

EXHIBIT A

NAPA COUNTY CONSERVATION, DEVELOPMENT & PLANNING COMMISSION

FINDINGS

**Use Permit Major Modification # P09-00511-MOD
Vista Corporation / Clover Flat Landfill, Inc.
4380 Clover Flat Road, Calistoga, CA 94515
Assessor's Parcel Number 020-120-020**

September 21, 2011

ENVIRONMENTAL DETERMINATION

The Conservation, Development & Planning Commission (Commission) has received and reviewed the proposed **Mitigated Negative Declaration** pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA, and makes the following findings

That:

1. Prior to taking action on the Mitigated Negative Declaration and the proposed project, the Commission read and considered said Declaration;
2. The Mitigated Negative Declaration is based on independent judgment exercised by the Commission;
3. The Mitigated Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act;
4. Considering the record as whole, there is no substantial evidence that the project will have a significant effect on the environment with implementation of identified mitigation measures; and.
5. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. Records are located at the Napa County Conservation, Development, and Planning Department, 1195 Third Street, Room 210, Napa, CA 94559.

USE PERMIT

The Commission has reviewed the winery use permit request in accordance with the requirements of Napa County Code §18.124.070, Issuance - Findings Required, and finds that:

6. The Commission has the power to issue a use permit under the zoning regulations in effect as applied to the Property.

Analysis: The project is consistent with AW (Agricultural Watershed) zoning district regulations. A sanitary landfill facility (as defined in Napa County Code §18.08.546) is permitted in an AW District subject to use permit approval. The project complies with the requirements of the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code), as applicable.

7. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code have been met.

Analysis: The use permit application has been filed and noticing and public hearing requirements have been met. The hearing notice and notice of availability of the proposed Negative Declaration were posted on August 20, 2011 and copies of the notice were forwarded to property owners within 300 feet of the Property. The CEQA public comment period ran from August 20, 2011 through September 19, 2011.

8. The grant of a use permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: The project is a modification of an existing landfill facility operating in compliance with all local and state regulations. The recent 2011 5-year Solid Waste Facility Permit # 28-AA-0002 Review by the Local Enforcement Agency certified CFL compliance. Various County departments and State agencies have reviewed the project and commented regarding water, septic, building permits, fire protection and landfill operations. Conditions are recommended which will incorporate these comments into the project to assure the ongoing protection of public health and safety. The applicant has agreed to incorporate Mitigation Measures identified in the environmental document to ensure that the proposed modification will not adversely affect the environment or the public health, safety or welfare of the County of Napa.

9. The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan.

Analysis: The project is a modification of an existing facility in operation since 1963 and approved by Use Permit # 438889-UP in 1990. The project complies with the requirements of the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code), all as applicable.

Public-Institutional Policies in the General Plan **Agricultural Preservation and Land Use Element** specifically provide for and recognize the existing public utility nature of sanitary landfill facilities. The Clover Flat Landfill site is specifically noted as a "Landfill" on the *Napa County Land Use Plan, 2008-2030*.

General Plan **Agricultural Preservation and Land Use Element Policy AG/LU-29** states, “Governmental uses and public utility uses shall be permitted in appropriate locations. Only those new governmental and public utility uses which specifically implement programs mandated by the state or federal government shall be permitted in non-urban areas. On parcels which are designated Agricultural Resource or Agriculture, Watershed and Open Space on the Napa County Land Use Map, governmental uses and public utility uses existing as of 1983 shall be allowed to continue to operate and to use the existing buildings and/or facilities but shall be allowed to expand in size and volume of business only for the purpose of modernizing the facilities and meeting additional demonstrated public needs to the extent permitted by law.”

General Plan **Agricultural Preservation and Land Use Element Policy AG/LU-53** states, “The following standards shall apply to lands designated as Public-Institutional on the Land Use Map of this General Plan.

