Army Corps of Engineers. 1987. *Corps of Engineers wetlands delineation manual*. Waterways experiment station. Technical Report, Y-87-1. Vicksburg, Mississippi. 100 pp.

<sup>10</sup> U.S. Army Corps of Engineers . 2008. *Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region*. U.S. Army Engineer Research and Development Center Environmental Laboratory 3909 Halls Ferry Road Vicksburg, MS 39180-6199. April 2008.

~~A wetland mitigation plan proposes the creation of wetlands in the thin-lobed horkelia preserve and in an Annapolis manzanita preserve (see below). Wetland creation will occur in portions of the preserve that do not currently support thin lobed horkelia. Regardless, a very small number of these plants could be impacted within the preserve from implementation of a wetland mitigation compensation plan. This plan shall be subject to the review and approval of the CAL FIRE and the Sonoma County Permit and Resource Management Department.~~

The thin-lobed horkelia preserve shall be fenced according to the Fencing Plan prepared by Erickson Engineering. Wildlife-friendly fencing shall be installed along the northern and western perimeter of the preserve, with one gate at the northern road entrance. Wildlife-friendly fencing shall include a metal post and wire fence that would allow wildlife access to the preserve. No fencing will be necessary along the southern preserve boundary, as the preserve will be contiguous with a protected Streamside Conservation Area. Likewise, no fencing will be required along the eastern preserve boundary, as the adjoining forested lands are steep and undevelopable.

~~In addition, the vineyard has been designed to ensure that agricultural runoff does not enter the preserve. Following completion of vineyard development activities, the applicant shall ensure that any herbicide applications which may take place in the nearby vineyard unit(s) do not affect or enter the thin-lobed horkelia reserve.~~

~~The plan shall be subject to the review and approval of the Department of Forestry and the Sonoma County Permit and Resource Management Department.~~

Tree saplings shall be cleared on a yearly basis to prevent forest succession within the preserve. In addition, the vineyard has been designed to ensure that agricultural runoff does not enter the preserve. Following completion of vineyard development activities, the applicant shall ensure that any herbicide applications which may take place in the nearby vineyard unit(s) do not affect or enter the thin-lobed horkelia reserve.

Road access into the thin-lobed horkelia preserve shall be limited to vehicles for the purpose of wetland creation, preserve management, maintenance, and scientific study. Timber harvest operations vehicles will use the new road that will be constructed north and west of the thin-lobed horkelia preserve to access the area south of the preserve as indicated on the revised Vineyard Plan dated May 24, 2010.

Weed-free mulch, native slash or clean straw shall be used for erosion control throughout the project site. All cover crops and erosion control seed mixes will use either native grasses derived from genetic stock from the region of the project site, or the sterile wheat/tall wheat hybrid, Regreen©. Within the horkelia preserve, erosion control shall be used on existing and temporary roads in areas where the potential exists for excessive sediment delivery to preserves and existing wetlands. All necessary erosion and sediment controls will be in place during activity associated with the construction of the access road west of the thin-lobed horkelia preserve.

In accordance with CDFG Guidelines for Conservation of Sensitive Plant Resources Within the Timber Harvest Review Process and During Timber Harvesting Operations<sup>11</sup>, a five-year mitigation monitoring plan for the thin-lobed horkelia preserve shall be implemented as follows. The mitigation monitoring plan will ensure that timber operations are conducted consistent with the mitigation measures specified in the EIR.

To determine if the thin-lobed horkelia preserve is successfully supporting thin-lobed horkelia, the applicant shall have a qualified biologist conduct five years of plant monitoring. Annual spring sampling will be conducted when thin-lobed horkelia is in flower. Generally this species is in flower throughout its range between the months of May, June, and July. In 2009, thin-lobed horkelia was in full bloom in the proposed thin-lobed horkelia preserve in mid-June.

Monitoring shall include establishing fixed line sampling transects. In this fashion, trends in the plant communities can be ascertained. Sampling along fixed transects shall occur using a point intercept method derived from Bonham<sup>12</sup> to demonstrate and quantify the extent of cover of the monitored species. The systematic point-intercept sampling method will be used to determine the frequency of plant species or group of plant species in the community.

Plant cover data for the monitored species shall be arrayed each year and compared. Because of normal stochastic fluctuations in all plant populations, only precipitous drops in cover of the monitored species shall be cause for further investigation. Plant cover data shall be arrayed over the five year monitoring period to determine population trends for the monitored plants. If the trend is significantly down, the annual monitoring report shall include an assessment of the possible reasons for population

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<sup>11</sup> CDFG 2005. *Guidelines for Conservation of Sensitive Plant Resources Within the Timber Harvest Review Process and During Timber Harvesting Operations*. Sacramento: California Department of Fish and Game, Habitat Conservation and Planning Branch. 9p.  
<https://r1.dfg.ca.gov/portal/Portals/12/THPBotanicalGuidelinesJuly2005.pdf>.

<sup>12</sup> Bonham, C.D. 1989. *Measurements For Terrestrial Vegetation*. John Wiley & Sons. New York. 338 pp.

declines and recommendations for remedial actions that could reverse trends. Weather conditions such as drought and acts of God such as fire that cause precipitous population declines shall not constitute sufficient reason to take remedial actions. Any proposed remedial actions shall be discussed with CDFG in advance of the implementation of such measures.

At the end of each monitoring year, a monitoring report shall be submitted to the CDFG. At the end of the five-year monitoring period, CDFG shall be invited to examine the plant preserves to further go over conclusions presented in the final five-year monitoring report. At the end of the five-year monitoring period, provided the preserve is supporting a stable thin-lobed horkelia population, all monitoring requirements shall terminate.

3.4-2

Prior to issuance of a grading permit, the applicant shall set aside an area totaling approximately 4.4 acres on the east side of the project site (see Figure 3.4-4) for the preservation of Annapolis manzanita identified on the Artesa property. The preserve shall be dedicated in perpetuity through a permanent deed restriction recorded on the title of the property. The preserve area shall not be developed. Timber operations in the areas adjacent to the preserve shall use directional falling so that timber marked for removal falls away from the reserve area. Heavy equipment and vehicles shall be excluded from the preserve area during project development and operations.

The manzanitas within these preserves will be protected by fencing that will be maintained by the owner also in perpetuity. The preserve shall be fenced according to the Fencing Plan prepared by Erickson Engineering. Wildlife-friendly fencing shall include a metal post and wire fence that would allow wildlife access to the preserve. The preserve will be protected by vineyard fencing where it abuts with Vineyard Unit 4. Vineyard fencing will consist of standard vineyard deer fencing. Wildlife-friendly fencing will protect the east and south side of the preserve where it abuts with Annapolis Road and a dirt access road, respectively. Gates accessing the preserve shall remain locked at all times. It should be noted that extra care has been taken to ensure that there is a cohesive wildlife corridor planning element in the vineyard plan. All tributary and other preserves are only fenced with vineyard fencing where vineyards abut these protected features. Otherwise all remain open to larger contiguous blocks of unfenced lands.

Fencing specifications shall be as recommended by CDFG, but at a minimum would include a metal post and wire fence that would allow wildlife access to the preserves. Tree saplings shall be cleared on a yearly basis to prevent forest succession within the preserve. The vineyard has been designed to ensure that agricultural runoff does not enter the preserve. Following completion of vineyard development activities, the applicant

*shall ensure that any herbicide applications which may take place in the nearby vineyard unit(s) do not affect or enter the Annapolis manzanita reserve.*

*Weed-free mulch, native slash or clean straw shall be used for erosion control throughout the project site. All cover crops and erosion control seed mixes will use either native grasses derived from genetic stock from the region of the project site, or the sterile wheat/tall wheat hybrid, Regreen©. Within the horkelia preserve, erosion control shall be used on existing and temporary roads in areas where the potential exists for excessive sediment delivery to preserves and existing wetlands. All necessary erosion and sediment controls will be in place during activity associated with the construction of the access road west of the thin-lobed horkelia preserve.*

*A five-year mitigation monitoring plan for the Annapolis manzanita preserve shall be implemented that includes the following measures. Monitoring shall include measuring area occupied by Annapolis manzanita. As Annapolis manzanita is a woody perennial plant, it can be monitored at any time of the year, so surveys that are conducted concurrently with thin-lobed horkelia monitoring are acceptable. Aerial coverage of Annapolis manzanita shall be measured by GPS mapping with submeter accuracy. In this fashion, trends in the plant communities can be ascertained. It is expected that over a five year monitoring period the area occupied by Annapolis manzanita will remain fairly consistent. In the event that aerial coverage by Annapolis manzanita drops significantly over the five year monitoring period, the reasons for decline shall be investigated.*

*Remedial actions shall include replanting and other measures necessary to reverse trends. Weather conditions such as drought and acts of God such as fire that cause precipitous population declines shall not constitute sufficient reason to take remedial actions. Any proposed remedial actions shall be discussed with CDFG in advance of the implementation of such measures.*

*At the end of each monitoring year, a monitoring report shall be submitted to the CDFG. At the end of the five-year monitoring period, CDFG shall be invited to examine the plant preserves to further go over conclusions presented in the final five-year monitoring report. All monitoring requirements shall terminate at the end of the five-year monitoring period, provided the preserves are supporting a stable Annapolis manzanita population. The plan shall be subject to the review and approval of the Department of Forestry and the Sonoma County Permit and Resource Management Department.*

The above changes serve to provide additional methodological details to existing DEIR Mitigation Measures 3.4-1 and 3.4-2, which already ensure that the project's impacts to thin-lobed horkelia and Annapolis manzanita are less-than-significant.

#### **Response to Comment 1-24**

Please see Response to Comment 1-23. Wetlands fall under the jurisdiction of the U.S. Army Corps of Engineers and the Regional Water Quality Control Board pursuant to Section 404 and 401 of the Clean Water Act, respectively. Pursuant to Section 1602 of the Fish and Game Code, CDFG has jurisdiction over the bed, bank and channel of tributaries and to lakes and adjacent wetlands. Both the Corps and the RWQCB have visited the project site and have reviewed the wetland creation sites and preliminary engineered mitigation plans. Both agencies have stated that the proposed mitigation sites and mitigation wetlands are appropriate for site conditions. The DEIR, as further revised in this Final EIR, more than adequately meets the requirements of CEQA.

The Corps and the RWQCB are the appropriate reviewing agencies of the detailed construction plans for proposed created wetlands and both agencies are required to conduct a five-year review at the wetland creation sites. During these reviews these agencies will make a determination that created wetlands (and other waters) meet parameters to be classified as wetlands or other waters. Accordingly, detailed planning and design specifications will be provided to the Corps and RWQCB at the time the applications for Section 404 and Section 401 permits are submitted. See Figure 3-2 below for the current design concept of the wetland creation sites for the project (Note: this figure replaces the existing DEIR Figure 3.4-8 on page 3.4-150).

#### **Response to Comment 1-25**

The DEIR has identified potential impacts to the stream and riparian resources on the project site. On page 3.4-73, the DEIR states that a sump basin, trenches and a rock ford crossing will be constructed in tributaries on the project site, which will require a Streambed Alteration Agreement from CDFG. Mitigation Measure 3.4-15(a) states that, prior to the issuance of grading permits, the project applicant shall obtain a 404 permit (Clean Water Act) from the Corps. If a 404 permit is obtained, the applicant must also obtain a water quality certification from the Regional Water Quality Control Board under Section 401 of the Clean Water Act, a Notice of Intent (NOI) from the State Water Resources Control Board and a Streambed Alteration Agreement from CDFG. As such, a Streambed Alteration Agreement shall be requested from CDFG to construct these features, and adequate avoidance, mitigation, monitoring and reporting commitments will be included in the application to satisfy the performance standards within the DEIR.

#### **Response to Comment 1-26**

Please see Response to Comment 6-8 for a detailed discussion of greenhouse emissions and carbon sequestration.



**Response to Comment 1-27**

Please see Response to Comment 6-8 for a detailed discussion of greenhouse emissions and carbon sequestration.

**Response to Comment 1-28**

Please see Response to Comment 6-8 for a detailed discussion of greenhouse emissions and carbon sequestration.

## Letter 2

**From:** Cherie Blatt [CBlatt@waterboards.ca.gov]  
**Posted At:** Monday, June 01, 2009 2:29 PM  
**Conversation:** Fairfax Conversion DEIR public comment question  
**Posted To:** Sacramento Public Comment

**Subject:** Fairfax Conversion DEIR public comment question  
Dear Alan Robertson,

I would like to request the link to the public comments for the Fairfax Conversion DEIR in Annapolis, CA:

2-1

SCH# 2004082094

We will be attending the PHI on June 16 and complaints regarding the project are coming in to our office at this time.

Thanks,  
Cherie Blatt  
NCWQCB  
707-576-2755

file://I:\Projects\Active\Sonoma County\Fairfax Conversion Project\Artesa EIR\AFEIR\Fair... 9/9/2009

**LETTER 2:    CHERIE BLATT – NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD**

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**Response to Comment 2-1**

The comment does not address the adequacy of the DEIR. Comments on the project were submitted separately by the North Coast Regional Water Quality Control Board (NCRWQCB) as part of the Timber Harvest Plan (THP) process. Please refer to Letter 5 in Chapter 3 of this Final EIR in the section entitled, “Agency Review Team Comments Submitted on the Fairfax Conversion Timber Harvest Plan,” for responses to NCRWQCB comments on the THP.

Sent By: CALTRANS TRANSPORTATIO PLANNING; 510 286 5560;  
To: STATECLEARINGHOU At: 919183233018

Ju1-23-09 4:04PM;

Page 1/2

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, GOVERNOR

**DEPARTMENT OF TRANSPORTATION**

P. O. BOX 23660  
OAKLAND, CA 94623-0660  
PHONE (510) 622-5491  
FAX (510) 286-5559  
TTY 711

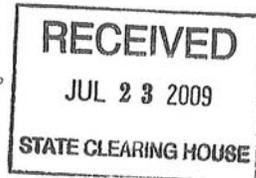


*Flex your power!  
Be energy efficient!*

**Letter 3**

July 23, 2009

*Clear  
7.28.09  
e*



SON-001-51.97  
SON001235  
SCH2004082094

Mr. Allen Robertson  
California Department of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

Dear Mr. Robertson:

**Fairfax Conversion Project – Draft Environmental Impact Report (DEIR)**

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the DEIR and have the following comments to offer.

