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Napa County Strategic Plan Comments Understanding the Problem Why Deforestation is Not Mitigatable

From the Steinschreiber less Than 3 Acre Timber Harvest Conversion * *The Napa County General Plan anticipated the conversion of Forest Land, including Timberland, to agricultural use, and the program level-EIR for the 2008 General Plan Update analyzed the impacts of up to 12,500 acres of vineyard development between 2005 and 2030, with the assumption that between approximately 950 to 5,700 acres of this development would occur on "Forest Land". In the analysis specifically, and in the County's view generally, the conversion of forest land including potential timberland to agricultural use would constitute a potentially significant impact **only** if there were resulting significant impacts to sensitive species, biodiversity, wildlife movement, sensitive biotic communities listed by the California Department of Fish and Wildlife, water quality, or other environmental resources addressed in the check list.*

Problem Analysis and Suggestions for Policy Change

1 Staff, including Planning, Code Enforcement and Engineering are aware of failures of mitigations measures in hillside vineyard developments. Yet staff does to not report issues to Director or BOS stating "We take our direction from Board." Board of Supervisors claims they are unaware of problems. Supervisor Pedroza said "I have never heard of a problem with a vineyard."

Resulting in a *synapse gap* between staff and BOS which allows environmentally destructive deforestation to continue. Staff must be required to communicate vineyard related issues to BOS such that the Board is **aware** of needed modifications to code and policy protect the environment.

2. Inexplicably arbitrary level of environmental review of vineyard projects by staff. Some projects such a Davis Freisen Lakes THP/TCP/ECPA/EIR received a high degree of appropriate comment from staff, evaluating project impacts and analyzing compliance with General Plan Policies, while other major projects with sweeping environmental impacts such as Bremer Deer Park, Aloft Winery Cold Springs Rd. are given mitigated negative declarations by staff with no supportable rational. Are applicants able to influence staff? What is the standard for environmental review of projects? Is there a pattern of differing levels of review between staff members? The product delivered: Environmental review is highly inconsistent. A system of quality control from project application to project approval must be implemented.

3. Circle the wagons: Staff defends errors and mistakes. The culture of the *citizen reporting a concern is always wrong or interferes with my important work* prevails with Planning and Code Enforcement Staff. Example the Bremer Vineyard soil importing situation was allowed to continue for many months and resulted in ongoing environmental damage because staff defended their mistakes/inactions (in this case giving project a Mitigated Negative Declaration) and failed to conduct required inspections related to project milestones, tree protections etc. While at least two County Departments were aware of the out of compliance situation, when provided facts and evidence of ongoing problems, staff denied awareness and continued to interact and negotiate with applicant as if violations were not occurring, working on vineyard modifications rather than halting work. This culture must change.

As a second example of this circle the wagons culture includes removal of coniferous forest at 285 Howell Mountain Rd. for vineyard development (Pina Vineyard Management) which certainly necessitated a THP/THC from Cal Fire and some level of environmental review by Napa County, yet staff appears to be aware of the forest clearing and vineyard development involving removal of

headwater coniferous forests with out permits but took no enforcement action.

4 Widely variable interpretation and application of General Plan policies by staff on vineyard and winery projects. While the General Plan includes a Conservation Element and an Agricultural Element, staff often relies only on Agricultural Policies as a justification for project endorsement, while more appropriate application of Conservation policies is omitted in analysis. Project applications must withstand compliance with all applicable General Plan Policy and mitigations must be plausibly implementable or the project must be found incompatible with General Plan. Example of mitigations that are routinely failed: Creek setbacks, habitat retention areas, wildlife fence and wildlife migration corridors. Oversight of activities including trucking of water to/from vineyards from wells on other approved vineyard sites occurs, Best Management Practices for fertilizer and Pesticide use, storage and transportation are ignored. Restoration and replanting of habitat as a like kind mitigation, monitoring of agricultural water use, erosion control structures, such as attenuation basins, rock aprons, T spreaders, straw wattles and silt fences, restriction of total acreage cleared of native vegetation is not monitored, review of raptor and bat surveys throughout vineyard development are not monitored, storage of materials, equipment, parking under retained trees, piecemealing of projects starting with vineyard followed by winery and mega mansion with no cumulative impact analysis, reliance of landscape level views to indicate that wildlife impacts are less than significant while each acre of forest is in fact ultimately developed as vineyard, developing the only acreage on a parcel permissible due to slope restrictions and offering up remaining fragmented habitat as adequate wildlife range is the norm. General Plan Policies specific to conservation must be met by each project and staff is not free to select the policies they rely on for project approval.

