

R U D D



1 August, 2013

Diane Dillon  
Napa County Supervisor  
1195 Third Street, Suite 310  
Napa, CA 94559

Dear Diane,

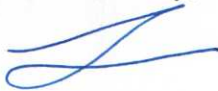
A couple of years ago, my partners and I purchased Cosentino Winery out of bankruptcy. At the time all of the employees had been let go and the County had a shuttered business on the very visible Highway 29. We reopened the winery as quickly as we legally could and invested funds in refurbishing the winery so we could grow the business and provide more jobs.

We recently submitted an application for a minor modification to our use permit for the purpose of adding an outside patio, a water fountain and some improved gardens and landscaping so we can make the facility more attractive to our guests experience and to help grow our business. Due to a neighbor request that minor mod has been changed to a full hearing before the planning commission on September 4<sup>th</sup>.

Mr. & Mrs. Scruby are the neighbor making the request and they have sent a letter to you so I felt we should make you aware of our request for the use permit modification which we believe the planner, Linda St. Claire, will recommend for approval. Mr. & Mrs. Scruby have had a long history of fighting with the winery for over 20 years and there has been quite a bit of litigation that has also included the County. We were not parties to any of that.

Since we have owned the property we have had no issues with our neighbors that we have not been able to resolve amicably. We have a long positive history in Napa Valley with all of our respective businesses and you know that I have personally supported many community charitable projects. We value our role in the community and we value our relationships with our neighbors. We are hopeful that this project will be approved.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'L. Rudd', with a stylized flourish at the end.

Leslie Rudd  
(707)945-1200

LGR: sc

FOR: LINDA ST CLAIRE

RECEIVED

JUL 15 2013

Napa County Planning, Building  
& Environmental Services

7-15-13

Napa County Planning Commission & Zoning Administrator  
1195 Third St. Suite 210  
Napa CA 94559

Re: Cosentino Winery Use Permit #U-518687 - APN 27 540 13

Dear Commissioners

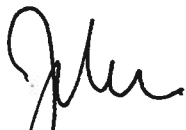
We are the immediate neighbors to the North of Cosentino Winery. We understand that the Winery has submitted a set of plans to create an extensive hardscape/landscape area for outdoor activities.

No. 7 of their Use Permit, does not permit outside social activities of picnicking, outside dining, wine tasting, live music, outdoor festivals, or other activities of a similar nature. County staff has enforced this condition in the past if events took place outside. Staff is now considering an administrative change to that condition.

This is a small winery on a little over 4 acres that faces a very busy Highway 29. We share a problematic access road with the business. The winery is at very close proximity to two residences one of which is a B&B. We are concerned with additional traffic, parking, noise, and safety.

We request that the plan to change the Winery Tours & Tasting activities and events from indoor to outside go before the Commission as required by #1 of their Use Permit condition which states that *"any expansions or changes in use to be by separate Use Permit submitted to the Department for Commission consideration"*.

Sincerely,



John & Giovanna Scruby  
7429 St. Helena Hwy.  
Napa CA 94558

RECEIVED

JUL 15 2013

Napa County Planning, Building  
& Environmental Services

Cc John McDowell, Diane Dillon, Linda St. Claire

7/15/13

Napa County Planning Commission & Zoning Administrator  
1195 Third St. Suite 210  
Napa CA 94559

Re: Cosentino Winery proposed outdoor activities.  
Use Permit #U-518687

Dear Commissioners,

We are neighbors to Cosentino Winery and are concerned with the change to #7 of their Use Permit, which has not allowed outside social activities including picnicking, outside dining, wine tasting, live music, outdoor festivals, or other activities of a similar nature.

We request that their plan to change these activities from indoor to outside go before the Commission as indicated on #1 of their Use Permit condition which requires that "any expansions or changes in use to be by separate Use Permit submitted to the Department for Commission consideration".

Being a B&B we are very concerned about any ongoing outdoor activities.

Sincerely:

A handwritten signature in black ink, appearing to read "Kathleen Matthews", with a long horizontal flourish extending to the right.

Kathleen Matthews  
7433 St. Helena Hwy.  
Napa CA 94558

Cc. John McDowell

**RECEIVED**

JUL 15 2013

Napa County Planning, Building  
& Environmental Services

CONDITIONS OF APPROVAL

Agenda Item: 13

MEETING DATE: June 3, 1987  
USE PERMIT #U-518687

1. The permit shall be limited to: the construction of a 30,000 gal./yr. winery with tours and tasting and related wastewater pond and field disposal area as shown on the attached plot plan.  
  
Any expansion or changes in use to be by separate Use Permit submitted to the Department for Commission consideration.
2. Submission of a detailed landscaping, fencing and parking plan to the Department for review and approval indicating names and locations of plant materials, method of maintenance and location of off-street parking spaces. Said plan to be submitted prior to issuance of the Building Permit. Landscaping, fencing and parking to be completed prior to finalization of Building Permit. Landscaping shall be permanently maintained in accordance with the approved landscape plan.
3. Provisions for a minimum of 27 off-street parking spaces on a dust free all weather surface approved by Public Works.
4. Plans for any outdoor signs be submitted to the Department for review and approval with regard to design, area, height and placement.
5. Compliance with all applicable building codes, zoning standards and requirements of various County departments and agencies.
6. Compliance with Mitigation Measures #1 through #15 contained in the attached Negative Declaration.
7. Except as permitted by County ordinance, no outside social activities including picnicking, outside dining, wine tasting, live music, outdoor festivals, or other activities of a similar nature.
8. Retail sales shall be limited to wine produced and bottled by the winery. Retail sales may commence following the construction of the winery.
9. Tours and tasting shall not commence until after the winery has been constructed and is in operation.

RECEIVED

JUL 15 2013

Napa County Planning, Building  
& Environmental Services

**RECEIVED**

**AUG 12 2013**

**Napa County Planning, Building  
& Environmental Services**

**FOR: LINDA ST CLAIRE**

8/12/13

Napa County Planning Commission and Zoning Administrator  
1195 Third St. Suite 210  
Napa CA 94559

**Re: Cosentino Winery Use Permit #U-518687 – Use Permit Modification #93362-MOD  
APN 27-540-13**

Dear Commissioners;

On July 15 the neighbors to Cosentino Winery submitted a request for the Commissioners to review the Winery proposal to modify their outdoor tours and tasting condition #7 of use permit #U-518687. We request that along with that modification the Commissioners also review the expansion and changes to # 4 of the Winery Use Permit Modification # 93362-MOD

**1** - The winery shipping area has recently been partially enclosed with a security fence and rented out. The enclosure of the receiving area is in conflict with #4 of Use Permit Modification #93362-MOD which states that: *"The shipping and receiving activity, including during crush, shall occur within the receiving area, to be enclosed on three sides by the approval of this modification."*

On July 8, 1993 Planning Department approved the winery reconfiguration with the understanding that the receiving area would not be partially enclosed. *"This request is hereby APPROVED as the one-time full build out of the winery. No further expansion will be permitted without Use Permit modification approval: this would include enclosing all or part of the covered "receiving" area."*

*"No further expansion will be permitted without Use Permit Modification".* The winery was later given administrative approval to expand the receiving and production area to the north with a permanent owning without the required modification. The expansion moved the noisy activities even closer to neighboring properties. The awning may also be in conflict with the required 48 feet setback.