**Traffic Safety**

3-1

1. In our letter dated September 13, 2004, the Department commented that the Traffic Impact Study (TIS) should include the cumulative traffic impacts due to numerous conversion projects in the region. It is noted that the TIS received with the document was prepared on December 2, 2004. The TIS concentrated on the impact of the Fairfax Conversion Project only. Please include in the TIS and provide for our review the cumulative traffic impacts due to the numerous conversion projects in the region.

3-2

2. While the intersections of State Route 1 with Annapolis Road and Stewarts Point/ Skaggs Springs Road currently do not have any operational deficiencies, even though they are not designed to current geometric standards, with the increase in development projects, these intersections will need to be upgraded eventually. The Department recommends that the project proponents should pay a regional impact fee to help finance any future intersection improvements.

3-3

**Highway Operations**

The document states that very few trips will be generated during the construction (development) of the vineyards. However, there is no information in the TIS that identifies the number of trips that will be generated. If necessary, depending on the number of trips involved, please commit to preparing a Construction Management Plan for the vineyard development operations, similar to the statements made for the timber cutting operations.

*"Caltrans improves mobility across California"*

Sent By: CALTRANS TRANSPORTATIO PLANNING; 510 286 5560;

Ju1-23-09 4:04PM;

Page 2/2

Mr. Allen Robertson  
July 23, 2009  
Page 2

**Letter 3  
Cont'd**

Should you have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,



LISA CARBONI  
District Branch Chief  
Local Development – Intergovernmental Review

c: Scott Morgan (State Clearinghouse)

*"Caltrans improves mobility across California"*

**LETTER 3: LISA CARBONI - CALTRANS**

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**Response to Comment 3-1**

The DEIR's traffic impact study includes a comprehensive cumulative traffic impacts analysis that evaluates the proposed project's traffic impacts over a 2025 time horizon (See Appendix Q of the DEIR, pages 14 through 20). According to the DEIR on page 4-29, the analysis concluded that the proposed project and the associated incremental contribution of trips would have a less-than-significant cumulative impact to study area intersections and roadways.

The traffic study accounted for future development over this time period utilizing a conservative growth factor derived from the County's Management Plan (CMP) (See Appendix Q of the DEIR, page 14 and DEIR, pages 4-23). Specifically, the cumulative traffic impacts analysis applied an annual growth factor of 9.7% at all study-area roadways and intersections, which include the State Route 1 (SR-1)/Annapolis Road, SR-1/Stewarts Point, and Annapolis Road/Stewarts Point intersections. The assumptions are considered conservative for the area and account for all types of growth, including other future development and conversion projects in the project vicinity.

The use of the 9.7% growth factor to assess the proposed project's cumulative impacts is expressly permitted under CEQA, which provides that the EIR may rely on "[a] summary of projections contained in an adopted general plan or related planning document...[that] described or evaluated regional or area-wide conditions" (*Id.* at subd. (b)(1)(B); see also *Id.* at subd. (d) [allowing lead agencies to utilize previously approved land use documents in cumulative impacts analysis]). The DEIR complies with these principles by using the 9.7% growth factor from the CMP to assess the proposed project's cumulative impacts.

**Response to Comment 3-2**

The SR-1, Annapolis Road, and Stewarts Point Road study segments would not result in traffic operational impacts; therefore, said facilities would not require payment of future intersection improvements to the abovementioned intersections. According to the DEIR on page 3.9-17 of Chapter 3.9, *Transportation and Circulation*, the traffic generated by the proposed conversion of the existing timberland area to a vineyard is not expected to cause any noticeable congestion on the SR-1, Annapolis Road, and Stewarts Point Road study segments.

The commenter suggests that CAL FIRE would require the applicant to pay a regional impact fee or implement another mitigation measure for future intersection improvements to offset cumulative impacts. The commenter has not identified any specific, probable future projects that may result in cumulative impacts requiring mitigation. Rather, the commenter refers only to speculative future development projects. Under applicable legal standards, the lead agency cannot require the proposed project to pay a regional impact fee where a nexus does not exist between the proposed project's impacts and the perceived need for the fee. In addition, a plan or program does not currently exist to collect and apply the fee. Nor can the lead agency impose any other mitigation for an impact that has been analyzed and determined to be less-than-significant. Imposing a regional impact fee on the proposed project would violate the

requirements of nexus and rough proportionality, because the proposed project's contribution to operational traffic impacts on area intersections and roadways is not "cumulatively considerable" or significant (See DEIR, pages 3.9-15 through 3.9-17; CEQA Guidelines, § 15126.4(b)(4)(B) ["[w]here the mitigation measure is an ad hoc exaction, it must be "roughly proportional" to the impacts of the project"]).

### **Response to Comment 3-3**

As stated on page 3.9-18 of the DEIR, increased traffic would consist of standard-sized trucks and passenger vehicles used by vineyard personnel and would not have a significant effect on traffic along the proposed haul routes:

The proposed vineyard development would result in increased traffic along the haul route intermittently throughout the year. During initial vineyard development operations, daily traffic to the project area would increase over existing conditions. Increased traffic would consist of standard-sized trucks and passenger vehicles used by vineyard personnel. The addition of this small number of standard vehicles during vineyard development would not have a significant effect on traffic along the proposed haul routes. During initial vineyard development, commercial vehicular traffic would be limited to the delivery of equipment and drainage and irrigation supplies to the project site. These deliveries would be conducted periodically throughout the vineyard development phase and would not result in daily commercial vehicular traffic along the haul route. As such, project-related traffic would be consistent with current commercial delivery vehicle traffic along the haul route, and would not result in a significant adverse impact on current traffic patterns.

Provided that the vehicles are standard-sized trucks and passenger vehicles and the vineyard development would not result in daily commercial vehicular traffic, the vineyard development operations would not result in an adverse impact on traffic patterns. See Response to Comment 6-8, specifically, Tables 4-8 A and B regarding trips anticipated during the vineyard development phase. Also, the DEIR already includes the requirement for preparation of a Construction Management Plan as requested by the commenter. Mitigation Measure 3.9-2 of the DEIR is as follows:

3.9-2 *Prior to any logging taking place on the site, the project applicant shall prepare a Construction Traffic Management Plan for review and approval by CAL FIRE. The plan should include all plans for temporary traffic control, temporary signage and striping, location points for ingress and egress of logging vehicles, staging areas, and timing of logging activity which appropriately limits hours during which large construction equipment may be brought on or off the site.*



**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

**Letter 4**

July 28, 2008

Via Fax and email

Allen S. Robertson, RPF #2394  
Deputy Chief for Environmental Protection  
California Department of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

SUBJECT: SCH#2004082094: Fairfax Conversion Project; THP # 1-09-058-SON;

Dear Mr. Robertson:

4-1

As noted in my phone message from earlier this afternoon, I am requesting an extension of time to submit our comments on the above referenced Fairfield Timber Conversion Draft EIR. We are finishing up comments and commit to providing them to your office no later than the close of business on Thursday July 30, 2009.

4-2

Since the Notice of Preparation and the Notice of DEIR completion were not sent to all the appropriate County agencies with regulatory responsibilities (including our Department and the Agricultural Commissioner's Office) and there has been little advance consultation with the County, it has taken longer to review the EIR and consolidate County comments than anticipated. Since Calfire and the County share regulatory authority over different aspects of the project we believe it is in the interest of the applicant both agencies to ensure that we have full coordination between our two agencies.

Thank you in advance for this agency-to-agency consideration. If there are any difficulties in granting this request please contact me as soon as possible at (707) 565-2563.

Respectfully,

Pete Parkinson - Director  
Permit and Resource Management Department

cc: David Schiltgen - Planner III  
Jeff Brax - County Counsel

S:\ADMIN\Pete's Corres\ext of time request fairfield DEIR.wpd



**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403-2829  
(707) 565-1900 FAX (707) 565-1103

July 30, 2009

**Letter 4**  
**Cont'd**

Allen S. Robertson, RPF #2394  
Deputy Chief for Environmental Protection  
California Department of Forestry and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

re: SCH#2004082094: Fairfax Conversion Project; THP # 1-09-058-SON;  
Sonoma County Assessor's Parcel Numbers 123-040-022, -024, and -027

Dear Mr. Robertson:

4-3

This letter provides PRMD staff comments on the Fairfax Conversion Project. Unfortunately, neither PRMD nor the County Agricultural Commissioner's Office (which will review and issue permits under the County's Vineyard and Orchard Site Development regulations) received the Notice of EIR Preparation from Calfire. We also note that the past County response on the initial THP application (THP 1-01-171) does not appear to have been considered by the EIR preparers. These factors have compressed our review time for this document.

Because of the shortage of adequate review time, this comment letter will focus primarily on consistency with plans, policies and regulations, cumulative impacts, and alternatives.

**SECTION 3.2 - LAND USE:**

4-4

The thresholds of significance as stated on page 3.2-19 should be broadened to indicate that a significant impact will result if the project is inconsistent any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project, not just County plans and policies. This would include consideration of County regulations as well as other State and agency plans, policies and regulations. Though state policies are presented in the EIR, no analysis of the project's consistency is provided. The following paragraphs address these consistency issues in more detail.

**Consistency With Board Of Forestry Policies**

4-5

As discussed in the EIR, the Board of Forestry has adopted policies to guide it and Calfire. It would appear from the following analysis that the proposal is inconsistent with several state plans and policies.

Policy "A", stated on page 3.2-11 of the EIR, indicates that;

**"The State must ...resist more effectively the pressures for unwise diversion of forests to non-forest use."**

To maintain timber growing land in California as a permanent source of current and future timber supply, the Board of Forestry has adopted policy finding it is in the public interest

**Letter 4  
Cont'd**

4-5  
Cont'd

**“To oppose diversion to uses which preclude timber growing and harvesting on such privately owned prime timber lands [emphasis added] or other lands which have been classified as timberland preserve zone (TPZ).....except where the public values to be achieved by such diversion exceed the public values derivable from timber growing. This policy applies to both the diversion proposed by the owner of the land and to proposals for public acquisition of such land.”**

The Board policies further define “prime timberland” as follows:

**“Prime timberland is forest land capable of growing 120 cubic feet per acre per year or more in perpetuity when fully stocked and measured at culmination of mean annual increment.”**

According to Calfire and the Forest and Range Assessment Program (FRAP), the timberland site classes that qualify as “prime timberland,” and therefore afforded greater protection under the above state policy, include Site Classes I, II and III based on the commonly accepted cubic feet per acre per year growth rate. Page 2-5 of the EIR confirms that the project site is classified as Site Class III timberland by the State Board of Equalization. As such, the proposed conversion of Site Class III timberlands appears to be inconsistent with state policy and may be a significant impact under CEQA. Such determination would be similar to other environmental impact assessments made under CEQA for other important resources, such as mineral resources, where the resulting loss of natural resources of value to the region or state is considered significant impact under CEQA.

**Consistency With Sonoma County’s General Plan**

4-6

Though the County adopted a new General Plan on September 23, 2008, the adopting resolution provides that this project would not be subject to the Plan unless the project is withdrawn or expired. Thus the project is reviewed here for consistency with the pertinent parts of the 1989 General Plan.

The EIR preparers did not consult with County staff regarding General Plan consistency and appear to have been unaware of the previous County comment letter dated July 19, 2001, sent in response to the initial project and proposed negative declaration. The county letter is not listed with others on page 6 of the DEIR. That letter (see attached) indicated that while agriculture on previously converted timberlands may be considered compatible with the General Plan, agricultural activities on forest resource lands is not. It went on to state that the proposed timberland conversion for vineyard development “... is not compatible with the goals of habitat protection as stated in the General Plan and represents a cumulative effect of the loss of timber resources.” The letter challenged the negative declaration’s assertion that the loss of timberland base and forest habitat resulted in “no significant impact” and expressed concerns regarding water availability.

PRMD staff disagrees with the EIR’s conclusion that the proposed project is consistent with the County’s 1989 General Plan goals and policies and that it would therefore result in a “less-than-significant” land use impact. Specific consistency issues are discussed below.

4-7

Consistency with the Resource and Rural Development - (RRD) General plan land use designation: The RRD land use category is where the County implements its Natural Resource

Land Use policies. The introduction to Section 2.8 of the 1989 General Plan states:

"The purpose of natural resource land use policy is to protect lands used for timber, geothermal and mineral resource production and for natural resource conservation. ... The intent is that natural resource areas be managed and conserved and that production activities avoid depletion and promote replenishment of renewable resources."

This purpose and intent must be kept in mind when evaluating project consistency.

General Plan Section 2.8.1 describes the purposes of the RRD land use category and indicates that this designation is intended in part to "protect lands needed for commercial timber production under the California Timberland Productivity Act." This does not mean, however, that timberlands outside of the TP zone are not needed for commercial timber production. In Sonoma County, over 70 percent of the timberlands lie outside of the TP zone and these lands are vital to the local forest products industry. Although lands within the TP zone have the highest level of protection under state and County policies, the intent of the 1989 General Plan's resource conservation policies is to avoid depletion of the County's timberland resources throughout the RRD land use category, not just those in the TP zone.

Section 2.8.1 also indicates that another purpose of the RRD land use category is the protection of "... lands needed for agricultural production activities that are not subject to all of the policies of the Agricultural Resource Element." The permitted uses in RRD also list "crop production." This recognizes that RRD lands suitable for agriculture are often highly interspersed with resource lands, but it does not support the displacement of natural resource uses, like timber growing, with agricultural uses. The County has never interpreted the above policies as allowing agricultural activities to replace the resource lands that the RRD land use category is intended conserve.

The purpose of the RRD land use category also includes the following:

- protect natural resource lands including, but not limited to watershed, fish and wildlife habitat and biotic areas.
- protect against intensive development of lands constrained by geologic hazards, steep slopes, poor soils or water, fire and flood prone areas, biotic and scenic areas, and other constraints.
- minimize the adverse impacts of development on the environment.