Intent: To indicate those lands set aside for those existing and future uses of a governmental, public use, or public utility nature such as a public hospital, public use airport, sanitation district facilities, government equipment yard, state or federal administrative offices, recycling-composting facilities, or any other facilities for which the determinations set forth, pertaining to criteria for eminent domain in the California

Code of Civil Procedures Section 1245.230(c)(1) through (3), can be made. . .”⁵

- ⁵ Determinations cited include: (1) The public interest and necessity require the proposed project. (2) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. (3) The property described in the resolution is necessary for the proposed project.

The proposed Clover Flat Resource Recovery Park creates additional staging area space to expand material recycling operations. Additional on-site source separation and stockpiling allows more efficient use of re-claimed material that can be re-used or transformed such as green waste to mulch and compost, food waste composting, grinding of asphalt and concrete for on-site road beds or sale. Greenhouse gas generation will be reduced with utilization of landfill gases and ground wood as biomass fuels for power generation on-site and for off-site sale. The tree replanting plan expands and replaces overgrown forested areas in a more efficient manner and creates additional habitat areas on what is now bare ground in three other areas. Therefore, the project complies with following Napa County General Plan policies:

General Plan **Conservation Goal CON-68** states, “The County shall promote research and the development and use of advanced and renewable energy technology through the following actions:

- a) Use expedited permit processing or other incentives as promotion mechanisms.
- b) Assist in securing grants to support the implementation of photovoltaic, wind, and other renewable energy technologies to provide a portion of the County’s energy needs.

- c) Encourage the use of renewable energy resources in residential, commercial, industrial, and agricultural projects and uses. [Implemented by Action Item CON CPSP-4]

General Plan **Conservation Goal CON-70** states, “The County shall seek to increase the amount of energy produced through locally available energy sources, including establishing incentives for, and removing barriers to, renewable and alternative energy resources (solar, wind) where they are compatible with the maintenance and preservation of environmental quality. [Implemented by Action Items CON CPSP-4 and 5]

General Plan **Conservation Goal CON-74** states, “The County shall evaluate new technologies for energy generation and conservation and solid waste disposal as they become available, and shall pursue their implementation as appropriate in a manner consistent with the principle of adaptive management. This evaluation shall include review of promising technological advances which may be useful in decreasing County greenhouse gas (GHG) emissions, increase in renewable energy that is generated locally, and review of the County’s success in meeting targets for GHG emission reductions. [Implemented by Action Item CON CPSP-4]

General Plan **Conservation Goal CON-86** states, “The County shall implement the 2002 Napa County Countywide Integrated Waste Management Plan, consistent with California Integrated Waste Management Act (Public Resources Code section 40000 et seq) requirements, including the plan’s Summary Plan, Siting Element, Source Reduction and Recycling Element (SRRE); Household Hazardous Waste Element (HHWE) and Non-Disposal Facility Element (NDFE). [Implemented by Action Item CPSP-6].”

General Plan **Conservation Goal CON-87** states, “The County shall promote solid waste source reduction, reuse, recycling, composting and environmentally-safe transformation of waste. The County shall seek to comply with the requirements of AB 939 with regard to meeting state-mandated targets for reductions in the amount of solid waste generated in Napa County.”

General Plan **Conservation Goal CON-88** states, “The County shall provide information to businesses and residents on available options to implement waste reduction targets. Other actions may include:

- a) Actively promoting a comprehensive, consistent, and effective recycled materials procurement effort among other governmental agencies and local businesses.
- b) Encouraging all companies that do business in Napa County to recycle and reuse construction scraps, demolition materials, concrete, industrial waste, and green waste.

General Plan **Conservation Goal CON-89** states, “The County itself shall be a leader in promoting waste reduction and recycling through a variety of means when feasible, including:

- a) Adopting requirements for the use of recycled base materials (e.g., recycled raw batch materials, rubberized asphalt from recycled tires, and other appropriate materials), if practicable, in requests for bids for public roadway construction projects.
- b) Procurement policies and procedures, which facilitate purchase of recycled, recyclable, or reusable products and materials where feasible.
- c) Requiring contractors to provide products and services to the County, including printing services, demonstrating that they will comply with the County's recycled materials policies.
- d) Providing recycling centers at County facilities to the public free of charge.