**2** - The County approved fire lane, and the emergency access has been painted yellow instead of red and the shipping area has been relocated on the fire lane area of the shared access road. The reconfiguration was done without a modification hearing and in conflict with codes and safety for neighboring parcels.

18.104.100 requires that *"Off-street areas shall be provided as necessary for loading and unloading in connection with any use in any zoning district - 18.110.020 B. Loading and service areas shall be designed and located so that the entire operation is conducted within the confines of the site."* The net lot area of the winery does not include the area of the right of way easement as prescribed in Subdivision section of the Napa County Code (17.02.350)

The relocation of the receiving area on the access road is also in conflict with the recorded agreement in the official records of Napa Co. No. 2903 Vo. 1733 page 905 #5. The agreement requires that the landscape and related improvements on the right of way are to conform to County, State & Federal standards. *"The plans for all of the improvements shall be consistent with good practice in the relevant industry, shall conform to all applicable state and federal laws and County standards in effect at the time of construction and/or installation, including any standards or conditions contained in Use Permit No. U-518687 as amended from time to time."* One of the related County approved improvements on the easement in 1989 was the 20 feet fire lane on the south side of the landscape fence for the benefit of both parcels.

The recorded agreement also states that; *"The provisions of this Agreement are for the benefit of the real property on which they are located as well as for the protection of the health, safety, and welfare of the residents of the County."* The agreement is binding on successors in interest it further states that *"Any burden imposed by such provisions shall run with said real property as covenants running with the land."*

3 - There is no space set aside for a turning radius on the winery net lot area; as a result, large delivery trucks use Highway 29 for a turn around. Winery staff stops the traffic so that the trucks can either back into or out of the access road from the Highway.

There is no room for a turning radius in the paved area in front of the winery so trucks do their shipping and receiving on the fire lane that is located on the south side of the landscape fence which is 26 feet from our property and within 50 feet of our home. The fact that the roofed receiving area has never been able to accommodate trucks, was substantiated by the Winery staff on their letter to Planning dated March 6, 2000

4 - The renters installed a large metal storage container to the west of the winery receiving area with its doors also opening to the north. When storing items, the reverberation of the metal is contributing to more loud noise at neighboring properties. It also may interfere with emergency vehicles access to the rear of the building.

The California Regional Water Quality Board required that Cosentino Winery obtain coverage under the Industrial Activities permit as required by the U.S. Environmental Protection Agency. The U.S.EPA regulations require that; *"all grape handling activities at the winery (such as at off-loading or receiving areas) must be conducted under overhead coverage and without outdoor spillage."*

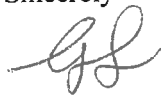
The winery, under previous owners, did submit a modification to their use permit to construct a warehouse for their equipment but did not follow through with the State requirement. Storage continues on the access road at time blocking our parcel emergency access.

5 - During the day noisy beeping forklifts move metal containers around and the work is at times continued late in the evening.

6 - The renter's vehicles park on our emergency access because parking in front of the receiving area interferes with the opening of the door.

We are and have been impacted by the expansion of the winery activities so close to our home. We request that the Commissioners review the changes to condition #4 as stipulated by Number one of the winery Use Permit #U-518687, which requires that *"Any expansion or changes in use to be by separate Use Permit submitted to the Department for Commission consideration."*

Sincerely



John & Giovanna Scruby  
7429 St Helena Hwy  
Napa CA 94558

Cc. John McDowell, Linda St. Claire

**CONDITIONS OF APPROVAL**  
**Cosentino Use Permit Modification**  
**#93362-MOD**

1. This modification is only to enclose the west side of the existing receiving area with a third wall 33.5 feet long. There will be no increase in annual production, or any other aspect of the winery's approved operation. All conditions of Use Permit U-518687, not in conflict with these conditions, shall remain in effect.
2. The changes shall be consistent with the attached application materials and conform to the comments and requirements from the various departments and agencies attached including the Department of Environmental Management dated Feb. 22, 1994.
3. All lighting, especially outside lighting, shall be shielded and directed downward and away from off-site uses. Low-level safety lighting shall be the only outside lighting utilized when winery operations, such as crush, are not occurring. Normal winery hours of operation, excluding crush, continue to be 7:00 am to 6:00 pm.
4. The shipping and receiving activity, including during crush, shall occur within the receiving area, to be enclosed on three sides by the approval of this modification.
5. All equipment and vehicles used shall be adequately mufflered.
6. All vehicles shall be turned off and not be allowed to idle while parked.
7. Any new or existing stationary compressors or other noisy equipment located outside the winery shall be within an acoustical enclosure designed and constructed to conform with the applicable requirements of the Napa County Code.
8. The applicant shall comply with all applicable building and zoning codes and requirements of various County departments and agencies.
9. All crush activities including but not limited to cleanup and closing shall cease at 9:00 p.m. All exterior lighting with the exception of the second floor lighting on the main winery building and all lighting within the receiving area shall be turned off at 9:00 p.m.
10. Within 30 days following the conclusion of the pending lawsuit (Napa County Superior Court Action #67365), the applicant shall file with the Department a landscaping plan for the area north of and opposite to the receiving area for the approval of the Director. The plan shall include landscaping at least the length of the east-west portion of the receiving area, and shall include trees and evergreen shrubs. Upon receipt of the Plan, the Director shall notify the appellant and shall also notify the appellant of his action. Comments from the appellant shall be considered by the Director in the course of his review of and action on the landscaping plan.