The EIR should carefully evaluate the Project's consistency with these policies. Staff believes that these policy goals could be met by avoiding the steepest slopes over 30 percent and the most sensitive areas along creeks, wetlands, sensitive plant communities and nearby residences by providing greater set-back buffers. See discussion below regarding the "reduced scale alternative"

Although the project is not subject to the new County General Plan, it is worth noting that Timberland Conversion was the most intensely debated issue throughout the seven-year General Plan update process. The new Plan carries forward and strengthens the policies from the 1989 Plan, including adding an objective to "reduce incompatible uses and the conversion of timberlands to agriculture and other uses ..." Further, the Board of Supervisors adopted an

4-7  
Cont'd

4-8

**Letter 4  
Cont'd**

Fairfax Timber Conversion EIR Comments  
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4-8  
Cont'd

ordinance regulating Timberland Conversions that sets forth standards to help reduce the cumulative impact of the loss of timberland. Although the project is not subject to this ordinance, the standards indicate a number of mitigation concepts that could also reduce the impacts of the Fairfax conversion.

4-9

Consistency with the "Forest and Woodland" policies of the Resource Conservation Element:  
This section of the 1989 Plan indicates that the primary goal was [and still is] to:

"Preserve, sustain and restore forestry resources for their economic, conservation, recreation, and open space values" (Goal RC-4).

Objective RC-4.1 states: "Identify and preserve areas with timber soils and commercial timber stands for timber production. Avoid incompatible uses in these areas."

Since the project would displace forest resources and result in an unmitigated loss of timberland, it appears inconsistent with General Plan Goal RC-4 and Objective RC-4.1 and should be analyzed in the EIR as a potentially significant impact.

4-10

Consistency with Biotic Resource Policies: The 1989 General Plan expresses a number of goals, objectives and policies regarding biotic resources. The ones pertinent to this consistency review are stated below:

- GOAL OSRC-7: Protect and enhance the County's natural habitats and diverse plant and animal communities.
- Objective OSRC-7.1: Identify and protect native vegetation and wildlife, particularly occurrences of special status species, wetlands, sensitive natural communities, woodlands, and areas of essential habitat connectivity.
- Objective OSRC-7.8: Encourage voluntary efforts to restore and enhance biotic habitat.
- Policy OSRC-7k: Require the identification, preservation and protection of native trees and woodlands in the design of discretionary projects, and, to the maximum extent practicable, minimize the removal of native trees and fragmentation of woodlands, require any trees removed to be replaced, preferably on the site, and provide permanent protection of other existing woodlands where replacement planting does not provide adequate mitigation.
- Goal OS-4: Identify critical habitat areas and assure that the quality of these natural resources is maintained and not adversely affected by development activities.
- Objective OS-4.1: Designate important wetlands, marshes and other critical habitats and maintain low intensity land uses in these areas.
- Policy OS-4b: Rezone to the Biotic Resources combining district any lands designated as a critical habitat area.
- Policy OS-4c: Require the preparation of a biotic resource assessment to develop mitigation measures if the Planning Director determines that a discretionary project could adversely impact a designated critical habitat area.

## Letter 4 Cont'd

Fairfax Timber Conversion EIR Comments  
Page 5 of 10

4-10  
Cont'd

- Goal OS-5: Provide protective measures for riparian corridors along selected streams which balance the need for agricultural production, urban development, timber and mining operations, and flood control with preservation of riparian values.
- Objective OS-5.1: Classify important streams with native vegetation as "riparian corridors". Develop guidelines to protect and manage these areas as valuable resources.
- Policy OS-5a: Classify riparian corridors designated in the open space element as follows:
  - 1) "Urban Riparian Corridors" include those portions of designated corridors within urban residential, commercial, industrial, or public/quasi-public land use categories.
  - 2) "Russian River Riparian Corridor" includes the corridor adjacent to any part of the Russian River which is neither located within the above urban riparian corridor nor within the jurisdiction of a city.
  - 3) "Flatland Riparian Corridors" include the corridors adjacent to any streams which flow through predominantly flat or very gently sloping land, generally with alluvial soil. This classification excludes areas covered by 1) and 2) above.
  - 4) "Upland Riparian Corridors" include the corridors adjacent to streams not included in the above three categories.
- Policy OS-5b: Rezone to the Biotic Resources combining district any lands designated as riparian corridors.
- OS-5c: Establish streamside conservation areas, measured from the top of the higher bank as determined by the SCWA, for designated riparian corridors as follows:
  - 1) Urban Riparian Corridors: 50'
  - 2) Russian River Riparian Corridor: 200'
  - 3) Flatland Riparian Corridors: 100'
  - 4) Upland Riparian Corridors: 50'
- Policy OS-5e: Allow or consider allowing the following uses within any streamside conservation area:
  - 1) Timber operations conducted in accordance with an approved timber harvest plan.
  - 2) Streamside maintenance.
  - 3) Road crossings and street crossings, utility line crossings.
  - 6) Grazing and similar agricultural production activities not involving structures or cultivation, except as defined by 7) below.
  - 7) Agricultural cultivation:
    - a) located no closer than 100' from the top of the bank in the "Russian River Riparian Corridor".
    - b) located no closer than 50' from the top of the bank in "flatland riparian corridors".

4-10 Cont'd	<p>c) located no closer than 25' from the top of the bank in "upland riparian corridors".</p> <ul style="list-style-type: none"> <li>• Policy OS5g: Review timber harvest plans adjacent to designated riparian corridors and request that clear cutting not occur within streamside conservation areas. Where clear cutting is approved by the applicable state or federal agency along designated riparian corridors, ensure that at least 50 percent of the overstory canopy and at least 50 percent of the understory vegetation be retained.</li> </ul>
4-11	<p>The project site contains examples of five plant communities: North Coast Coniferous Forest, Northern Coastal Grassland, Coastal Scrub, Riparian Vegetation, and Seasonal Wetlands. Table 3.4-3 identifies a number of special status species and assesses their presence or probability in the project site. One special-status plant species was identified on the project site during the appropriately timed rare plant surveys: Thin-lobed Horkelia. Thin-lobed horkelia is a special status plant which has been identified in the western and northeastern portions of the project site. Another plant species that occurs on the project site is Annapolis Manzanita— a hybrid population unique to the Annapolis area. The site has Class 2 and 3 streams as well as several wetland areas. The project proposes to establish the following protected areas by deed restriction: a 15.6-acre Horkelia Reserve; the 2.8- acre Manzanita – Wetland Reserve; and the 1.6-acre Manzanita Reserve.</p>
4-12	<p><u>Protected areas:</u> The proposed voluntary protection of native vegetation, special status species, and wetlands is generally consistent with the GP policies. However, deed restrictions alone do not provide sufficient protection because there is no oversight by an independent party. The applicant should grant a conservation easement to an appropriate entity to monitor compliance with the land use restrictions in these protected areas.</p>
4-13	<p><u>Creek setbacks:</u> The site contains class 2 and 3 streams. Streamside conservation areas have been included in the project design to protect Patchett Creek. The streamside conservation area would be a minimum of 100 feet on either side of the creek as measured from the top of bank. All other tributaries would be protected in buffers that are 25 to 75 feet in width on either side of the top-of-banks. All streamside conservation areas on the project site would be protected in deed restricted areas. The deed restrictions will total 133 acres, be recorded on the title of the property, and run with the land in perpetuity.</p> <p>The 1989 Plan indicates that THP's should ensure the retention of at least 50 percent of the overstory canopy and at least 50 percent of the understory along riparian corridors. It also indicates that agricultural cultivation may extend to within 25 feet from the top of the bank of "upland" riparian corridors and that equipment turnaround and access roads associated with agricultural cultivation a minimum 25 foot vegetative filter strip between the affected area and the top of the bank.</p> <p>The project will have to comply with the FPR and more recently enacted and more demanding Water Lake Protection Zone (WLPZ) standards for anadromous fish bearing streams. In addition, compliance with the County's Vineyard and Orchard Site Development standards and permit requirements would also require creek setbacks of 50 feet from the top of bank of Patchett Creek and at least 25 from the other Class 3 streams. As a result, the General Plan stream standards are expected to be met.</p>
4-14	<p><u>Wetlands:</u> Though the proposed setbacks would comply with the 1989 General Plan, greater</p>

**Letter 4  
Cont'd**

Fairfax Timber Conversion EIR Comments  
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4-14  
Cont'd

setbacks may be deemed appropriate by other resource agencies. The 50 foot setback must be maintained to comply with the County Grading, Drainage and Vineyard and Orchard Site Development standards. It appears that the existing wetland setback shown in the northeast corner falls short of this.

4-15

In addition, the project proposal would result in the direct loss of .414 acres of wetlands. The applicant proposes to create new wetlands at a 2:1 ratio to offset this loss. However, the first priority for mitigation should be to avoid impacting the sensitive area. Creating replacement habitat offsite is the least favored mitigation. We believe that the subject .414 acre wetland should be retained and protected by a 50 foot buffer.

4-16

Figure 3.4-4: This figure appears to be in error; the project features and the underlying aerial photo of the project site do not line up.

4-17

Land Use Policies for the Sonoma Coast/Gualala Basin: The project is in the Sonoma Coast/Gualala basin planning area. The project appears consistent with all area specific policies indicated for this area.

**CONSISTENCY WITH THE SONOMA COUNTY'S RIGHT TO FARM ORDINANCE**

4-18

The EIR's determination appears to be based in part on erroneous interpretations of the County's Right to Farm ordinance. The EIR indicates that the project is sanctioned by this ordinance and implies that any potential incompatibilities with adjacent land uses stemming from the proposed agricultural activities are considered insignificant in part because of the protections afforded by this ordinance. This ordinance declares that the County encourages agricultural operations on agricultural lands and that occasional inconveniences, discomforts or other compatibility issues with adjacent land uses arising from properly conducted agricultural operations are not considered a nuisance and are to be considered normal aspect of living in an agricultural area. However, the Right-to-Farm ordinance only applies to the agricultural zoning districts of LIA, LEA or DA and does not apply to the RRD-Resources and Rural Development land use category or zoning district the primary purpose of which is not agriculture, but rather to "protect lands used for timber production, geothermal and mineral production and for natural resource conservation".

**ALTERNATIVES ANALYSIS**

4-19

Reduced Scale Alternative: This alternative reduces the conversion area by 33.2 acres or 24.6 percent. The reduction in anticipated impact results primarily from the reduction in the acreage of impacted area by eliminating units 1a, b, c & d and units 3 and 4. Although some benefit may result from eliminating entire vineyard blocks, potential impacts could be reduced even more by taking a more surgical approach which eliminates the most sensitive areas.

For instance, the greatest risk of erosion occurs on steeper slopes above 30 percent, particularly on longer slopes and in high rainfall intensity areas (such as the project site) which can receive more than double inland areas with over 7 inches at a time and over 70 inches a year. Best Management Practices (BMPs) should be adequate to control erosion and sedimentation on lesser slopes but their effectiveness on steeper slopes is questionable especially in areas with highly erodible soils. Eliminating slope areas over 30 percent would result in reduced impacts from reduced acreage and from eliminating the areas with the greatest erosion potential. Similarly, the reduced scale alternative could leave the .414 acres of wetland in tact and protected by a 50 foot setback. Other areas of the proposed conversions could be

**Letter 4  
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Fairfax Timber Conversion EIR Comments  
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4-19  
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to provide greater buffer zones or setbacks. While these measures might reduce the size of some vineyard blocks, they would not necessarily eliminate them altogether.

4-20

Offsite Alternative: Why was this alternative limited to areas with less than 23.3 percent slope (Figure 6-3) when steeper lands may be available for vineyard production? This limitation eliminates lands that meet the basic criteria for vineyard suitability.

4-21

The identification of other potential sites should be expanded to include other areas in Sonoma County that have suitable soils and cool coastal climate but do not entail the conversion of timberland, such as areas in the Russian River appellation, near the bay, or areas in western Sonoma County. FRAP maps showing conifer and conifer mixed forest areas may provide a fairly accurate portrayal of timberland areas for this analysis.

**CUMULATIVE IMPACTS - LOSS OF TIMBERLAND**

4-22

The EIR does not yet adequately assess the cumulative impact of reducing forest and timberlands.

4-23

The discussion cites an earlier figure (based on FRAP maps) indicating 230,000 acres of timberland county wide, but does not estimate how much of this timberland is actually available for harvesting. Many timberland acres are not available for timber production because they are in parklands and preserves, protected riparian areas, or near residential areas. These adjustments should be made in order to accurately quantify timberland acres available for timber production and correctly characterize individual and cumulative impacts of timber conversion proposals.

4-24

The EIR's assessment of cumulative timberland loss impacts should also consider past conversions. The EIR indicates that 851 acres were converted from 1989-2004 but should provide a more thorough assessment of the past conversions. Calfire previously provided a GIS map showing all THP and TCPs in the northwest quadrant of Sonoma County from 1991 to 2002. This map should be updated to show the location and relative size of and conversions from 1989 to 2009. A table of the past conversions and sizes should be provided to accompany the map.

4-25

The assessment should also consider reasonably foreseeable future conversions, both pending and probable. The EIR indicates that as of 2004 Calfire had six large timber conversion applications pending in Sonoma County, totaling 369 acres. The Preservation Ranch proposal submitted since then would add another 1671 acres. Please provide an up-to-date listing of the conversion applications pending at Calfire and their status, name, parcel numbers and the proposed acreage and other information and indicate when they were determined to be complete and environmental review initiated. These other conversions should also be indicated on the map.

4-26

The assessment should also recognize that thousands of acres previously considered timberland and since logged are now classified as oak woodlands by FRAP. The assessment

4-27

should also address the substantial historic reduction in redwood forest stands in Sonoma County.