5. Under current policy clearing trees and understory vegetation on lands with less than 5% slope which do not contain a preponderance of conifers, appear to have no prohibition on clearing for vineyard development. In these situations, how are the impacts of these vineyards analyzed? Ground water use, traffic, wildlife and biological surveys conducted, exclusion fencing, pesticide storage, impacts to neighbors as these are increasingly in rural residential settings. The permitted deforestation at 1200 Summit Lake Rd. for vineyard development (less than 5% slope, comprised of Oaks, Pines, Buckeyes, Maple Manganite , Fir, Bay) resulting in destruction of granary trees and habitat for numerous species of birds including raptors, calls attention to **Napa County's gaping loopholes** in woodland and forest protections. In this example the developer had recently moved from Contra Costa County where this project would have required notification of neighbors, site plan and environmental review, followed by a public hearing with appeals opportunities. How is it possible that Napa County has a lower standard of environmental review for tree clearing than nearby counties?

6. What is the specific code or policy concerning wildlife exclusion fencing surrounding vineyards? Mr. Bardonna mentioned a specific date after which time only vineyard blocks are permitted to be fenced. How is this enforced? Does staff visit vineyard site to validate? How is decorative perimeter fencing dealt with in a situation where new vineyard is proposed but wildlife are excluded by decorative perimeter fencing? This should be analyzed post fire where perimeter and decorative fencing was a major cause of death for wildlife.

7. Please discuss how the mitigation measure offered in many THPS/EIRs on projects involving deforestation for vineyards are able to remove Ponderosa Pines populations, which are noted in our Base Line Date Report to be **Species of Limited Distribution**. My conversation with Mr. Bardonna, revealed because the Ponderosa Pine was not the predominant tree species on a project site it was therefore not provided protections. Yes think about this for a moment, a species of limited distribution, called out specifically in our General Plan, falls thru a loop hole in our *rigorous environmental protections*. Our mitigations are only on paper.

8. Many of the past Erosion Control Plans developed on hillside vineyards involving forest clearing were partially developed by RCD Staff. It appears from review of many of these projects on Howell Mountain that the engineering techniques suggested by private engineers and RCD were inadequate and failed. Yet, Engineers continue to offer erosion control structures and mitigations that are documented to fail. Mondavi-Cold Springs, Cliff Family-Burton Creek, Pringle Vineyard-Howell Mountain Mutual Water Company. Abreu-Lucia Vineyard. Why are documented failures of erosion

control structures and techniques allowed to continue to be employed in areas of known failure?

9. Wildlife movement and migration mitigations are typically offered in timber conversion to vineyard situations from a landscape level view suggesting there is ample forested vegetation to accommodate wildlife movement off the project site or within retained vegetation on site. Yet this mitigation is completely obsolete as each project is adjacent to a past or future project. The “there is plenty of place for bears someplace else” mitigation is unsupportable in the now fragmented areas of Napa County. Projects must be evaluated from the perspective that this is absolutely the home range of large mammals and project will in fact destroy the last remaining habitat resulting in complete elimination of suitable, forage, shelter, nursery and breeding sites.