CONDITIONS OF APPROVAL

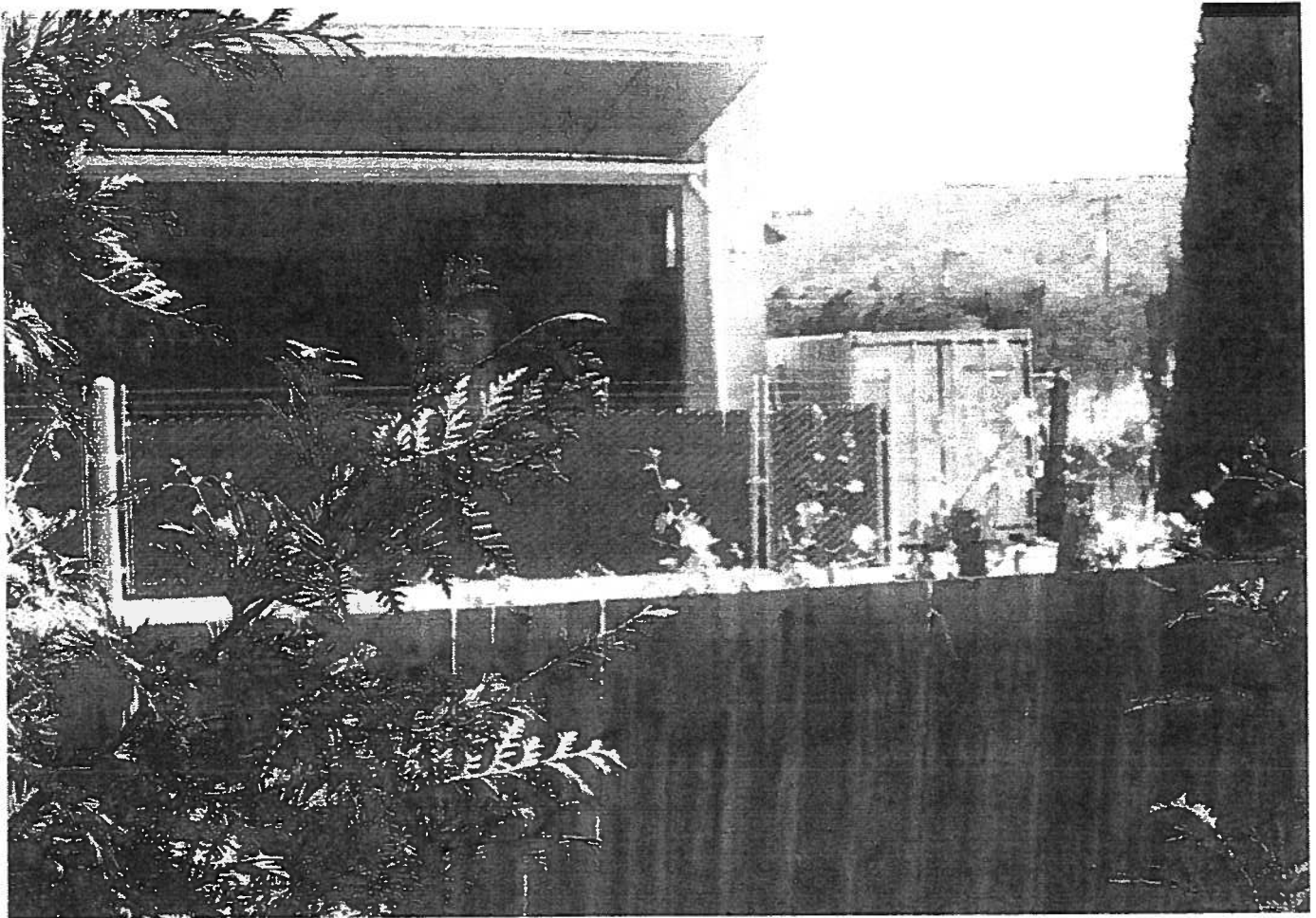
Agenda Item: 13

MEETING DATE: June 3, 1987  
USE PERMIT #U-518687

1. The permit shall be limited to: the construction of a 30,000 gal./yr. winery with tours and tasting and related wastewater pond and field disposal area as shown on the attached plot plan.

Any expansion or changes in use to be by separate Use Permit submitted to the Department for Commission consideration.

2. Submission of a detailed landscaping, fencing and parking plan to the Department for review and approval indicating names and locations of plant materials, method of maintenance and location of off-street parking spaces. Said plan to be submitted prior to issuance of the Building Permit. Landscaping, fencing and parking to be completed prior to finalization of Building Permit. Landscaping shall be permanently maintained in accordance with the approved landscape plan.
3. Provisions for a minimum of 27 off-street parking spaces on a dust free all weather surface approved by Public Works.
4. Plans for any outdoor signs be submitted to the Department for review and approval with regard to design, area, height and placement.
5. Compliance with all applicable building codes, zoning standards and requirements of various County departments and agencies.
6. Compliance with Mitigation Measures #1 through #15 contained in the attached Negative Declaration.
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9. Tours and tasting shall not commence until after the winery has been constructed and is in operation.



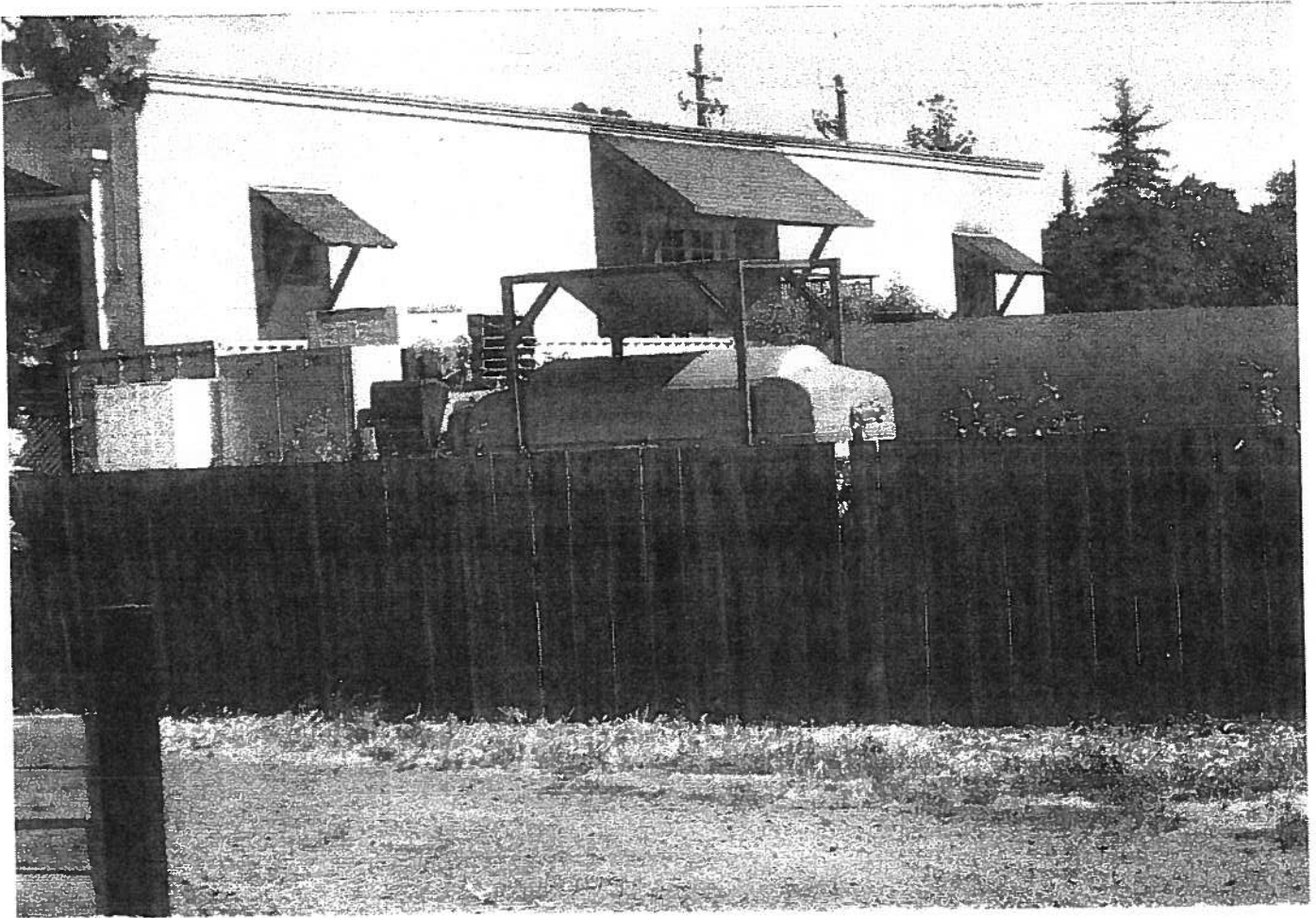
### **Enclosure & expansion of receiving area**