4-28

Though the acres converted since 1989 plus those currently pending may still only add up to a relatively small percentage of the timberlands, we believe that the significance of timberland conversions has only increased since 1989 and that even relatively small losses of timberland, if

**Letter 4  
Cont'd**

Fairfax Timber Conversion EIR Comments  
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4-28  
Cont'd

More recently, the issue of global warming has come to light and further increased the importance of maintaining forests and timberland for carbon sequestration. This adds one more benefit in addition to the economic, biotic, aesthetic and recreational values already recognized by the public. Redwood and Douglas fir have a one of the fastest initial growth rates and longest life spans, which increases their carbon sequestration capacity. Goals for reducing global warming have been adopted at the federal, state and local level, which gives added weight to the value placed upon maintaining and enhancing standing forests. Accordingly, we believe a very low threshold of significance exists for an unmitigated loss of forest and timberland.

The discussion of increased volume of standing growing timber is not an adequate basis for finding the cumulative impact insignificant. It is no surprise that the volume of growing stock decreased during the same period when harvest activities were peaking and has now increased because timber harvesting activity is down.

**OTHER COMMENTS**

4-29

Project entitlements: page 2-26 and 2-27: The listing does not mention the requirements needed to obtain a Vineyard and Orchard Site Development permit through the Sonoma County Agricultural Commissioner's Office nor does it discuss the construction/grading permits needed from PRMD for the reservoir and drainage improvements. However, this discussion does include a list of County ministerial permits, most of which are not actually County permit requirements:

- Ministerial – Erosion Control Plan
- Ministerial – Grading Permit
- Ministerial – Erosion Prevention and Dust Control Plan
- Ministerial – Conservation Easement Management Plan
- Ministerial – Paleontological and Archaeological Resource Preservation Plan
- Ministerial – Post-Construction Monitoring Plan
- Ministerial – Channel Erosion and Sedimentation Basin Monitoring Plan
- Ministerial – Agricultural Chemical Use and Storage Contingency Plan
- Ministerial – Construction Traffic Management Plan

4-30

The erosion control plan will be required as part of the Vineyard and Orchard Site Development permit and grading permit, and a grading permit will be required for some project facilities, but the County has no permit requirements or process for the remaining items listed here. If these are intended to fulfill mitigation or monitoring requirements under CEQA, the appropriate agency (other than the County) needs to be identified. We suggest that table 1-1 be amended to include columns describing the monitoring to be carried out for each mitigation and identify the entity responsible for overseeing mitigation compliance. Please note that the County has not been contacted to discuss any role in the Mitigation Monitoring Program.

4-31

APN 125-040-022: This parcel has no direct road frontage and is contiguous with 123-040-27 only at the corner. Thus it appears to require an access easement over off-site lands not owned by the applicant. Does a legal access agreement or easement exist for this purpose?

4-32

Impacts to neighbors: The project site is in a marginal groundwater area. Care should be taken when siting and sizing the well to avoid impacting or drawing down neighboring wells. The EIR should document the baseline conditions of the neighboring wells before new wells on the project site are put into commission.

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**Letter 4**  
**Cont'd**

4-33

In addition, the activities at the proposed corporation yard and proposed night-time harvesting and spraying operations have the potential to disturb neighbors with noise and/or spray drift. Residential uses on all adjacent properties, including the Starcross Monastery, should be treated as sensitive receptors. We suggest that, where practical, larger buffer zones be incorporated to minimize the potential for disturbance to these land uses.

If you have any questions regarding the above, you may contact planner David Schiltgen at (707) 565-7384 or at [dschiltg@sonoma-county.org](mailto:dschiltg@sonoma-county.org).

Respectfully,



Pete Parkinson  
Director of PRMD

cc: David Schiltgen, Planner III  
Scott Briggs, Environmental Review Manager  
Jennifer Barrett, Deputy Director



**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403-2829  
(707) 565-1900 FAX (707) 565-1103

July 19, 2001

UNIT, FG, WQ, ER, WS, RPF JB  
7-24-01  
m

CDF-Coast Area Office  
135 Ridgway Ave.  
Santa Rosa, CA 95401

Re: THP 1-01-171 SON

Dear Sirs:

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JUL 24 2001

COAST AREA OFFICE  
RESOURCE MANAGEMENT

Thank you for the opportunity to comment on the Codornui Napa, Inc. THP, in conjunction with the proposed conversion to vineyard in the Annapolis area. The County of Sonoma objects to conversion of timberlands, even though the property is not in Timber Preserve. At the present time there are 6 pending conversions in this area totaling close to 300 acres, and almost daily our office receives phone calls asking about vineyard development in this area. We are greatly concerned about potential cumulative impact of these conversions on the habitat and the timber resources of the county. This is an area that historically has been used for grazing and timber production and with the increase in land values and demand for vineyard land, the county is very concerned about the potential loss of the forests of the north coast. Additionally we have received several requests for "Less than 3 acre Conversions," either to expand existing vineyard or to gain a foothold for future vineyard development. Although the conversion application includes a discussion of the loss of timberland in Sonoma County, we feel the statistics do not realistically portray the potential loss impact of continued conversion. Although the figures show a loss of only .1% reduction in timberland base countywide, the analysis doesn't reflect the rate of increase in the past couple of years. Nor does it accurately reflect the continuing pressures of vineyard expansion in this area.

The County General Plan Resource Conservation element contains goals and policies regarding timber resources :

Goal RC-4: Preserve, sustain and restore forestry resources for their economic, conservation, recreation, and open space values.

Goal RC-5: Promote and maintain the County's diverse plant and animal communities and protect biotic resources from development activities.

Policy RC-5a: Apply the "Resources and Rural Development" land use category where it is the County's intent to manage and conserve natural resources, including wildlife and vegetation habitats while allowing a compatible level of residential development.

Although the land use and zoning designation of Resource and Rural Development (RRD) do allow vineyards, the primary purpose of that land use category is to protect lands needed for commercial timber production and to protect natural resource lands including watershed, fish and wildlife habitat, and biotic areas. We are starting an update of the General Plan and one of the goals is to strengthen the policies protecting forest resources and to restrict conversions in these areas. While agricultural activities may be compatible uses on land previously converted to grazing or orchards, it is clearly not compatible with forest resources. State forestry must assess

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the long term impact not just to the timber resource base, but also to the forest habitat and ecosystem. The statement on page 3, 13e, that the "operation will not have a significant adverse effect on the environment," must be seriously challenged. How can the loss of 105 acres of resource land not be a significant impact, particularly when considering at least the 6 pending conversions? Before you consider approving this conversion, as well as the others, and EIR should be required.

There are two other General Plan policies that should be considered in this application:

"RC-4c: Where applicable, comment on timber harvest plans in support of increased protection of Class III streams."

The conversion proposes to underground two Class III watercourses, which is in direct conflict with the above policy. Elimination of these waterways and associated riparian habitat only increases the adverse impacts of this project.

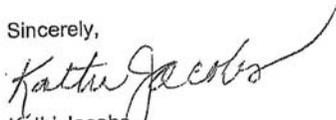
"RC-3h: Require proof of adequate groundwater in Class III and IV water areas. ...Test wells may be required in Class III areas. Deny discretionary applications unless a geologic report establishes that groundwater supplies are adequate and will not be adversely impacted by the cumulative amount of additional development."

This areas is considered a Class III area--marginal water availability-- and the above policy would apply to any discretionary project. How will the irrigation system affect other existing and future uses in the watershed?

The County is experiencing a rapid change with conversion of other land uses to vineyard, and the removal of timberland is irreversible. More than just being a change to a different crop, the loss of timber threatens valuable habitat and loss of species diversity. Although this may be a relatively small area to be converted compared to other vineyard development, it is not compatible with the goals of habitat protection as stated in the County General Plan and represents a cumulative effect of the loss of timber resources. We have received comments from various individuals and organizations in the county expressing concern about the continuing conversion of forest resources in the county, especially in the Gualala watershed.

Thank you for the opportunity to comment, and we hope you will seriously consider our concerns.

Sincerely,

  
Kathi Jacobs  
Planner

RECEIVED

JUL 24 2001

COAST AREA OFFICE  
RESOURCE MANAGEMENT

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**LETTER 4: PETE PARKINSON – COUNTY OF SONOMA**

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**Response to Comment 4-1**

As requested, Sonoma County was given sufficient time to enable the Permit and Resource Management Department to prepare and submit its comments on the Fairfax Conversion DEIR, which have been addressed in the following responses.

As noted in the Introduction chapter of this Final EIR, CAL FIRE used several methods to solicit public input on the Draft EIR. These methods included publishing the Fairfax Conversion Draft EIR through the State Clearinghouse for a 60-day public review period from May 29, 2009 to July 28, 2009. As noted in the Notice of Availability (NOA) released for the Draft EIR by CAL FIRE on May 29, 2009, beginning on May 29, 2009 the Draft EIR and other project documents could be viewed at the CAL FIRE Web Site at:

[http://www.fire.ca.gov/resource\\_mgt/resource\\_mgt\\_EPRP\\_PublicNotice.php](http://www.fire.ca.gov/resource_mgt/resource_mgt_EPRP_PublicNotice.php).

Optionally, the public was instructed that the Draft EIR could be viewed at the following facilities during normal business hours, beginning Monday June 1st:

**CAL FIRE – Santa Rosa Office**

135 Ridgeway Avenue  
Santa Rosa, CA 95402

**Horicon Elementary School\***

Main Office  
35555 Annapolis Road  
Annapolis, CA 95412

**Santa Rosa Central Public Library**

Reference Counter  
3rd and E Streets  
Santa Rosa, CA 95404

**CAL FIRE - Sonoma-Lake-Napa Unit**

West Division Headquarters  
2210 West College Avenue  
Santa Rosa, 95401-4909

In addition, as noted in the NOA published on May 29, 2009, CAL FIRE must approve a Timber Harvest Plan (THP) prior to the commencement of timber operations for this project. The THP (THP # 1-09-058-SON) cannot be approved until the Timberland Conversion Permit has been issued. Per CEQA, the timberland conversion and all subsequent permits are considered part of the same project. The THP associated with this conversion has a public comment period that is required pursuant to the California Forest Practice Act and Rules. Additional information about the THP review process was made available by CAL FIRE at:

<http://www.fire.ca.gov/ResourceManagement/THPReviewProcess.asp>.

The public was informed by CAL FIRE that they could comment on either the Timberland Conversion and/or the Timber Harvesting Plan phases of the project. CAL FIRE will recognize all comments received as being comments on the overall project regardless of which office the comments were submitted and regardless of which comment period was open at the time. All comments received prior to the close of the latest comment period will be considered prior to TCP or THP approval.

### **Response to Comment 4-2**

Please see Response to Comment 4-1. In addition, while the NOP was sent to the Sonoma County Department of Public Works and the Sonoma County Clerk, the commenter is correct that the NOP was not sent to the Permit and Resources Management Department, which was an inadvertent error. In terms of the NOA for the DEIR, this public notice was sent to the County Clerk and the County of Sonoma at the following address: 2555 Mendocino Avenue, Santa Rosa, CA 95403. This is the address on file at the time the NOA was sent out to the public and we apologize if this resulted in the NOA not getting directly to the Permit and Resources Management Department. CAL FIRE is committed to ensuring that the Permit and Resources Management Department and the Agricultural Commissioner's Office is made aware of all subsequent project documentation.

### **Response to Comment 4-3**

Please see Response to Comment 4-2.

### **Response to Comment 4-4**

Chapter 3.2, *Land Use*, of the DEIR already includes an evaluation of the project's consistency with applicable state policies. For example, Impact 3.2-2 discusses the consistency of the proposed timber conversion with applicable policies, both local and state. Therefore, for clarification purposes, the standards of significance on page 3.2-19 of the DEIR are hereby revised as follows:

#### **Standards of Significance**

A land use impact may be considered significant if any potential effects of the following conditions, or potential thereof, would result with the proposed project's implementation:

- Results in a land use which is inconsistent with existing State, County, or other applicable plans and policies; or
- Results in substantial potential for conflict as a result of incompatible land uses.

### **Response to Comment 4-5**

Although the Board of Forestry has general policies aimed at resisting more effectively the pressures for unwise diversion of forests to nonforest use, the Forest Practice Act and Forest Practice Rules clearly recognize that conversions will be proposed and approved, thus explaining the application and permitting processes those laws and regulations support. Further, CAL FIRE would note that through careful design of the Fairfax Conversion project and incorporation of rigorous mitigation measures in the DEIR, this proposed conversion does not constitute an "unwise" diversion of forests to nonforest use. The project applicant has submitted the appropriate applications to CAL FIRE for the Director's approval of a Timberland Conversion Permit and Timber Harvest Plan, which would enable the applicant to change the on-site uses from timberland to a vineyard. However, it is very important to recognize the fact that 151

forested acres of the 324-acre project site will be set aside/preserved in permanent deed restrictions that follow the title of the land in perpetuity (See Figure 3-3, *Project Preserve Areas*). Thus, approximately 46.6 percent or nearly one-half of the project site will be preserved permanently to protect biological resources. This is a preservation plan that exceeds the minimum requirements of the Forest Practice Act and Rules as well as CEQA.

Included in this 151-acre preserve area are the wetland mitigation areas. As detailed in the DEIR, Impact Statement 3.4-15, a wetland mitigation plan is incorporated into the project description and would be implemented over a five-year period. Impacts to wetlands would be compensated for at a 2:1 ratio, or for each square foot of impact to wetlands or “other waters,” two square feet of new wetlands or “other waters” (respective to the impacted feature) would be created. Impacts would occur to 0.197 acre of Corps jurisdictional waters of the United States and to 0.106-acre of isolated wetlands, the latter falling under the jurisdiction of the RWQCB. Total impacts to waters of the United States and State are 0.303-acre. Accordingly, in total 0.606 acres of new wetlands and/or other waters (respective to the impact) must be constructed on the project site. It should also be noted that the reserve area includes thin-lobed horkelia and Annapolis Manzanita reserves. While thin-lobed horkelia is a CNPS List 1B.2 species, which are species that are not protected pursuant to any state or federal law or regulation, such species should be considered in any CEQA document prepared for a proposed project/project site. Establishment of the 15.6-acre horkelia preserve in combination with the immediately adjacent 18.5-acre Class III set-aside is a generous mitigation prescription for the few horkelia plants that might be impacted by the proposed project. And while Annapolis manzanita does not have any state or federal status, nor is it listed by CNPS, given that CEQA documents will take into account the local or unique rarity of a species and require protection for these locally unique or locally rare species, the applicant in coordination with CAL FIRE identified mitigation for this species resulting in 4.4 acres of permanent set-aside for Annapolis manzanita.