10. Napa County is tasked with review of Biological and Botanical studies presented in project applications in order to protect species and to achieve the assurance of a less than significant project impact on wildlife and critical habitat. All THP/TCP and vineyard developments on slopes over 5% appear to include such surveys. In forested situations near known sites, surveys for special status species such as Northern Spotted Owl are required of applicant. Based upon a historic review of NSO Survey protocols it is apparent that the surveys are inadequate, inaccurate, conducted to prove a desired outcome and have resulted in major loss of habitat in Napa County. In fact in the Ciminelli THP/TCP/EIR, 12 acres of Northern Spotted Owl habitat was **permitted to be destroyed** as the habitat “was too isolated by vineyard development to allow a NSO to fly to and utilize the area”. Our policy has been to allow deforestation, project by project, to the point that now we dismiss the last remaining bits of suitable habitat as unsuitable due to the permitted habitat destruction.

12. Biological surveys conducted by applicants Registered Professional Forester or applicant’s biologist are riddled with mistakes, are incomplete, do not follow required protocols and are so obviously conducted to conclude that no significant impacts will occur to wildlife from project, it is unfathomable that the county is plausibly able approve **any** THP/TCP/ECPA/EIR/MND on **any** project requiring vegetation removal. The Le Colline THP/THP/ECPA/EIR is a typical example of the practice of producing fraudulent biological surveys. Review of the bat surveys included in this project are so flawed as to be laughable, yet NO QUALIFIED BIOLOGIST IS ON COUNTY STAFF OR IS CONTRACTED BY COUNTY FOR REVIEW OF APPLICANT PROVIDED SURVEYS. We accept the trash they provide us and let the forest be destroyed. **The county of Napa must immediately contract with qualified biologist that has no ties to THP/THC process who can independently review and field replicate biological surveys.**

13. County staff lack the expertise and knowledge of pre-project field conditions to determine levels of necessary environmental review. For example the Bremer Vineyard project was proposed upon a site so geological and hydrologically unique that it clearly warranted an EIR but received inappropriately a Mitigated Negative Declaration. Very likely the Bremer vineyard proposal should have required a THP/TCP. Further, had Planning staff possessed working knowledge of project site they could have reasonable applied idea #1 (see above) report to Planning Director hence to the Board of Supervisors that a unique geological formation with important hydrological functions critical to groundwater recharge, wildlife habitat, Napa River flows, local flood issues and rare plants and scenic beauty existed that could require special protections, possible changes in GP designations and consultation with other agencies in order to protect the natural resource could have been employed.

14. Please visit how the current setbacks for streams was developed in Napa County. Please discuss the failure of our existing requirements to meaningfully protect riparian vegetation, wildlife movement corridors, surface water quality, ground water from over draught including placement of wells adjacent or in streams and creeks, contamination of surface water from fertilizers, pesticides, outhouse washout and storage, equipment repairs and fuel storage, agricultural chemical mixing and loading and equipment wash out. Note there are limitless examples of how our current policy on stream setbacks no longer works as we farm the steep mountainsides with critical watershed function. Despite existing laws and Agricultural Commissioner requirements, farming on steep sites adjacent to seasonal, intermittent, creeks is infeasible as there is no room to set back from surface water due to the pressure to develop every ‘plantable’ acre.

15. Failure of staff to enforce required conditions of approval. Ciminelli THP/TCP/ECPA/EIR a

Conservation Easement was required on remaining forest after vineyard development to be recorded and provided to County as a CEQA mitigation to reduce the environmental impact of destruction of 18 acres of forest to less than significant. Applicant did not complete required condition of approval. Staff negotiated a deed restriction only upon being notified by public that the Conservation Easement was not recorded. Staff stated "No conservation organization wants these little bits, the forest remaining is too damaged to have conservation value, and it is too expensive to hold these". So our number one mitigation measure in the case of Ciminelli, home range of the federally listed Northern Spotted Owl, was to let the applicant record a deed restriction. A totally different instrument that requires no biological review, no ongoing monitoring by qualified staff and failed entirely to uphold the mitigations that were required by County. How is staff able to cut deals with applicants on mitigation measures? Who does staff represent?