Planning Department *"No further expansion will be permitted without Use Permit Modification approval: this would include enclosing all or part of the covered "receiving" area."*

Expansion of Receiving and production area with an awning to the north of the original winery structure.

### **Storage container**

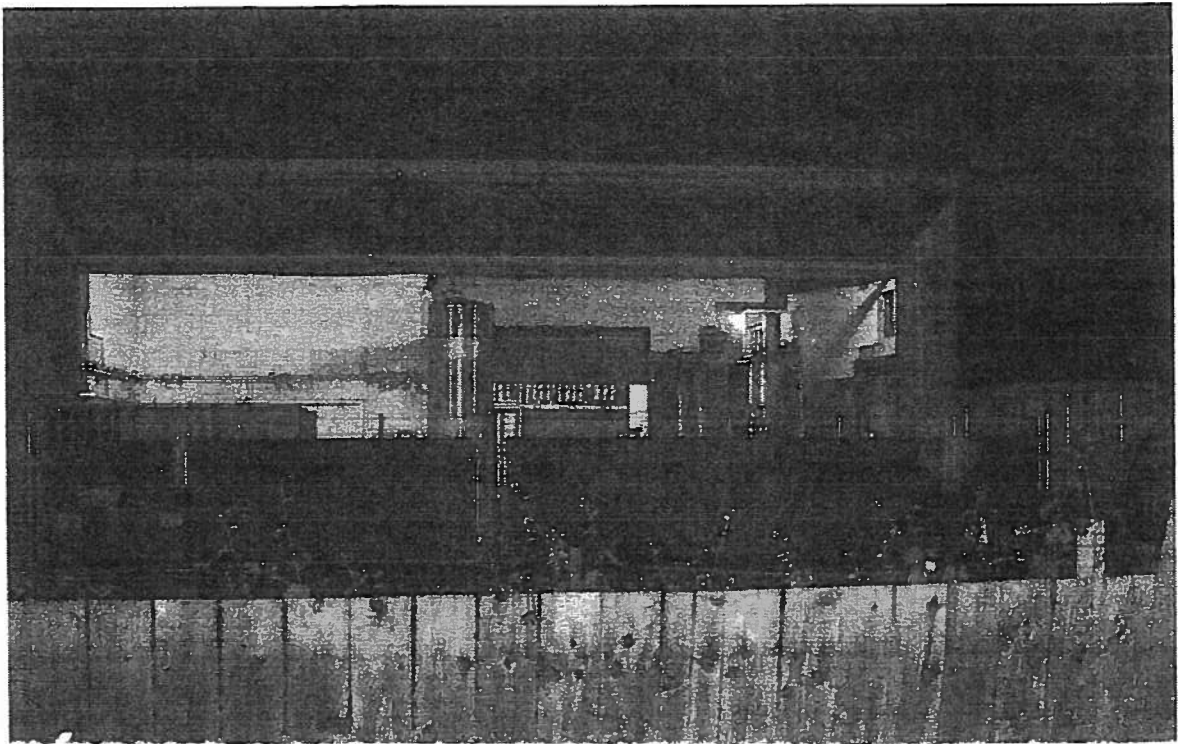
Large metal storage container recently installed to the west of the winery receiving area with its doors also opening to the north. When storing items, the reverberation of the metal is contributing to more loud noise at the neighboring residential properties.



**5-9-13**

Winery equipment stored on the fire lane of the non-exclusive easement for several months blocking emergency access

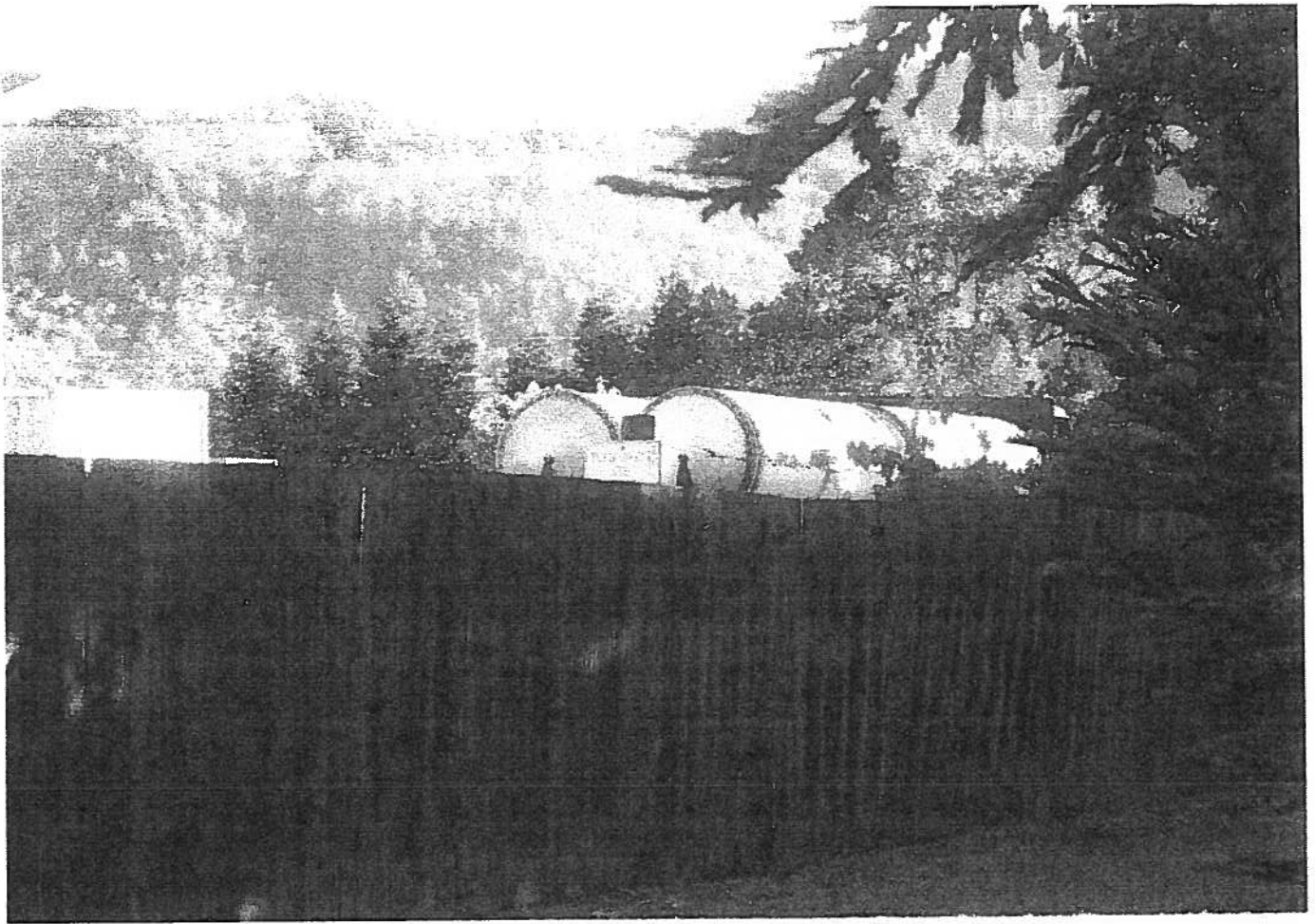
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**5-2-13**