The above summarized protection of on-site biological resources associated with the Fairfax Conversion project site is consistent with other Board of Forestry policies noted on page 3.2-13 of the DEIR concerning Biological Diversity.

Lastly, a distinction can be made between the project’s consistency with State and local goals and policies concerning timberland conversion – an impact which the DEIR determined to be less-than-significant – and the physical environmental impacts that could result from the timberland conversion. This point related to the statement made on page 3.2-22 of the DEIR, as follows: “The loss of timber is largely an issue of resultant impacts to special-status species and water resources. These issues are addressed in detail in Chapter(s) 3.4 - *Biological Resources*; and 3.7 - *Hydrology and Water Quality*.” The DEIR identified several potentially significant impacts that would result from project implementation; however, consistent with State and local policies aimed at resource protection, all project impacts would be reduced to less than significant levels upon implementation of the mitigation measures required in the DEIR.



## Response to Comment 4-6

Page 1-6 of Chapter 1, *Introduction*, of the DEIR lists the comment letters submitted on the original Mitigation Negative Declaration. The County letter, dated July 19, 2001, referenced by the commenter was submitted on the Timber Harvest Plan and not on the Negative Declaration. However, the points raised in the letter have been addressed throughout the DEIR where appropriate. It is important to note here that the County's July 19, 2001 letter states "*Although the land use and zoning designation of Resource and Rural Development (RRD) do allow vineyards, the primary purpose of that land use category is to protect lands needed for commercial timber production and to protect natural resource lands including watershed, fish and wildlife habitat, and biotic areas.*" Therefore, the County acknowledges that the Fairfax Conversion project and the associated timberland conversion to vineyard uses, while not the "primary" intended use of that land use category, are consistent with the current Sonoma County General Plan Land Use Designation for the project site of RRD. If vineyards are an allowed use in the RRD zoning and land use designation how can agricultural activities only be compatible uses on land previously converted to grazing or orchards, but "clearly not compatible with forest resources," as the County alleges.

Regarding the County's statement that part of the primary purpose of RRD lands is to protect natural resource lands including watershed, fish and wildlife habitat, and biotic areas, it is important to note that the Fairfax Conversion project is setting aside/preserving in permanent deed restrictions 151 forested acres that follow the title of the land in perpetuity (See Figure 3-3 of this Final EIR, *Project Preserve Areas*). Thus, approximately 46.6 percent or nearly one-half of the project site (151 acres of a total of 324 acres) will be preserved permanently to protect biological resources. See Response to Comment 4-5 for further details on the resource preserve areas being established on-site.

Regarding protection of the watershed, the proposed reservoir on the project site is designed to collect stormwater runoff from the surrounding Patchett Creek watershed during the winter rainy season, after significant rains have saturated soils and excess water is flowing in downhill directions (See Response to Comment 12-7). The project would capture runoff from only 39 acres (approximately 4 percent) of the 1,124-acre Patchett Creek watershed. By extension, filling the reservoir would not have a significant effect on downstream reaches of the Wheatfield Fork. Patchett Creek is a tributary of the Wheatfield Fork of the Gualala River, which has a drainage area of about 111 square miles. The project area occupies about 0.6% of the Wheatfield Fork watershed, and the Patchett Creek watershed contributes about 1.6% of the Wheatfield Fork watershed. Potential impacts to steelhead and other native fish species downstream of the project site would be minimal to none as collection of runoff would occur when flows are seasonally high and water temperatures low and within the preferred range for steelhead.

The proposed project has been designed with state of the art Best Management Practices (BMPs) that will significantly control both project erosion and mobile sediment contribution to downstream environments. For example, project sedimentation basins as designed are predicted to reduce sediment yield by 50 percent, primarily by capturing sand and fine gravel greater than 0.1 mm diameter. Finer suspended sediment that passes through the sediment basins is relatively mobile in energetic stream systems such as Patchett Creek. Most of the sediment from the project

site, following treatment in sedimentation basins, is expected to remain in the water column as the sediment is transported through Patchett Creek with relatively little deposition. As shown in Table 3.7-20 of the DEIR, the sedimentation basins (and the reservoir collection system) reduce the predicted increase in sediment yield of about 5 to 7 t/yr to a net decrease of about 8 to 13 t/yr. There is an estimated net decrease at the project area boundary draining to Patchett Creek of approximately 10 to 13 percent. Additional reductions in sediment yield by erosion mitigation designed to repair and control gully erosion at five sites in the project area is expected to reduce erosion rates by at least 16 t/yr (low range estimates) to 27 t/yr (high range estimates). These estimated sediment savings result in net decreases in sediment yield under project conditions of 24 to 39 t/yr.

The DEIR identifies specific mitigation measures to avoid and/or minimize impacts to water quality and quantity. For example, in addition to the requirement for all timber harvesting activities on the project site, including harvest-associated road construction and maintenance, to comply with California Forest Practice Rules water quality protection measures, as described in the Timber Harvest Plan prepared for the proposed project and approved by the Department of Forestry (cf. MM 3.7-2(a)), the DEIR requires the project applicant to implement a detailed Post-construction Monitoring Plan that is intended to supplement the project ECP and SWPPP for the first winter season after project construction (cf. MM 3.7-2(i)). This monitoring plan shall be implemented for areas where site preparation has occurred in the prior construction season, including soil preparation, grading and drainage installation. The first-year post-construction monitoring requirement is fulfilled if the monitoring period follows all grading and drainage work, regardless of whether vineyard planting and cover crops have been established. If site preparation work is conducted, but final grading and drainage installation is not complete, this monitoring plan will extend to the subsequent winter until final grading and drainage work is complete. In addition, per Mitigation Measure 3.7-3(b), the DEIR requires a detailed Channel Erosion and Sedimentation Basin Monitoring Plan to be implemented by the project applicant. As stated in Mitigation Measure 3.7-3(b), there is no substantial evidence that hydrologic change will cause significant erosion in Class III channels draining the project area. Channel response to peak flows is controlled by the size of channels, channel substrate, and the proximity of bedrock and boulder controlled channels downstream. Potential erosion of channels draining the project area is limited to varying degrees by these factors. Furthermore, peak discharge for high-magnitude, low-frequency flows (> 5 yr recurrence interval events) under current conditions indicate that the largest increases in peak flows (2 yr recurrence interval events) predicted under project conditions would be well within the range of flows transmitted by the existing channels in most locations. Hence, the potential for significant channel erosion related to peak flow change is limited by several factors.

Given the relatively high variability and complexity of hydrologic and geomorphic processes, channel response to identified potential peak flow increases is somewhat uncertain. While the predictable potential effects of the project with mitigation are not significant, unpredictable events or unexpected responses could have substantial impacts. Consequently, a monitoring program is presented in this mitigation measure. The objective of the monitoring plan is to observe and document erosion response, if any, of Class III channels draining the project area and verify that the magnitude of response does not rise to a significant level. No net increase in sediment yield from the project area is an environmental objective of the project. Central to the

monitoring plan is the concept of adaptive management (See more discussion on this in the “Adaptive Management” section below). If monitoring data indicate that sediment yields from the project area are greater than predicted in the pre-project analyses, either from unexpected erosion of Class III channels or higher-than expected delivery rates of sediment eroded from vineyard fields, appropriate on- and off-site erosion mitigation will be developed with oversight by CAL FIRE or an alternative regulatory authority designated by CAL FIRE.

As noted above, the Erosion Analysis concluded that the project (with BMPs) is expected to reduce sediment yields by 24 to 39 t/yr. The specific objective of this monitoring plan is to determine whether potential increases in sediment yield associated with accelerated channel erosion are less than 24 to 39 t/yr. In addition, the performance of sedimentation basins will be monitored to provide measurements of vineyard field erosion and sedimentation basin trapping efficiency. These measurements are warranted because they could lead to revisions of predicted vineyard field erosion, which could either increase or decrease the threshold of significance of channel erosion. The monitoring plan has three components:

1. Detailed topographic surveys of selected channels;
2. Annual survey of erosion of “sensitive” channels; and
3. Survey of selected sedimentation basins.

#### Topographic Surveys Of Selected Class III Channel Reaches

This element of the monitoring plan would include detailed topographic surveys using a total survey station to measure changes in channel elevation for sample sections of selected Class III stream channels. This study approach has been previously implemented by O’Connor Environmental for Class III streams in Humboldt County to fulfill monitoring requirements of the Pacific Lumber Company Habitat Conservation Plan. The strength of this approach is that it develops accurate, objective quantitative data documenting the dimensions and elevation of channels before the project and three years after project completion. This will provide statistical measures (using parametric techniques), of channel erosion rates that can be extrapolated to assess the magnitude of channel erosion in the project area. The study will be designed so that a range of hydrologic change is observed that will indicate whether peak flow change is correlated with channel erosion rate. Specifically, six channels (2, 20, 31, 40, 45B and 60A; see Hydrologic Analysis, Figure 6, for locations of these channels, and Table 6 for the magnitude of expected peak flow change) would be monitored to determine erosion rates over a 3-year period.

#### Annual Surveys of Class III Channels

This annual survey would be conducted for the 18 channels considered to be moderately sensitive to peak flow (Hydrologic Analysis, Table 12). The survey technique to be employed would systematically observe and measure the surface area and depth of fresh channel and bank erosion features as a measure of annual erosion rates. This technique, while objective, requires field estimates that have only moderate levels of precision. The advantage of this approach is that it allows for broad coverage of the monitoring sites and is likely to detect significant changes in the rates of channel and bank erosion. Statistical tests for change would most likely utilize techniques for non-parametric data. These surveys would be conducted four times: once prior to

project implementation to document baseline conditions, and then annually in late winter/early spring when annual erosion features are relatively easy to detect and measure. These annual surveys developed over a broad project area are also important in that they would likely detect unexpected rates of change in a time frame that would allow for timely response, if necessary.

#### Annual Surveys of Selected Sedimentation Basins

This annual survey would measure the volume of accumulated sediment and the grain size distribution of accumulated sediment in a sample of about 25% of the sedimentation basins in the project. By comparison to grain size distribution of the vineyard soils, the deposited sediment size distribution and volume can be used to estimate the erosion rate of the vineyard fields and the sedimentation basin trapping efficiency (see Reid and Dunne, 1996, *Rapid Evaluation of Sediment Budgets*, p. 49). The monitoring would be comprised of annual measurements of depth of accumulated sediment in selected basins and collection and laboratory analysis of samples of accumulated sediment. The selection of basins for monitoring would include a range of sediment basin sizes. Data analysis would include comparison of pre-project estimates of vineyard erosion rates and sediment trapping efficiency to measured rates and efficiency.

#### Adaptive Management

If monitoring data indicate that sediment yields from the project area are greater than predicted in the pre-project analyses, either from unexpected erosion of Class III channels or higher-than-expected delivery rates of sediment eroded from vineyard fields, additional on- and off-site erosion mitigation will be developed with oversight by CAL FIRE or an alternative regulatory authority designated by lead CAL FIRE to ensure compliance with the DEIR's identified performance standards.

On- and off-site erosion mitigation, if deemed necessary and appropriate, may include identification of additional and presently unidentified erosion sites on the project site or on other property in the Patchett Creek watershed. Potential erosion sites could include road-related erosion sites, gullies, eroding stream banks, eroding landslide deposits, or other erosion sites delivering or potentially delivering substantial quantities of sediment to the stream channel network. Off-site projects should be developed in cooperation with any property owner involved, and should include an appropriate level of contribution from each property owner. Disused or informally abandoned logging roads and skid trails are probably the most appropriate type of erosion site to target for off-site mitigation, however, other types of sites should be considered if identified. If suitable or practical sites cannot be located in the Patchett Creek watershed, then sites in the Wheatfield Fork Gualala River watershed should be considered.

As planned, the proposed project would not create adverse environmental conditions downstream of the project site which would have a substantial impact on steelhead in lower Patchett Creek and/or Wheatfield Fork Gualala. Therefore, the potential project-related impacts to steelhead discussed above would be less-than-significant through project design and implementation of the rigorous erosion control measures included in Chapter 3.7 of the DEIR, as discussed in Impacts 3.4-11 through 3.4-14 of Chapter 3.4 of the DEIR, *Biological Resources*.

## Response to Comment 4-7

The General Plan Resources and Rural Development (RRD) land use designation provides for the protection of lands needed for timber production, geothermal, mineral, or agricultural production, as well as lands needed for protection of watershed, fish and wildlife habitat, and biotic resources. Permitted uses allowed in the RRD land use designation include: single-family dwellings, resource management, and enhancement activities including but not limited to the management of timber, geothermal and aggregate resources, fish and wildlife habitat, and watershed. Additionally, agricultural activities including livestock farming and crop production are permitted in the RRD land use designation.

As explained in the DEIR, the proposed project's objectives and entitlements conform to the purpose and permitted uses of the RRD land use designation. The DEIR on pages 3.2-22 through 3.2-23 states the following:

The proposed project includes the conversion of approximately 190-acres of existing timber and grassland into vineyards. The proposed project involves the construction of minimal structures, including a storage shed within a corporation yard and a detention basin to capture irrigation water for agricultural service purposes; residences would not be constructed on the project site. Therefore, as the proposed project would replace the existing timberlands with a vineyard, the project is consistent with the types of allowable uses (agricultural) allowed on the project site by the General Plan. In addition, the project remains consistent with the maximum building intensity for the project site by not constructing residences, and only minimal service structures on site; thereby not proliferating intensive infrastructure requirements on site. In addition, the on-site well would only serve to provide potable water for on-site service personnel, and is not intended for irrigation purposes. Furthermore, as a ministerial entitlement of the EIR, the applicant is requesting the approval of an Erosion Control Plan, which would contribute to the protection of agriculture, watersheds, and floodplain tributaries from erosion, as stated in the Sonoma County General Plan.

As stated on page 3.2-23 of the DEIR, the proposed project would be consistent with the General Plan's specific intent for the RRD land use designation and would result in a less-than-significant impact.

