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## Biological Study



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August 28, 2015

Erik Bedford  
2783 Napa Valley Corporate Drive  
Napa, CA 94558

Subject: Biological Mitigation Measures for Use Permit Modification (File #P09-00101-PU) for the Tentative Parcel Map (File#P09-00100-PM), Napa County, California

Dear Erik:

This letter addresses the applicability of biological mitigation measures, for a previously approved winery project, to a Use Permit modification for the parcel referred to above. The 10.32-acre parcel (project site) is located adjacent to and south of Soscol<sup>1</sup> Ferry Road, Napa County, California (Figure 1). Suscol Creek forms the southern boundary of the project site (Figure 1). In 2006, the Suscol Creek Winery project was approved for the project site as a 200,000 gallon per year facility with by appointment visitation for an average of 70 visitors a week and a marketing plan with four events per week (P05-0434-UP). In 2009, a Use Permit modification was approved to increase the production to 600,000 gallons per year, increase floor area, increase employees, increase visitation to 100 persons per week, increase onsite parking from 36 to 55 spaces, revise the waste treatment system, and to divide the property into separate condominium units. Both a Use Permit modification and Tentative Map were approved. The Use Permit was used pursuant to Napa County Code (Section 18.124.080).

The current owner, Storage Tech, LLC has developed industrial designed storage facilities that are owned rather than rented by users. Six projects have been successfully completed in Colorado. Storage Tech, LLC requests a modification of use to construct a 130-unit industrial condominium facility, the Napa Vault Project, on the property.

The layout of the facility would be in 11 buildings with three unit types. The site plan identifies the unit types and the owner's common area. A minimum of 60 feet between buildings, will allow ample space for an owner to park in front of their unit without impeding other owners from passing. In addition, 13 parking stalls are included.

Both the 2006 and the 2009 Use Permits were used pursuant to Napa County Code (Section 18.124.080). The Planning Commission adopted a Mitigated Negative Declaration (MND) with the 2006 Use Permit and a Subsequent Mitigated Negative Declaration with the 2009 Use Permit modification and Tentative Map. The following discussion is a summary of relevant biological information, project conditions, and the applicability of the mitigation measures for the previously approved projects to the proposed request.

<sup>1</sup> The road and creek have different spellings: Soscol Ferry Road and Suscol Creek.



## Biological Resources

The 2006 winery approval included reducing the setback along Suscol Creek from 150 feet to 75 feet. In exchange for this encroachment, the applicant at that time voluntarily proposed to enhance the habitat within the proposed 75-foot creek setback by removing non-native vegetation (primarily Himalayan blackberry) and promoting growth and maintenance of native species. The MND biological resources section for the approved winery was based on three biological reports. The reports found no presence of Swainson's hawk (SWHA) (a species listed as threatened under the California Endangered Species Act) on the project site, but noted the presence of this species in the area. The reports also identified a drainage swale near Suscol Ferry Road as a wetland (verified as jurisdictional by the Corps of Engineers in 2007, but verification has since expired) and indicated that the Suscol Creek setback reduction as requested would not likely adversely affect the creek or the adjoining riparian habitat. The report recommended the removal of invasive, non-native Himalayan blackberry plants and replacement with native plant species. Subsequent to the approval of the Use Permit for the habitat enhancement work, the property owner entered into a Section 1602 Lake and Streambed Alteration Agreement with the California Department of Fish and Wildlife (CDFW) (then Fish and Game). A mitigation measure was included in the agreement requiring continued coordination with CDFW to ensure that aquatic populations are not adversely affected by creek restoration activities. The Use Permit was determined used based upon the creek enhancement and restoration work performed by the applicant. The 75-foot setback is included on the project plans.

All the biological mitigation measures that were applied to the approved 2006 winery still apply for the proposed 2015-project modification. Studies conducted by LSA biologists have confirmed that these mitigation measures are still applicable and that the proposed 75-foot setback with habitat restoration would be adequate to preserve the biological values of Suscol Creek. As with the 2006 modification, this setback is contingent on habitat restoration being conducted along Suscol Creek setback by removing Himalayan blackberry and planting native trees, shrubs, grasses and forbs. LSA has verified that the Himalayan blackberry removal has been successfully implemented. The restoration area will be planted, monitored and maintained until success criteria are attained. The restoration will also help stabilize the eroding stream banks of Suscol Creek.

Swainson's hawk nesting habitat, steelhead passage habitat and wildlife movement habitat along Suscol Creek will also be preserved and/or enhanced within the setback by the following proposed mitigation measures from the approved MND and suggested modifications for the proposed Use Permit Modification.

**Mitigation Measure IV.a.1:** To mitigate potential impacts due to the conversion of non-native grassland habitat, the following measure shall be implemented:

- A qualified biologist shall conduct a preconstruction survey to determine the presence or absence of Swainson's hawk nests on the project site. If nesting is determined, an adequate buffer zone around the active nest should be established in consultation with DFG. The buffer zone shall be maintained for the duration of the nesting season, typically February through August, and monitored weekly to assure compliance and success of this action.