**Noisy indoor & outdoor work till 9:30 p.m.**

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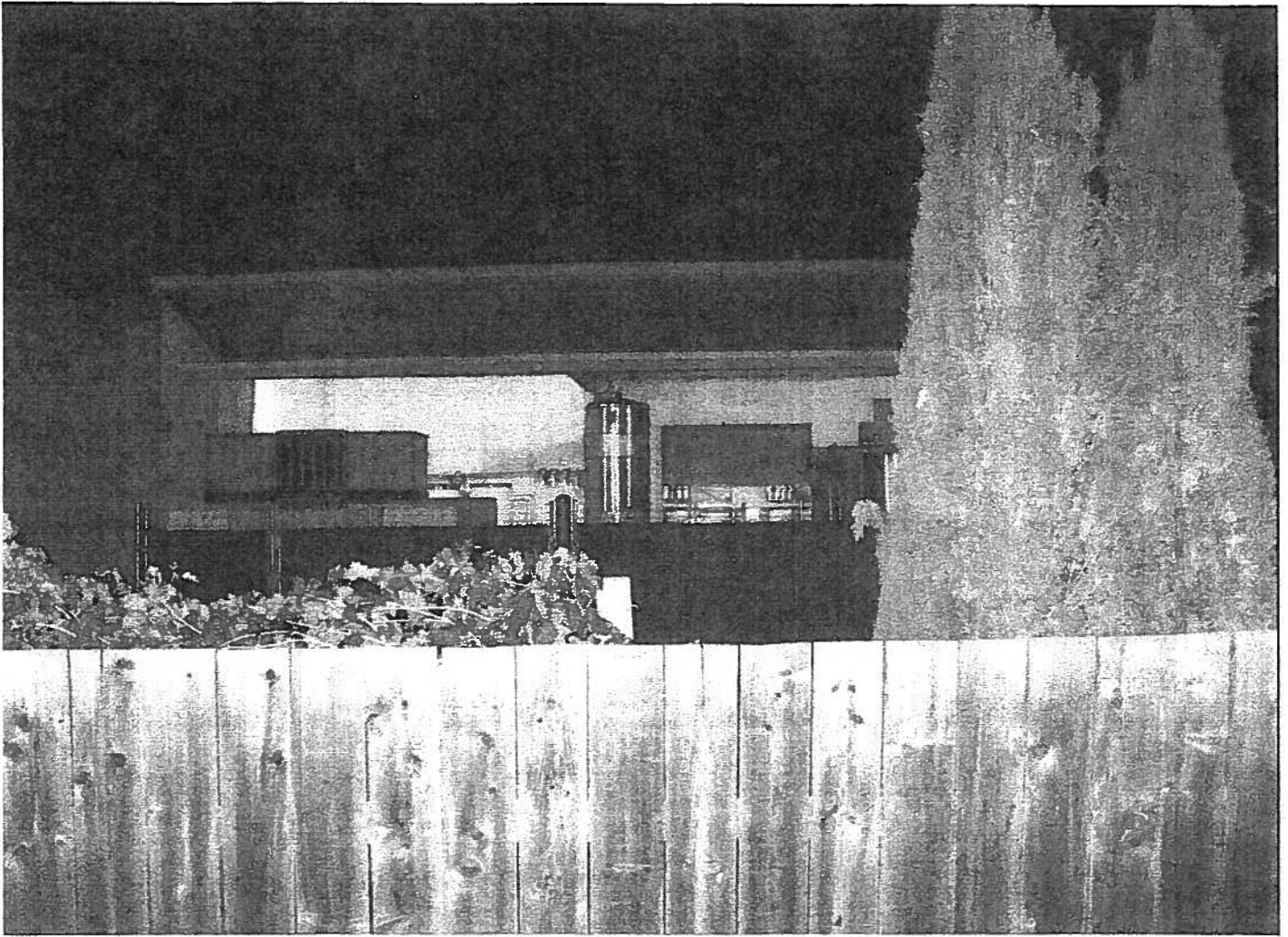


**6-3-13**

**Evening & night work**

Noisy work from 6 to 9 pm in the receiving area and outdoor. Parking for shipping and receiving is on the emergency fire lane 26 feet from residential property. Noisy work of fork lift beeping, equipment and things dropping, radio's blaring, and people yelling.