The DEIR contains additional measures to ensure compliance with the General Plan Policy 2.8.1(5). As stated in the DEIR on page 3.2-24, the proposed project would comply with the Sonoma County Vineyard Erosion and Sediment Control Ordinance (VESCO). The purpose of the VESCO is to ensure the protection of agriculture, watersheds, and floodplain tributaries from potential impacts from erosion. In accordance with the VESCO, the applicant has prepared an Erosion Control Plan (ECP). The ECP was evaluated by O'Connor Environmental, who found that, as implemented, the ECP and the mitigation measures contained therein would result in a net reduction of sediment flowing to area waterways of 24-39 tons/year (See Mitigation Measures 3.7-3(a) and 3.7-3(b) of the DEIR and Response to Comment 4-6 above).

In addition, as stated on page 3.4-98 of the DEIR, the proposed project is designed to avoid sensitive habitat areas. As noted on page 2-18 of the *Project Description* Chapter of the DEIR,

“The erosion areas will be improved through the implementation of the Erosion Control Plan, which details measures that will disperse runoff from the area. Temporary erosion control measures would be utilized around the work areas, and timber harvesting or vineyard clearing operations would not occur on slopes over 30 percent or on other unstable areas.” Furthermore, the DEIR explains that a protective buffer, or streamside conservation area, has been established to protect the Patchett Creek riparian corridor from impacts associated with the vineyard conversion and operational impacts, in accordance with General Plan Policy OSRC-8b. The following detailed description of proposed buffers is from Response to Comment 1-12, and has been replicated here for the reader’s convenience:

According to the Forest Practice Rules (FPRs), required buffers for Class II tributaries are between 50 and 100 feet from top of bank. Buffer widths are based upon tributary side slopes as follows: for 0 to 30 percent side slopes, 50 foot buffers are required; for 30 to 50 percent side slopes, 75 foot buffers are required; and for greater than 50 percent side slopes, 100 foot buffers are required. Pursuant to Section 1602 of the Fish and Game Code, CDFG’s regulatory authority extends to the top-of-bank of any tributary, and in practice extends to the outside edge of riparian canopy associated with a tributary.

Sonoma County setback requirements are 100 feet for streams that have been designated in the 2020 General Plan (Figure OSRC-5a), and 25 feet for streams not designated in the General Plan. The Sonoma County Grading, Drainage and Vineyard and Orchard Site Development Ordinance (no. 5819) requires 25 foot setbacks from the top of bank for watercourses with slopes less than 15 percent; and wetland setbacks 50 feet from the delineated edges. Vegetative filter strips may be installed in wetland setback areas. Grassy avenues and turnarounds for agricultural crops may be located within vegetative filter strips.

The applicant has made every effort to comply with all regulatory requirements for creek setbacks. Figure 3-1 below provides a full description of setbacks along Patchett Creek. Protected buffers will average approximately 210 feet off the top-of-bank of this creek. The northern reach of Patchett Creek falls outside of the Timber Harvest Planning Area and thus local setbacks are not subject to the FPRs. Similarly, the northern reach of Patchett Creek on the project site is not designated in the 2020 General Plan (Figure OSRC-5a) and thus a 25-foot setback is enforceable under the General Plan. Regardless, protected buffers have been revised to provide a minimum 100-foot setback from the top of bank along the northern reach of Patchett Creek.

Riparian vegetation will be fully protected by creek buffers that are established for Patchett Creek in accordance with Section 1602 of the Fish & Game Code and as otherwise prescribed as part of the proposed project. There is a weakly formed riparian community represented mostly by interior live oaks (*Quercus wislizeni*), California hazelnut (*Corylus cornuta* var. *californica*), and a few California bay laurels (*Umbellularia californica*). In the northeastern corner of the project site, this habitat occurs along the west side of Patchett Creek and follows up a side tributary east towards Annapolis Road. All of the riparian habitat in Patchett Creek (100 percent) will be preserved. In total, there is an 11.2 acre set-aside over this portion of the project site to protect the upper reach of Patchett Creek and its riparian habitat, which also is suitable yellow warbler habitat. This preserved area is shown in the revised Vineyard Plan dated November 17, 2010. This riparian habitat will be preserved via a permanent deed restriction recorded on the title of the land and will follow the title of the property in perpetuity.

Within the 11.2 acre set-aside, between Annapolis Road and the first tributary entering Patchett Creek from the west, average creek buffer widths on Patchett Creek will be 154 feet from top of bank on the west side of the creek and 216 feet on the east side of the creek. Between the first tributary and the second western tributary further to the south, average setbacks on Patchett Creek will be 126 feet to the west and 243 feet to the east. A Planting Plan has been prepared to add native shrubs and trees to the upper reaches of Patchett Creek areas where riparian vegetation is lacking or sparse.

Wetland setbacks are a minimum of 25 feet from the delineated edge. An additional 25-foot vegetated filter strip separates the wetland setback from the proposed vineyards. Thus, wetland setbacks are consistent with a request for 25-foot setbacks at this location from Mr. Stephen Bargsten of the RWQCB, as stated in the second Preharvest Inspection on February 16, 2010. Wetland setbacks in this area are also consistent with Sonoma County Grading, Drainage and Vineyard and Orchard Site Development Ordinance (no. 5819).

Further to the south, the portion of Patchett Creek that falls within the Timber Harvest Area is classified as a designated stream per the 2020 Sonoma County General Plan (Figure OSRC-5a). This stream designation starts east of the proposed sump pump, where a stream enters Patchett Creek from the east (see Sheet C3 of the Vineyard Plan). In accordance with Policy OSRC-8b of the 2020 General Plan, creek setbacks would be a minimum of 100 feet from top of bank from this point in Patchett Creek southward until it exits the project site. The 100-foot setback would also comply with the 2010 FPRs buffer requirements for Class II tributaries.

South of the second tributary entering Patchett Creek from the west (OW34 on Sheet C3 of the Vineyard Plan), the forested reach of Patchett Creek will be protected by buffers that are a minimum of 150 feet from top of bank, and will extend as far out as 430 feet from top of bank due to the preserves that will be established along this creek. Average buffer width on the west side of the creek will be 214 feet from top of bank, and 287 feet on the east side of the creek. As such, creek setbacks in this portion of Patchett Creek easily exceed the 2010 FPRs buffer requirements for Class II tributaries and the 100 foot buffers required by Sonoma County General Plan requirements.

When the project was planned, the regulations for Class III stream protection in the FPRs required that riparian setbacks for Class III tributaries, as stated in CDFG's comment, be designated between 25 and 50 feet. Under the proposed project, all minimum Class III tributaries buffers were in compliance with the FPRs. Under the modified 2010 FPRs, the minimum buffer was revised to a minimum of 30 feet from Class III tributaries. Accordingly, all minimum buffers along Class III tributaries have been changed to reflect the new 2010 FPRs setback requirements. Pursuant to the 2010 Forest Practice Rules, the established setbacks for the proposed project on 0 to 30 percent side slopes are 30 feet. Similarly pursuant to the 2010 FPRs for slopes greater than 30 percent, minimum 50 foot buffers have been established. All Class III setbacks are now at a minimum of 30 feet from the top-of-bank, and in many cases extend much further up to 100 plus feet from the top of bank of Class III tributaries. For example, buffers established along a Class III tributary dubbed by residents as Red Fern Creek in the northwest corner of the project site will have an average protected buffer width of 85 feet.

No Class III tributary on the project site supports riparian vegetation. Rather, these tributaries support forested habitats that are non-distinguishable from the remainder of the second growth forested community on the project site. Thus, CDFG's jurisdiction pursuant to Section 1602 of the Fish and Game Code would be to the top-of-bank with respect to Class III tributaries on the

project site. As such, buffers that will be established along tributaries all comply with the FPRs and with Fish and Game Code 1602 which exerts regulatory authority over the bed, bank, and channel of tributaries, and over riparian vegetation associated with tributaries.

Based on substantial evidence, the DEIR concludes that the streamside conservation areas would further reduce potential impacts from erosion and sedimentation to biotic areas to levels below significance. Therefore, the above response demonstrates that the policies pointed out by the commenter are met because the project avoids “the steepest slopes over 30 percent and the most sensitive areas along creeks, wetlands, sensitive plant communities and nearby residences by providing greater set-back buffers.”

#### **Response to Comment 4-8**

The comment does not address the adequacy of the DEIR and is hereby noted.

#### **Response to Comment 4-9**

The County General Plan amendments and rezoning actions are not required for the proposed project approval. The commercial harvesting and conversion of the State’s forestry resources, including privately-owned land such as the project site are comprehensively managed by CAL FIRE. CAL FIRE’s mission emphasizes the management and protection of California’s natural resources and recognizes that the State’s forestry resources also provide valuable watershed, wildlife habitat, and recreation resources. Maintaining the sustainability of all these natural resources as described in the policies of the Sonoma County General Plan are consistent with the goals of CAL FIRE. Furthermore, CAL FIRE’s mission also includes protecting the State’s forestry resources from the direct and indirect impacts that may arise from the Department’s actions. CAL FIRE’s own activities, as well as those it approves, permits, funds or otherwise facilitates, may impact the environment, and therefore are subject to environmental review. The agency’s careful environmental review of proposals such as this proposed project provides protection to the resources of the State to ensure that:

- State and federal environmental laws are observed;
- Forested landscapes are managed wisely;
- State’s varied biological resources are enhanced;
- Water quality is protected and maintained;
- State’s archeological and historical resources are protected;
- California’s wildlands are managed to minimize and offset climate change effects; and
- State’s vast woody biomass resource is efficiently utilized.

According to pages 3.2-1 through 3.2-26 of the DEIR, and as noted in the above responses to comments, the proposed project was evaluated for consistency with the abovementioned principles as well as the policies articulated in the Sonoma County General Plan. The DEIR analysis concluded that the proposed project is compatible with the evaluated policies and would have a less-than-significant impact.

In addition, it should be noted that while CEQA requires discussion of the proposed project's consistency with applicable land use plans (as provided in Chapter 2 of the DEIR), potential inconsistencies do not constitute significant environmental effects (See CEQA Guidelines, § 15125). Under CEQA, an effect may be significant only if it results in a significant adverse change in the physical environment (CEQA Guidelines, § 15382 ["significant effect on the environment" is "a substantial, or potentially substantial adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance"]). The DEIR fully analyzes the proposed project's potential to result in physical environmental effects and identifies mitigation measures where needed to avoid or reduce those effects to less-than-significant levels.

#### **Response to Comment 4-10**

Please see Responses to Comments 4-5 to 4-7.

#### **Response to Comment 4-11**

The comment simply summarizes some of the resource protection measures noted in the DEIR and does not address the adequacy of the environmental document.

#### **Response to Comment 4-12**

As the DEIR correctly notes, the use of deed restrictions for the protected areas exceed what is required under the County General Plan for habitat protection. (Draft EIR, p. 3.4-104.) In addition, consistent with CEQA, CAL FIRE or the Responsible Agencies, not the project applicant, will provide oversight to ensure these mitigation measures are implemented effectively. Specifically, CEQA Guidelines section 15097 requires CAL FIRE, as the lead agency, to adopt and implement a program for monitoring and reporting on the planned mitigation measures. This program must include, for example, written compliance review as well as ongoing or periodic project oversight. (CEQA Guidelines, § 15097(c). CAL FIRE may delegate its monitoring and reporting obligations to another public agency or private entity. (CEQA Guidelines, § 15097(a). Likewise, the Responsible Agencies adopt mitigation monitoring and reporting plans for the aspects of the project that they permit or approve (CEQA Guidelines § 15097(d)). CAL FIRE and the Responsible Agencies will remain responsible for ensuring the mitigation measures are implemented until such time as they are fully completed. (CEQA Guidelines, § 15097(b).)

#### **Response to Comment 4-13**

Please see Response to Comment 4-7.

#### **Response to Comment 4-14**

Sonoma County setback requirements are 100 feet for streams that have been designated in the 2020 General Plan and 25 feet for streams not designated in the General Plan. According to

Figure OSRC-5a of the 2020 General Plan, Patchett Creek along the northeastern corner of the project site is not a designated stream. In addition, the Sonoma County Grading, Drainage and Vineyard and Orchard Site Development Ordinance (no. 5819) requires 25-foot setbacks from the top of bank for watercourses with slopes less than 15 percent. Regardless, protected buffers have been revised to provide a minimum 100-foot setback from the top-of-bank along the northern reach of Patchett Creek as necessary to protect the foothill yellow-legged frog that seasonally uses Patchett Creek on the project site.

Pursuant to Section 11.16.140 of the Sonoma County Grading, Drainage, and Vineyard and Orchard Site Development Ordinance, wetland setbacks are “50 feet from the delineated edges, unless a wetlands biologist recommends a lesser setback” In addition, the ordinance states that “vegetative filter strips may be installed in setback areas in compliance with the permit authority's best management practices guide to enhance filtration. Grassy avenues and turnarounds for agricultural crops may be located within vegetative filter strips.” Setbacks from vineyard rows adjacent to Patchett Creek in the northeastern section of the project site are a minimum of 25 feet from the delineated edge. An additional 25-foot vegetated filter strip separates the wetland setback from the proposed vineyards. Thus, wetland setbacks are consistent with Sonoma County Grading, Drainage and Vineyard and Orchard Site Development Ordinance (no. 5819).

As such, the setbacks along the northeastern reach of Patchett Creek are in compliance with the Sonoma County Grading, Drainage, and Vineyard and Orchard Site Development Ordinance and the Sonoma County General Plan 2020.