16. THP/TCPS in Napa County are the responsibility of Cal Fire. Nearly every applicant for THP/TCP vineyard development employs Scott Butler, Registered Professional Forester licensed by Cal Fire and a qualified 'Northern Spotted Owl Expert'. Mr. Butler who resides in Colorado, is brought into Napa County on these deforestation projects because he know how to get the forest down and is a bullying character that wears down agency staff, provides the flimsiest of documentation which Cal Fire accepts and therefore Napa County accepts, provides out of state subcontractors for biological reviews, (See NSO expert Pam Towne who resides in Montana), and largely provides an incredibly messy set of never-ending documents, amendments, response to comments and indecipherable, unsupportable conclusions that result in Cal Fire agency personnel, tired of the process, intimidated by his bullying presence (particularly young, new Cal Fire employees reviewing documents), that in the end give up and accept and approve the unsupported studies and conclusions Mr. Butler provides. This is absolutely understood by County and other agency staff and an unnamed California Fish and Wildlife Environmental Scientist stated **"Scott Butler is responsible for more environmental damage in Northern California than any other single individual"**. Napa County must employ the services of a qualified consulting biologist and insist that all submitted documents are provided in a legible, orderly, rational format which is reviewable by expert staff to evaluate data provided and analyze conclusions offered in project documents. Stop doing applicatts homework.

17. New land use designations must be developed for our General Plan. The obsolete concept of including Agriculture, Watershed and Open Space in one catch all designation has shown its inadequacy to protect critical headwaters, wildlife habitat, and buffer climate change, provide groundwater recharge, surface water security, and preserve critical natural habitat for the enjoyment of residents, contribution to property values and provide protections to iconic scenic vistas. In short, every conceivable acre in Napa County with AWOS land use designation is being evaluated not for its Open Space and Watershed value and function **but for its maximum agricultural potential**. From our sweeping coniferous forests to our rural residential back yards, Watershed and Open Space is replaced by wine grapes. We must bifurcate Agriculture areas from irreplaceable Open Space and Watershed lands. Simply begin this evaluation using Napa County Soil Survey Map Soil Capacity rating system. This would quickly preclude *Bremer* style projects in *areas without soil*, would conserves our coniferous forests, rocky outcrops, important watershed systems, recreational areas, oak woodlands, identify appropriate livestock grazing areas and protect recreational areas from agricultural development. In short, in order to bring our fractured community back together we must clearly identify appropriate agricultural areas within Napa County and end the relentless cycle of application followed by reaction, revolt and initiative.

18. Rural Residential area of the county warrant special consider for limits of vineyard development. Small parcels with a predominance of rural residences are being planted with vines. In Angwin this year, multiple cases of vineyard development, in what logically appears to be a front or back yard has resulted in great discord among neighbors. On these smaller parcels, vegetation is cleared, ground water used, agricultural chemicals applied, workers traffic and parking accommodated in what most people would **not** consider an agricultural setting. No evaluation of impacts are analyzed. Neighbors become stressed, easements and road access becomes contested, lawyers are consulted, Code Enforcement is called and neighbors become fractured. From the reports I have received from neighbors, back yards adjacent to *micro* vineyards become unusable from noise and dust and spraying. Privacy is impacted, property values are effected, well water becomes competed for and general disharmony results in a largely residential setting. The Right to Farm Ordinance should be

evaluated for its applicability in rural residential neighborhoods lacking the proper infrastructure to support commercial agriculture.

19. Elected and appointed Officials and Napa County staff, aware of existing violations or non-compliant activities, should be obligated to report such situations in a timely fashion to appropriate agency. Relying on the public to call out known violations or unpermitted activities results in poor working relations between public and staff and puts undue burden on residents who should be assured that violations are taken seriously by Napa County.