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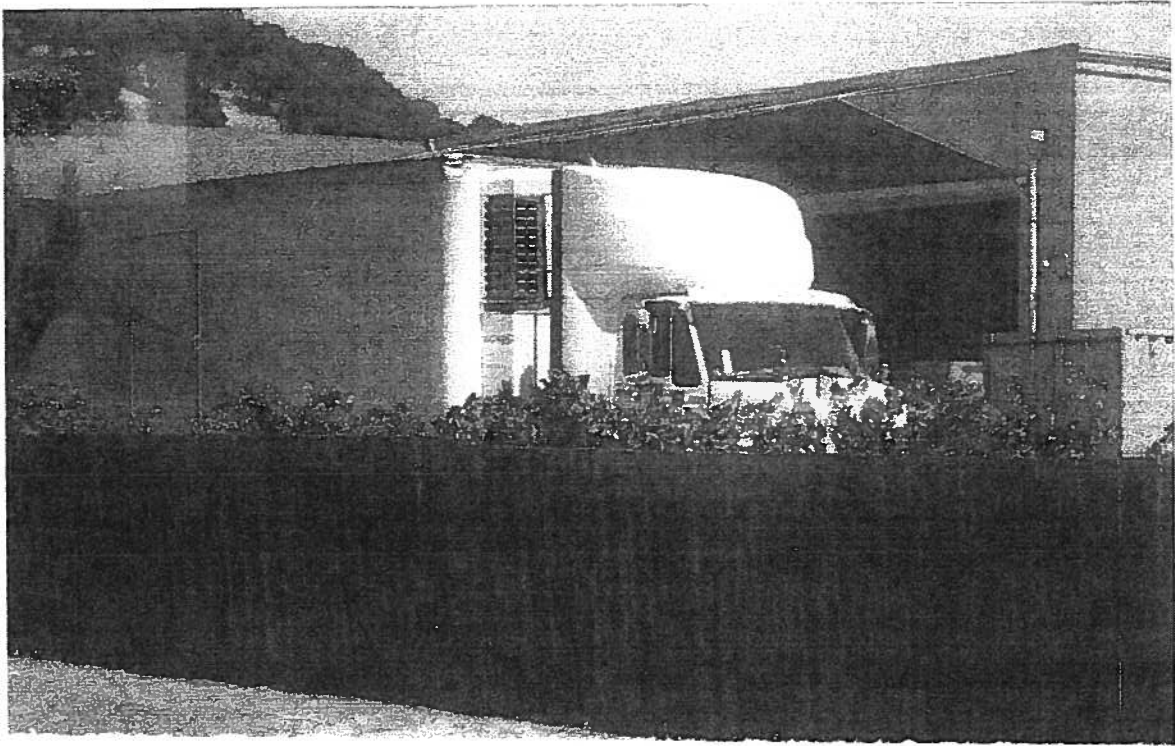


**7-3-13**

**Noisy indoor & outdoor work till 10:40 p.m.**

Number 3 of Cosentino Winery Use Permit Mod. #93362-MOD requires that normal winery hours of operation, excluding crush, continue to be 7:00 a.m. to 6:00 p.m.

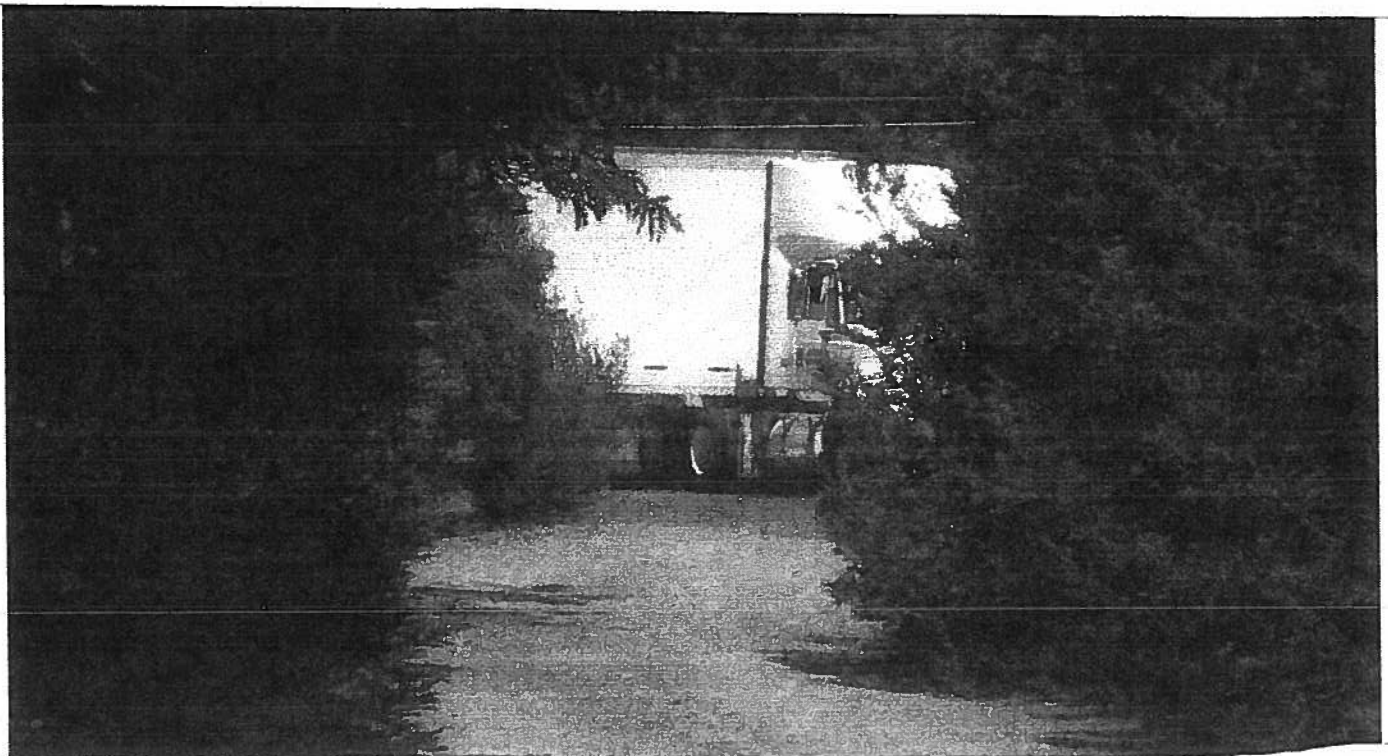
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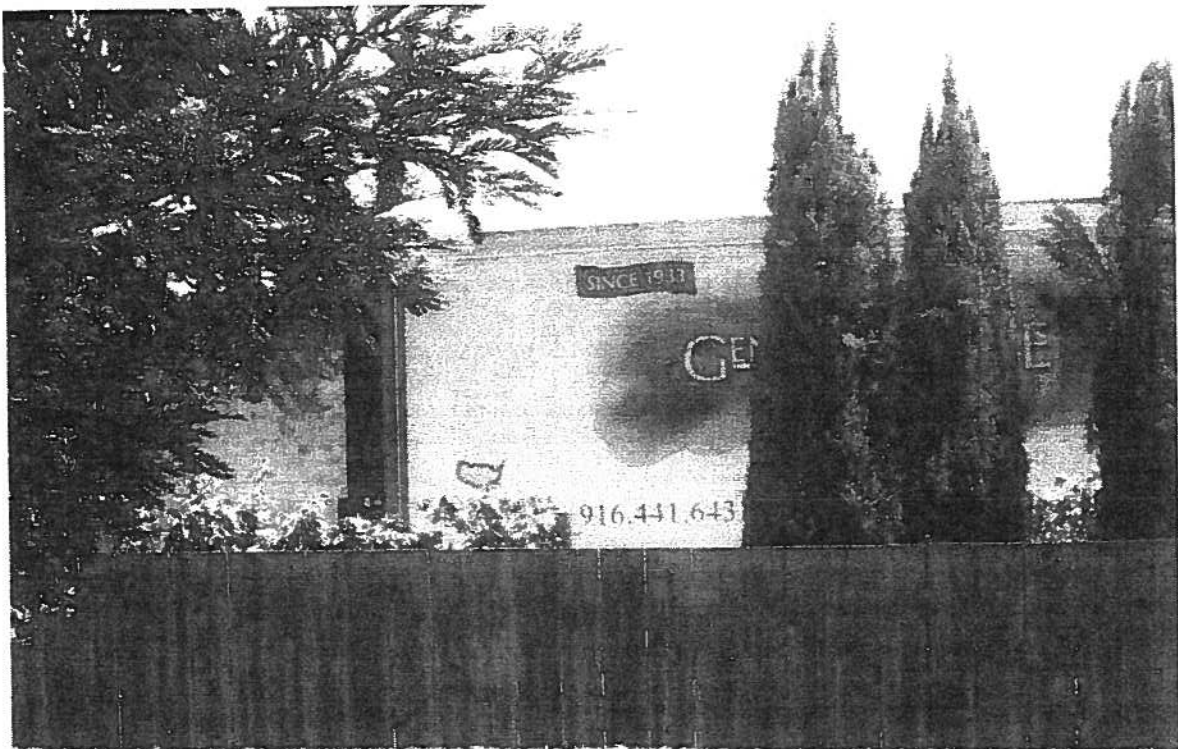