#### **Response to Comment 4-15**

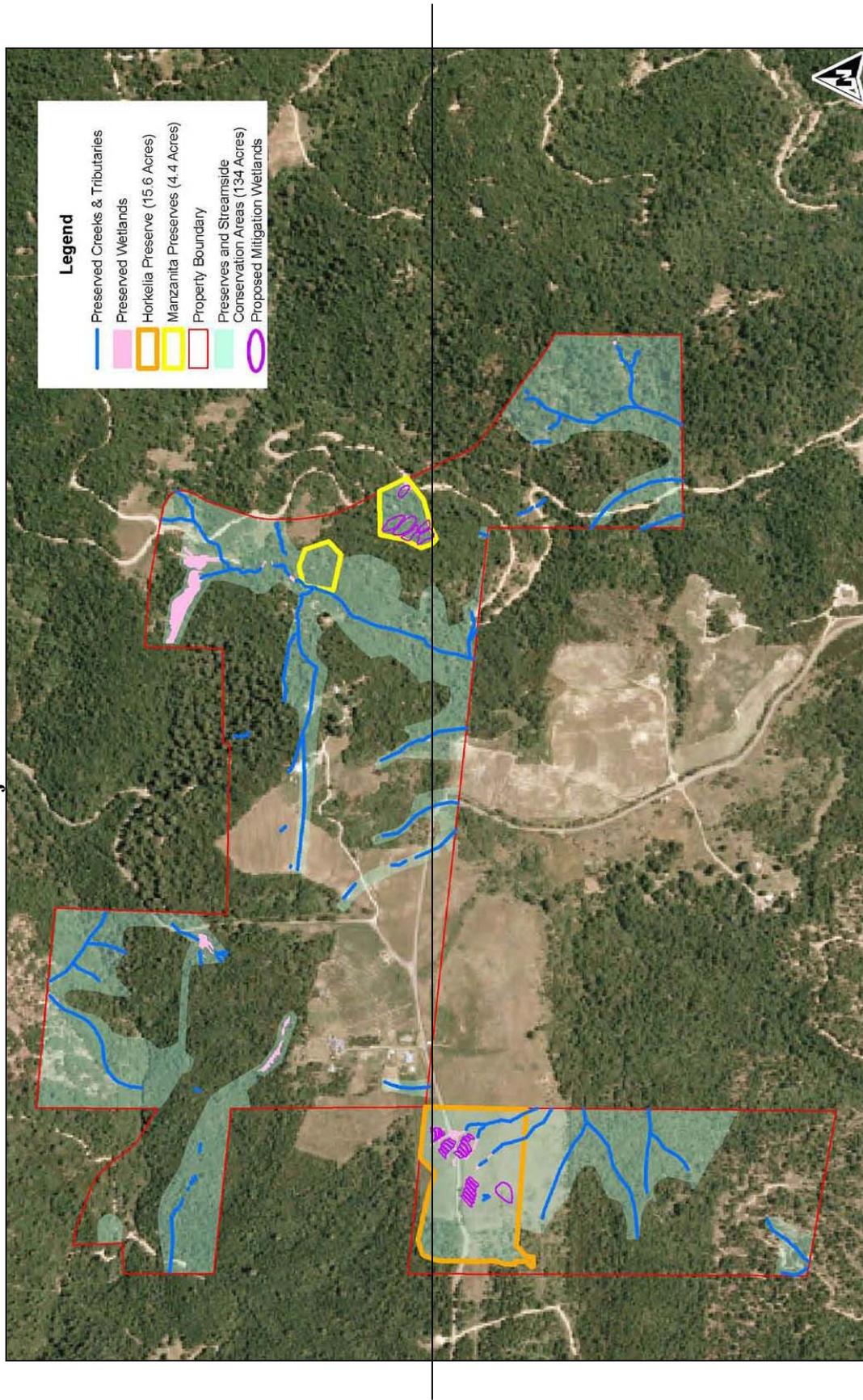
The project has been carefully designed to minimize impacts to waters of the U.S. to the maximum extent possible while allowing the project to proceed. Impacts to waters of the U.S. (and State) are minimal in that 91 percent of all waters of the U.S. and State (3.14 of 3.44 acres) on the project site will be avoided and preserved by the proposed project. In addition, mitigation wetlands would be constructed on the project site in permanently protected areas at a 2:1 ratio resulting in a net increase of waters of the U.S. (and state) on the project site, as described in Mitigation Measure 3.4-15.

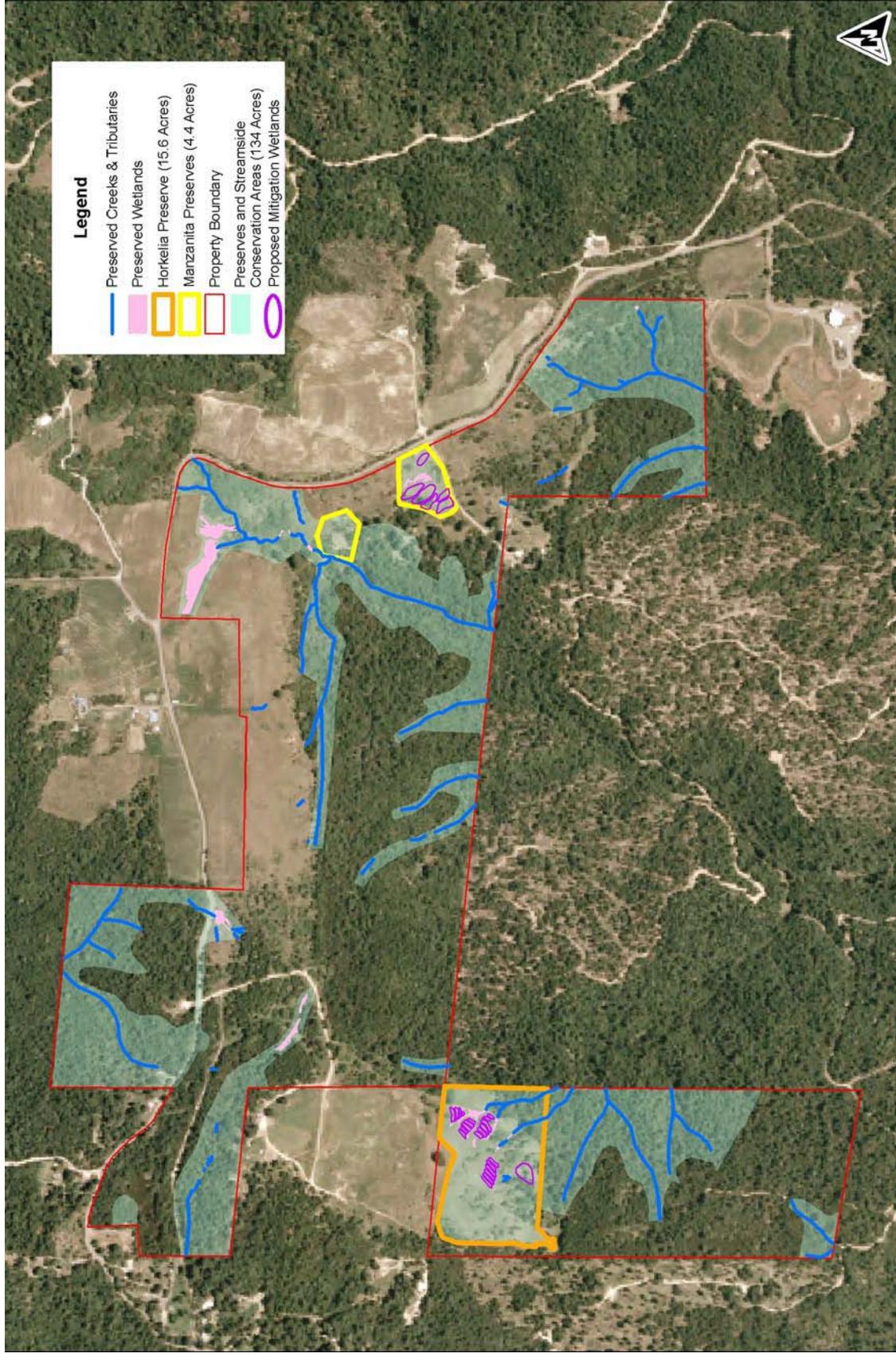
See Response to Comment 4-14 above for a discussion of wetland setbacks. In accordance with Sonoma County Grading, Drainage and Vineyard and Orchard Site Development Ordinance (no. 5819), all unimpacted wetlands on the project site will have a minimum setback of 25 feet, with an additional 25-foot vegetated filter strip separating the wetland from the proposed vineyard.

#### **Response to Comment 4-16**

The commenter is correct. The boundaries on Figure 3.4-4 of the DEIR were inadvertently shifted to the north. Several other figures in the DEIR include the correct boundaries, such as Figures 3.2-1 and 3.4-1. A revised figure has been included in the FEIR to include the correct project boundaries. The new figure does not change the analysis contained in the DEIR, which was based on the correct boundaries in all cases. As a result, Figure 3.4-4 of the DEIR is hereby corrected as follows:

Figure 3.4-4  
Project Preserve Areas





However, it is important to note that the actual preserve areas on the Fairfax Conversion project site have changed since the release of the DEIR as a result of various minor adjustments made in response to agency comments on the THP. The latest preserve areas are shown above in Figure 3-3.

### **Response to Comment 4-17**

The comment does not address the adequacy of the EIR, but rather notes the project's consistency with all area specific policies pertaining to the Sonoma Coast/Gualala basin planning area.

### **Response to Comment 4-18**

The commenter is correct and for clarification purposes, Impact Statement 3.2-1 has been revised as follows:

#### **3.2-1 Compatibility with surrounding land uses.**

~~The Sonoma County Right to Farm Ordinance was established to facilitate agricultural operations on agricultural lands by limiting the circumstances in which farming activities can be deemed a nuisance. Growing and harvesting of vine crops is an allowed use under the project site's existing zoning designation. Therefore, as the proposed project site is zoned for agricultural use, the Right to Farm Ordinance applies to farming activities that would take place on the project site under the proposed vineyard.~~

Because the Fairfax Conversion project is agricultural in nature, the proposed project is consistent with the General Plan land use and zoning designations for the project site. In addition, the Sonoma County General Plan emphasizes the need to conserve natural and agricultural resources in the County, and to encourage commercial development that does not include intensive urban development, which requires extensive infrastructure. As a result, because the surrounding uses are natural resource-related, the addition of approximately ~~435~~116 net acres of vineyards to the vicinity would be compatible with the surrounding General Plan land use designations, which are also Resources and Rural Development.

Even though the proposed uses are compatible with the site's General Plan designation ~~and is sanctioned by the Sonoma County Right to Farm Ordinance~~, the possibility exists that incompatibilities with adjacent uses could occur. The determination of compatibility of land uses typically relies on a general discussion of the types of adjacent uses to a proposed project and whether any sensitive receptors exist either on the adjacent properties or associated with the proposed project. Incompatibilities typically exist when uses such as residences, parks, churches, and schools are located adjacent to more disruptive uses such as heavy industrial, major transportation corridors, and regional commercial centers where noise and traffic levels may be high. The identification of incompatible uses occurs if one land use is anticipated to be disruptive of the existing or planned use of an adjacent property. The project site was utilized as an apple

orchard and for sheep farming, but has remained fallow since approximately 1964. One vineyard is located adjacent to the project site's northeast border, and the general vicinity surrounding the project site includes areas that are in the process of being converted into vineyards.

The area southwest of the site is currently being used for timber production, while the area north of Annapolis Road is the site for the Starcross Monastic Community. Immediately west of the project property boundary is a rural residence, and southeast of the project site is a waste disposal site. The proposed project would generate air pollutants in both the construction and operations phases. Impacts to air quality are discussed in Chapter 3.3 of this DEIR, and all impacts are reduced to a less-than-significant level through the application of the required mitigation. The proposed project would primarily utilize Integrated Pest Management practices to control pests; however, when necessary, pesticides may be used. Impacts related to the use of pesticides are evaluated in Chapter 3.8 of this DEIR, and were found to be less-than-significant with implementation of mitigation measures. The proposed project would result in increases in truck traffic during the logging operations and during the harvest season. Impacts to traffic are discussed in Chapter 3.9 of this DEIR, and all impacts were found to be less-than-significant with implementation of mitigation measures. Logging and vineyard operations would increase the noise level beyond what is currently generated by the project site. Impacts related to noise are assessed in Chapter 3.10; all impacts related to noise were found to be less-than-significant with implementation of mitigation measures. During vineyard operations early morning harvesting activities could potentially generate light. Impacts to aesthetics are evaluated in Chapter 3.11 of the DEIR, and all impacts were found to be less-than-significant with implementation of mitigation measures. The DEIR contains extensive mitigation to ensure that the proposed project does not have a significant impact on adjacent land uses.

The proposed project use is consistent with the General Plan, ~~is sanctioned by the Sonoma County Right to Farm Ordinance,~~ and all potential land uses compatibility impacts related to implementation of the proposed project would be mitigated to a less-than-significant level as demonstrated throughout the remaining technical chapters of the EIR. Consequently, the proposed project would result in *less-than-significant* impacts regarding conflicts with surrounding land uses.

Mitigation Measure(s)

*None required.*

The above changes to the DEIR do not alter the conclusions of the original analysis, which sufficiently determined that the project would not create incompatibilities with surrounding land uses once all mitigation measures are implemented.

### **Response to Comment 4-19**

The first point to make is that, according to the Erosion Control and Mitigation Plan prepared for the project by Erickson Engineering (See Appendix D to the DEIR and Appendix D to this Final EIR for an updated copy), vineyard blocks on site will be developed on hillside slopes ranging from nearly level to about 25 percent. Most hillside slopes on the property are typically in the range of 5 to 20%. Some areas with lesser slopes are located on ridge top areas, and small inclusions of greater slope on larger hillside areas have been incorporated where surrounded by lesser slopes or where necessary to accommodate efficient field layout, terrace design, or equipment operation.

CEQA Guidelines Section 15126.6(a) states that the an EIR shall describe a range of reasonable alternatives to the project, or the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. As required by CEQA Guidelines Section 15126.6(c), the Draft EIR included a selection of a reasonable range of alternatives that could feasibly accomplish most of the basic project objectives. The Draft EIR evaluated four alternatives: No Project – No Action Alternative; No Project - Timber Resource Management Alternative; Offsite Alternative; and Reduced Acreage Alternative. The DEIR includes a sufficient range to allow decision makers to make a reasonable choice.