General Plan **Conservation Goal CON-90** states, "The County shall support efforts to provide solid waste resource recovery facilities and household hazardous waste collection facilities convenient to residences, businesses, and industries.

General Plan **Conservation Goal CON-91** states, "Encourage the maximum protection of all environmental values at solid waste disposal sites by the adoption of standards of planning, design, construction, operation, and maintenance, including:

- a) Location away from residential areas.
- b) Screening from view.
- c) Good road access, not through residential areas.
- d) No inhabited areas downwind from the site because dust and odor problems can occur in even the most carefully conducted operations.
- e) Location to prevent flooding and pollution and contamination of surface and ground water.
- f) Haul distance standards.

General Plan **Conservation Goal CON-92** states, "The County shall support and encourage the re-use and development of lands for open space and recreational purposes following the implementation of landfill closure programs.

General Plan **Action Item CON CPSP-4** states, "The County shall map Napa County's biomass, wind, geothermal, solar photovoltaic, solar thermal, bio-fuel, landfill gas, and other potential renewable energy sources and partner with other organizations and industry to disseminate information about the potential for local energy generation. [Implements Policies CON-68, 70, and 74]"

General Plan **Action Item CON CPSP-5** states, "The County shall quantify increases in locally generated energy between 2000 and 2010, and establish annual numeric targets for local production of "clean" (i.e., minimal GHG production) energy by renewable sources, including solar, wind, biofuels, waste, and geothermal. [Implements Policy CON-70]

Approval of this project furthers all of these key policy goals by providing expanded facilities and services for solid waste resource recovery facilities and household hazardous waste collection facilities convenient to residences, businesses, and industries but isolated enough to not cause disturbance in the North County area.

The project is consistent with the Napa County Integrated Waste Management Plan consisting of the Summary Plan, Siting Element, Source Reduction and Recycling Element, Household Hazardous Waste Element and Non-Disposal Facility Element which identifies the Clover Flat Landfill site and describes its waste management activities in each individual Plan and Element. As a result of the this Use Permit Major Modification, each Element will need to be updated and revised as needed to incorporate the expanded activities.

As analyzed at item № 10, below, the winery will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level. The project is consistent with General Plan **Conservation Policies CON-53** and **CON-55**, which require that applicants for discretionary land use approvals prove the availability of adequate water supplies which can be appropriated without significant negative impacts on shared groundwater resources.

Napa County's adopted General Plan reinforces the County's long-standing commitment to agricultural preservation, urban centered growth, and resource conservation. On balance, this project is consistent with the General Plan's overall policy framework and with the Plan's specific goals and policies.

10. The proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin.

Analysis: According to the June 21, 2011 Department of Environmental Management Memo, the proposed water system to serve this project is not currently required to be regulated as a small public water system by this Department under California Code of Regulations, Title 22, or Napa County Code. They have no comment as to its adequacy at this time. The applicant is required to provide minimal information on the water system prior to approval of a building permit, and may wish to retain the services of a consultant in this matter.

The County is not aware of, nor has it received any reports of, groundwater shortages near the project area. The project will not interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater level.

Minimum thresholds for water use have been established by the Department of Public Works using reports by the United States Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District.

The 179.97 acre size of the subject parcel has a water availability calculation of 0.5 acre feet per year (af/yr) for its Mountain location, arrived at by multiplying its 179.95 acre parcel size by a 0.5 af/yr fair share water use factor for an 89.98 af/yr total. There are 16 existing employees and a proposed increase to 20 employees after gateway operations area expansion. Assuming the equivalent of landfill work to warehouse work, consuming 0.05 af/yr per employee per year, this amount would total only 1.0 af/yr with 20 workers. Landfill dust control along access roads, the disposal area working face and weekly compost watering can still be accommodated with the approximately 88.0 af/yr balance allotted to the landfill site. The permitted 78 acre landfill, increasing to 79 acres, has a 44 acre disposal area with only a half-acre working face in operation at any time.

Any project which reduces water usage or any water usage which is at or below the established threshold, is assumed not to have a significant effect on groundwater levels.