**6-6-13**

Truck parked on the fire lane while noisy delivery takes place in front of our home.

Same truck waiting to exit the property while winery staff stops traffic on highway 29 where large trucks routinely back up. The Highway is the winery turnaround.





**6-6-13**

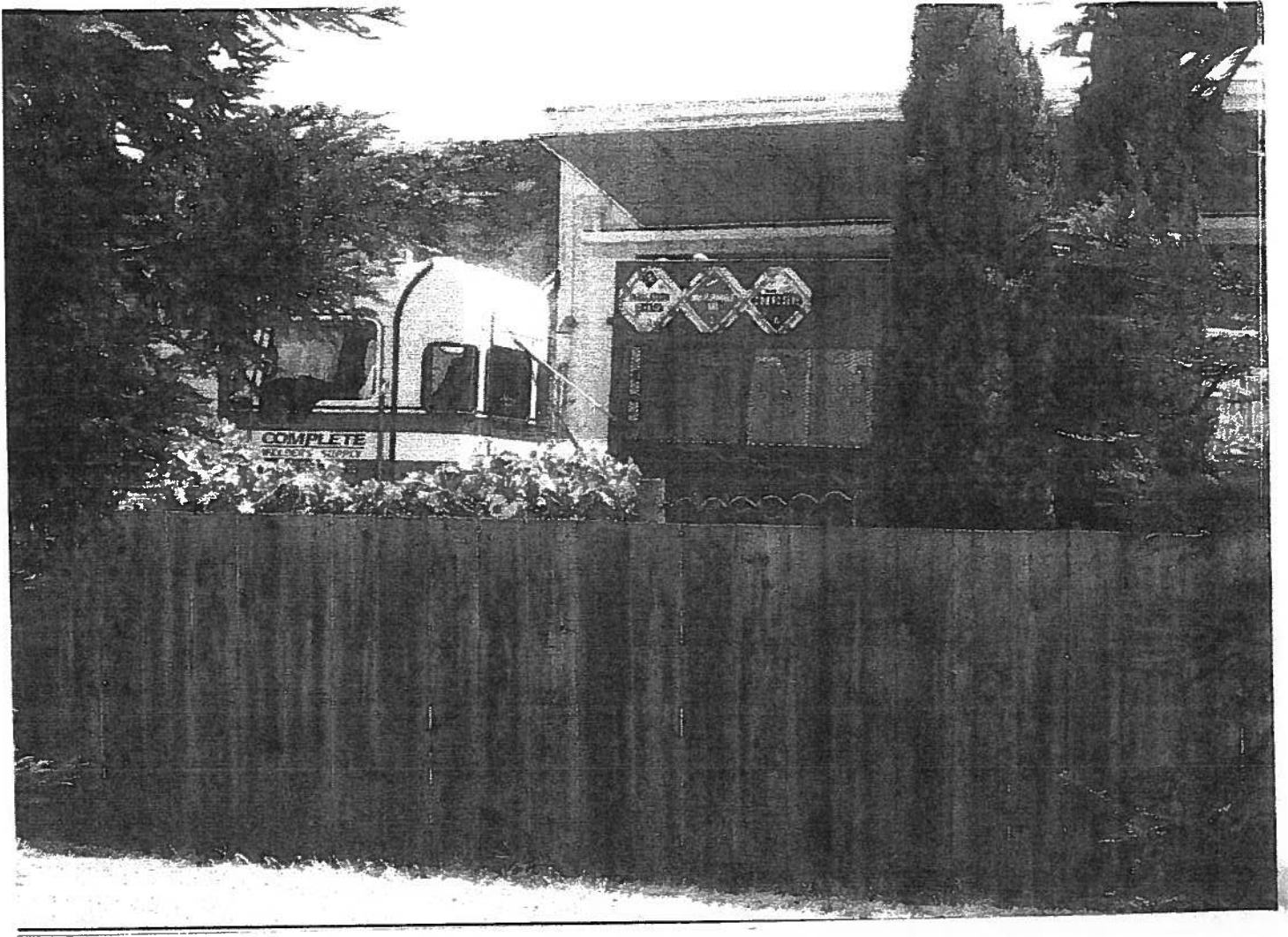
Trucks regularly back up onto Hwy 29 from the joint access road. Noisy receiving take place on our easement on the approved fire lane within 26 feet of our property at close proximity of our home. Strangers inside the loading truck peering into the private area of our yard.