### **Response to Comment 4-20**

As stated on page 6-12 of the DEIR, excessively steep slopes cannot be converted to vineyards without substantial risk of erosion; therefore, in the interest of minimizing impacts to downstream water quality, the parameter for slope was set at 23 degrees. Furthermore, at some level this comment seems to contradict the previous comment made by the commenter regarding the request to only utilize on-site slopes under 30 degrees due to risk of erosion. Notwithstanding the above, the primary limitations on the availability of suitable off-site alternative locations is not degree of slope, but soil type suitable for growing Pinot Noir grapes and ownership issues.

### **Response to Comment 4-21**

The DEIR evaluates a reasonable range of alternatives to the proposed project in Chapter 6, *Alternatives Analysis*, including alternative locations. The DEIR on pages 6-2 through 6-3 explains how the alternatives were selected to inform the decision-making process.

The type of evaluation that the commenter requests was conducted by reviewing maps of Sonoma County displaying soils, elevations, and slopes similar to the project site. As discussed in the DEIR, very specific criteria pertaining to soil type and microclimate must be met to satisfy the proposed project's basic objectives. In addition, the potential site must be of comparable size to attain most of the proposed project objectives. Based on extensive evaluation, the DEIR determined that sites of appropriate acreage that include most of the necessary site characteristics

are quite rare. Nevertheless, the DEIR considered offsite alternatives, as well as a reduced acreage alternative and two “no project” alternative scenarios.

Furthermore, as described in detail in the DEIR, the proposed project’s potentially significant impacts will be avoided or reduced to less-than-significant levels through implementation of mitigation measures. Under such circumstances, consideration of a broader range of alternatives is not warranted (CEQA Guidelines, § 15126.6.).

#### **Response to Comment 4-22**

Please refer to Impact 4-1 located on pages 4-6 through 4-12 of Chapter 4, *Cumulative Impacts*, of the DEIR for discussion regarding cumulative impact of reducing forest and timberlands.

#### **Response to Comment 4-23**

The commenter states that an accurate estimate of the amount of timberland actually available for harvest out of the 230,000 acres of “timberland” located within Sonoma County is needed to address the cumulative impacts of the project. The actual number of timberland acres available for harvest, however, would be difficult at best to determine and is not required for an accurate assessment of cumulative impacts. Even the estimate of “timberland” acreage varies. The Sonoma County General Plan DEIR states that there are approximately 229,475 acres, while the Open Space and Resource Conservation Element of the 2020 General Plan states that there are 232,000 acres of timberland. Therefore, the DEIR used 230,000 as an estimate of timberland acres in the assessment.

The DEIR addresses the impact of the loss of timberland on environmental resources in Chapters 3.2, 3.3, 3.4, 3.6, 3.7 and 3.11. The impacts on environmental resources were determined to be less-than-significant with the implementation of all of the mitigation measures required in the DEIR. If not all of the 230,000 acres of “timberland” located within Sonoma County were available for harvest because some amount are located in parks, preserves or protected areas, as suggested by the commenter, it could then be assumed that these areas are providing additional protection to environmental resources and thus the cumulative impact of the proposed project would be even further reduced.

Should there be less than 230,000 acres of timberland available for harvest because of certain constraints then there could conceivably be an impact on the economic return from the harvest of that timber if additional acres are lost. However, in reality, the capacity to obtain an economic return from 230,000 acres of timber harvesting (or even a substantial amount less than 230,000 if that is the case) is not feasible. The available infrastructure and market would not allow harvesting on this scale. As stated in the Sonoma County General Plan DEIR, from 1989 through 2001, a period of 12 years, there was a grand total of 58,381 acres of timberland approved for harvesting during a time when the log market was high and infrastructure was greater. The loss of available timberland at the scale proposed (less than 1/10 of one percent of Sonoma County timberland) would not have an impact on the amount available to provide an economic return to the County.

#### **Response to Comment 4-24**

Table 4-1, Timber Harvest Plans in the Project Area Watersheds, on pages 4-4 to 4-6 of the DEIR, provides a list of timber harvest plans filed in the Annapolis, Little Creek, and Grasshopper Creek watersheds over the last 10 years. The list includes both the Roessler and Sleepy Hollow Conversions, though these projects are no longer being actively processed and the environmental review of said applications has ceased. In addition, the DEIR notes that a proposal has been made by Premier Pacific Vineyards to develop approximately 1,861 acres of vineyard in the area. Approximately 750 of the 1,861 acres fall within the assessment area of the Fairfax Conversion Project THP and are considered to be part of the cumulative setting.

This cumulative setting is evaluated in Impact Statement 4-1 of the DEIR, which concluded:

The proposed project would replace the existing timberlands with a vineyard, the project is consistent with the types of allowable uses (agricultural) allowed on the project site by the General Plan. As a result, the changes in land use would be consistent with the General Plan. It should also be noted that the proposed project would place 133 acres of sensitive habitats, archaeological sites, and buffer areas in conservation easements which would ensure that they remain forested in perpetuity. Furthermore, as stated above, the loss of timber is largely an issue of resultant impacts to special-status species and water resources. These issues are addressed in Sections 3.4 and 3.7 of this EIR, respectively. Therefore, the proposed project's incremental contribution to the significant cumulative land use impacts is not cumulatively considerable, resulting in a *less-than-significant* impact.

As noted elsewhere in this Final EIR, the total on-site preserve area is now 151 acres, not 133 as originally noted in the DEIR.

#### **Response to Comment 4-25**

Please see Response to Comment 4-24.

#### **Response to Comment 4-26**

Please see Responses to Comments 4-24 and 4-25.

#### **Response to Comment 4-27**

Please see Responses to Comments 4-24 and 4-25. The 2003 FRAP assessment states that timberland growing stock throughout California has increased 16% since 1977.

#### **Response to Comment 4-28**

Please see Response to Comment 6-8 for a detailed discussion of climate change and carbon sequestration.

### Response to Comment 4-29

Upon further review of the DEIR, Sonoma County's project entitlements listed on pages 2-26 and 2-27 in Chapter 2, *Project Description*, of the DEIR are hereby clarified as follows (See Chapter 2.0, Changes to the DEIR Text):

#### Sonoma County

- ~~Ministerial – Erosion Control Plan~~
- Ministerial – Grading Drainage, and Erosion Control Plan Permit
- ~~Ministerial – Erosion Prevention and Dust Control Plan~~
- ~~Ministerial – Conservation Easement Management Plan~~
- ~~Ministerial – Paleontological and Archaeological Resource Preservation Plan~~
- ~~Ministerial – Post-Construction Monitoring Plan~~
- ~~Ministerial – Channel Erosion and Sedimentation Basin Monitoring Plan~~
- ~~Ministerial – Agricultural Chemical Use and Storage Contingency Plan~~
- ~~Ministerial – Construction Traffic Management Plan~~
- Ministerial – Vineyard and Orchard Erosion Control Plan
- Ministerial – Agricultural Building Exemption/Permit (if building constructed)
- Ministerial – Well installation permit
- Ministerial – Driveway encroachment permit

The above changes are for clarification purposes only and do not alter the conclusions in the DEIR.

### Response to Comment 4-30

The Mitigation Monitoring Plan for the project is included as Chapter 4.0, *Mitigation Monitoring Plan*, of this Final EIR.

### Response to Comment 4-31

The comment does not address the adequacy of the DEIR or the analysis of the proposed project's environmental effects. It should be noted that the project applicant has established legal access to the site to serve the propose project's objectives.

### Response to Comment 4-32

As stated on page 2-9 of Chapter 2, *Project Description*, of the DEIR, and clarified in Response to Comment 10-50, water for washing and other incidental needs of vineyard workers would be provided by a small, low-yield well located at the corporation yard on the north side of Annapolis Road. The applicant would install a 1,000- to 5,000-gallon water tank, although water use would be of a seasonal nature and be unlikely to exceed 20 gallons per day for off-season use during about 11 months out of the year.

Peak use would be at harvest, with water demand projected as follows: For a 30-day harvest season, average picking rate would be 130-acre net vineyard/30 days = 4.3 acres/day. If this were to

be completed in a daily morning 4-hour time block, about 1.1 acres per hour would need to be picked. If a worker fills a 40 lb lug in 10 minutes, that is a picking rate of 240 lb/hour (2,000/240 = 8.3 laborers can pick a ton an hour). A high yield of 4 tons per acre for premium grapes would therefore require 8.3 laborers to remove the fruit in a 4-hour period. Assuming a driver and foreman, and reducing the picking rate by 10% to account for breaks and inefficiencies increases the required labor pool to  $8.3 \times 1.1 + 2 \Rightarrow +11$ -man crew. If the picking rate was doubled, a 22-man crew could cover the property in 15 days.

Grapes are typically harvested before noon to take advantage of cooler weather and the required transportation and handling later at the winery. Assuming 2 gal/worker/day x 22 workers is still only about 44 gal/day for labor needs, assuming no liquids are brought on site. Assuming laborer washup at 2 gpd would add another 44 gal/day for peak season needs.

Equipment washup or dust removal might be practiced on an occasional basis, at perhaps 100 gal/day once or twice a week. For 210 gal/week over 7 days, this would add about 30 gpd to the design load.

The peak season well demand for a 15-day period would therefore be on the order of  $44+44+30 = 118$  gpd, and much less during most of the year. Sonoma County regulations for residential well yield would not apply, but are never-the-less instructive. Sonoma County regulations require a well yield of 1 gpm. Based on this minimum yield, the design volume would be provided within 2 hours of operation in a 24-hour period. During winter months, with a 5-person crew and a consumptive use of 1 gpd, the rate would decline to  $5 \times (1+2) = 15$  gpd for staff and perhaps 30 gpd for other incidental uses.

Annual well demand at 120 gpd for 1 month and 20 - 45 gpd for another 11 months totals less than 20,000 gal/year, equivalent to about 0.057-acre foot (326,264 gal = 1-acre foot) On-site deep percolation in only the +33.5-acre vineyard sheet flow collection area is estimated at 26-acre feet. Projected well demand and associated potential for overdraft is therefore insignificant in terms of local groundwater supplies and recharge potential.

The proposed well is located hundreds of feet from any existing neighboring wells. For such wells, the County considers performance data confidential. Productivity data would be obtained by the driller during installation and is not likely to represent actual well capacity due to type and condition of pumping and plumbing apparatus, use history of the well, and other unknown geologic factors that may affect capacity over time. There would be no way to independently assess accuracy of anecdotal information provided by adjoining well owners; and more localized impacts have been demonstrated to be insignificant in terms of groundwater impacts.

### **Response to Comment 4-33**

Please see the responses provided to the comments submitted by Starcross Monastery in Letter 17 of this Final EIR.



ARNOLD SCHWARZENEGGER  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT  
DIRECTOR

July 29, 2009

**Letter 5**

Allen Robertson  
Department of Forestry And Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

Subject: Fairfax Conversion Project  
SCH#: 2004082094

Dear Allen Robertson:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on July 28, 2009, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

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

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

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

Sincerely,

Terry Roberts  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044  
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

**Document Details Report  
State Clearinghouse Data Base**

**Letter 5  
Cont'd**

**SCH#** 2004082094  
**Project Title** Fairfax Conversion Project  
**Lead Agency** Forestry and Fire Protection, Department of

**Type** EIR Draft EIR  
**Description** NOTE: extended review to July 28, 2009.

The applicant proposes to develop the project site as follows (all acreages are approximate): the 190 acre project site would consist of a 135 acre net vineyard, 23 acres of perimeter avenues, a 9 acre reservoir and sump, 2 acres of driveways and roads, a one acre corporation yard, and 20 acres of graded perimeter slopes. Approximately 171 acres of the 190 acre total would be converted from young growth timber (redwood and Douglas-fir) to vineyard, under the conditions of a Timberland Conversion Permit (TCP) issued by Cal Fire. The timber harvesting activities on the site would adhere to the California Forest Practice Rules and are described in detail in a Timber Harvest Plan prepared for the applicant by a state-licensed Registered Professional Forester. The actual logging would be performed by a state-certified Licensed Timber Operator.

**Lead Agency Contact**

<b>Name</b>	Allen Robertson		
<b>Agency</b>	Department of Forestry And Fire Protection		
<b>Phone</b>	916 657 0300	<b>Fax</b>	
<b>email</b>			
<b>Address</b>	P.O. Box 944246	<b>State</b>	CA
<b>City</b>	Sacramento	<b>Zip</b>	94244-2460

**Project Location**

<b>County</b>	Sonoma				
<b>City</b>					
<b>Region</b>					
<b>Lat / Long</b>	38° 42' 23.97" N / 123° 19' 52.95" W				
<b>Cross Streets</b>	Approximately 3/4 of a mile SE of Annapolis on Annapolis Road				
<b>Parcel No.</b>	123-040-022, 024, -027				
<b>Township</b>	10N	<b>Range</b>	13W	<b>Section</b>	17,18
				<b>Base</b>	MDB&M

**Proximity to:**

<b>Highways</b>	
<b>Airports</b>	
<b>Railways</b>	
<b>Waterways</b>	Grasshopper Creek, Buckeye Creek, and South Forth of Gualala River
<b>Schools</b>	Horicon ES
<b>Land Use</b>	PLU: young growth timber, agricultural land associated with past orchard & sheep grazing activities GP: Resources and Rural Development Z: Resources and Rural Development

**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Coastal Zone; Drainage/Absorption; Forest Land/Fire Hazard; Geologic/Seismic; Landuse; Minerals; Noise; Other Issues; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian

**Reviewing Agencies** Resources Agency; Department of Conservation; Department of Fish and Game, Region 3; Cal Fire; Department of Water Resources; Caltrans, District 4; Department of Food and Agriculture; Regional Water Quality Control Board, Region 1; Department of Toxic Substances Control; Native American Heritage Commission

Note: Blanks in data fields result from insufficient information provided by lead agency.

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Document Details Report  
State Clearinghouse Data Base

**Letter 5  
Cont'd**

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*Date Received* 05/29/2009    *Start of Review* 05/29/2009    *End of Review* 07/28/2009

Note: Blanks in data fields result from insufficient information provided by lead agency.

**LETTER 5: TERRY ROBERTS – STATE CLEARINGHOUSE**

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**Response to Comment 5-1**

The comment does not address the adequacy of the DEIR, but rather notes that the lead agency, in this case CAL FIRE, has complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.