**6-7-13**

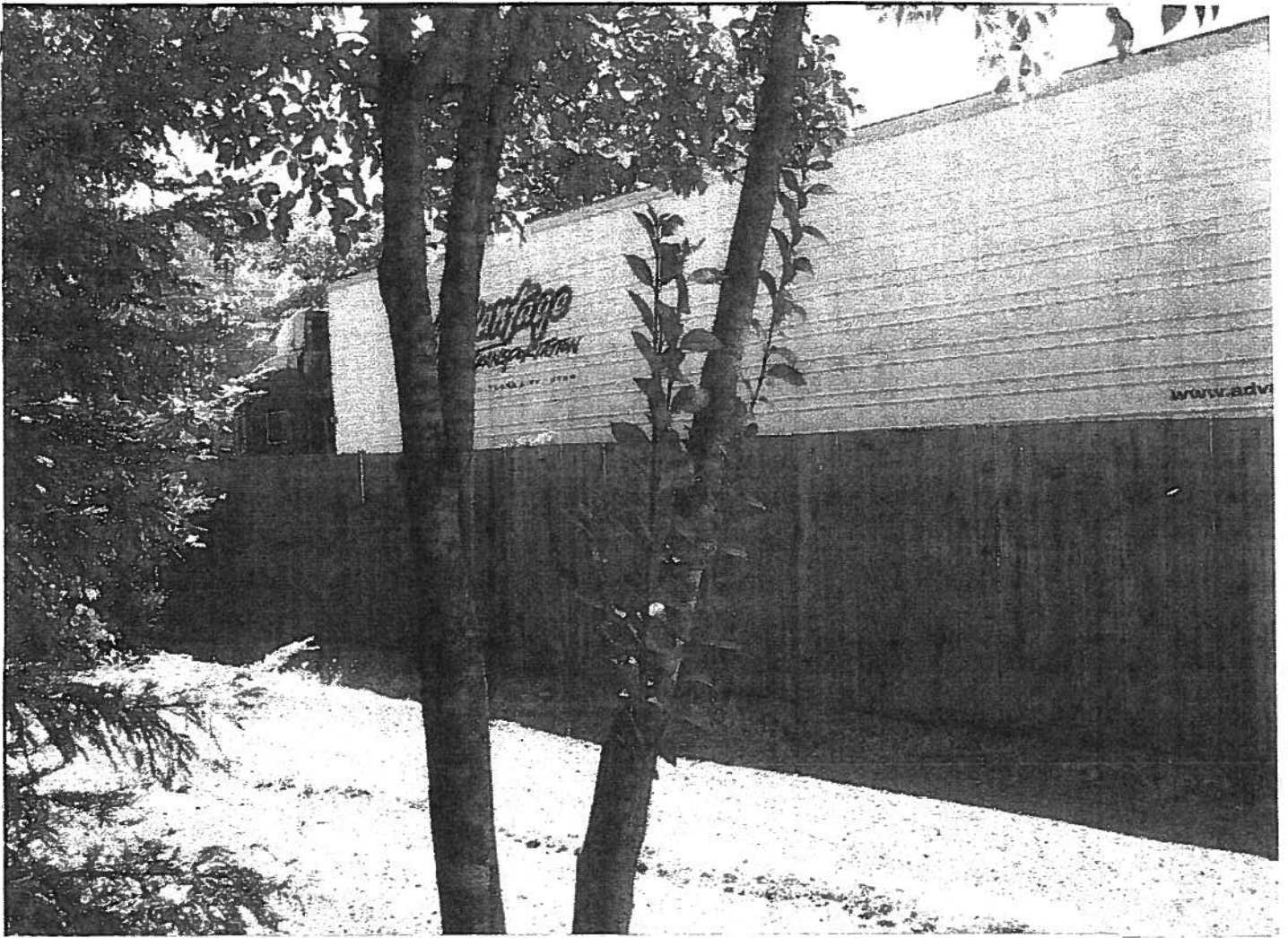
**Noisy receiving on the established fire lane of our easement**



**6-11-13**

Regular delivery of metal tanks. Truck backs up with loud beeping noise and parks on fire lane.

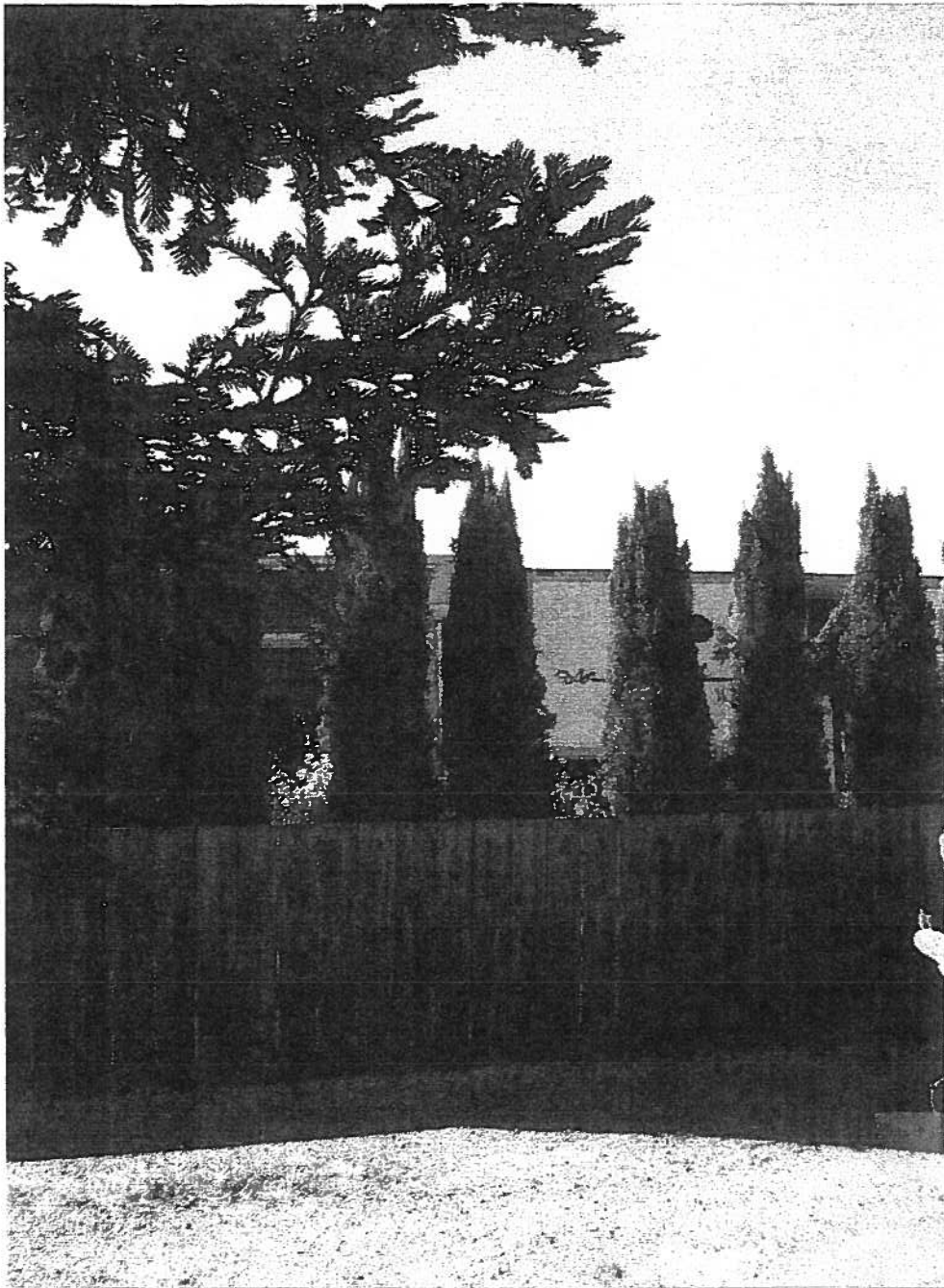
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**6-27-13**

Large truck parked on the fire lane for deliveries after maneuvering a turn from Highway 29.

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**5-24-13**

Noisy shipping and receiving on the fire lane area of our easement



Shipping and receiving used to take place at the rear of the winery, it did not obstruct the access created a noise disturbance, or safety concerns.