***Proposed Project Modification:*** An updated analysis for the proposed 130-unit storage facility was conducted by LSA biologists Richard Nichols and Eric Lichtwardt and included a site visit on July 15, 2015. Prior to conducting the survey, LSA searched the California Natural Diversity Database (CNDDB) for records of nesting SWHA within a one-mile buffer of the project site vicinity and



mapped them on an aerial photograph showing one-mile buffer (Figure 1). Figure 1 also provides information of a 2015 raptor nesting survey conducted by Eric Jepson of Garcia and Associates. A SWHA nest, active in 2015, is located in a large valley oak along the south bank of Suscol Creek and adjacent to the southwest property line (Figure 1); this nest contained two young birds on May 28, 2015 (Eric Jepson pers. com. July 2015). During the LSA field survey, three SWHA (the nesting pair and a juvenile) were observed flying over the site and perching on trees and power poles on the site. Previous biological reports for the 2006 winery noted that SWHA were known to nest in the area; documented nest locations and the years the nests were active are shown on Figure 1. The project applicant has agreed that no large trees suitable for raptor nesting habitat will be removed. Mitigation Measure IV.a.1 (above) concerning preconstruction surveys for nesting SWHA and consulting with CDFW if an active nest is found will be implemented. This mitigation measure will therefore still apply to the Modification.

**Mitigation Measure IV.a.2:** To mitigate impacts due to removal/disturbance of active raptor nests the following measure shall be implemented:

- Prior to grading and/or tree removal, a qualified biologist should conduct pre-construction surveys to determine the presence or absence of active raptor nests. If present, the habitat or trees should not be removed until the end of the breeding season, and an appropriate setback buffer from construction activities be defined, as determined in consultation with the

*Proposed Project Modification:* Mitigation Measure IV.a.1 (above) for avoidance of construction during the nesting season and a pre-construction survey will be extended to all birds protected under the Migratory Bird Treaty Act and the California Fish and Game Code. This mitigation measure will therefore still apply to the Modification.

**Mitigation Measure IV.a.3:** To ensure that the presumed presence of steelhead trout in the creek is not adversely affected by restoration activities:

- Any restoration work within the channel must be performed in accordance with CDFW protocols and including consultation prior to commencing activities, best management practices to prevent unnecessary disturbance of creek areas, and timing of activities during appropriate low-flow seasonal periods.

*Proposed Project Modification:* CDFW will be consulted and best management practices implemented in accordance with this mitigation measure.

**Mitigation Measure IV.b.1:** To mitigate impacts within the jurisdictional drainage swale:

- Prior to commencing grading the permittee shall obtain a Nationwide 24 Permit for grading and revegetation activities that will occur within the unnamed drainage channel, pursuant to the requirements of Section 404 of the Clean Water Act and subject to authorization by the U.S. Army Corps of Engineers as stipulated in their February 2, 2006 letter.

*Proposed Project Modification:* The 2015 modification still qualifies for Nationwide Permit for fill of the proposed drainage swale.

## Section VIII: Hydrology and Water Quality

**Mitigation Measure VIII.c.1:** To mitigate the potential erosion and sedimentation impacts associated with project construction, the following measures shall be implemented.

- As a condition of Use Permit approval, obtain a NPDES General Construction Activity Permit from the RWQCB. This permit is required of all construction projects totaling one acre or more. As part of the permit and post-construction agency monitoring process, the applicant shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) in accordance with guidelines set forth by the RWQCB.

The SWPPP shall include design details and construction specifications for all site drainage controls and other water quality mitigations. In addition, the SWPPP shall contain the implementation schedule, methods, and locations of erosion control features, and be designed to prevent sediment loads greater than ten percent of background levels during construction.

The SWPPP shall specify the use of siltation basins during construction. In addition, bare areas created by the removal of vegetation shall be stabilized and seeded with an erosion control mix prior to October 15<sup>th</sup> of each construction year.

Typical site erosion control measures, also referred to as BMPs, are outlined in the California Storm Water Best Management Practice Handbooks for Construction Activity. In addition to practices discussed above, BMPs which could be implemented as a part of the SWPPP include:

- Seeding and protection of bared soils against raindrop impact and detachment by overland runoff through application of a sterile, broadcasted rice straw, or other approved mulch.
- Vegetated buffers and drainage swales to filter sediments and adsorbed contaminants from site runoff.
- Isolation and disposal of waste construction materials.

**Mitigation Measure VII.c.2:** To mitigate construction-related impacts to downslope riparian areas, the following measure shall be implemented:

- Temporary high visibility fencing shall be used 50 feet away from the outside edge of the riparian habitat for the duration of construction activities in order to prevent inadvertent impacts from encroachment into this community. Where project improvement plans require construction activities to occur within that 50-foot buffer, fencing shall be placed at the limits of the required construction activity. Placement of the fencing should be determined by a qualified biologist prior to construction and monitored at least once a month by County staff during the construction period to assure the success of this action. This measure will be applied to the proposed project modification.

*Proposed Project Modification:* Restoration of the Suscol Creek setback will improve water quality. Removal of the shallow-rooted non-native Himalayan blackberry and replacement with deep-rooted native shrubs and trees will more firmly anchor soils and stabilize the eroding Suscol Creek banks, reducing erosion and sedimentation. In addition, the following mitigation measure from the 2006 modification will be implemented.

**Mitigation Measure VIII.c.2** To mitigate construction related impacts to downslope riparian areas, the following measure shall be implemented:

Temporary high visibility fencing shall be used 50 feet away from the outside edge of the riparian habitat for the duration of construction activities in order to prevent inadvertent impacts from encroachment into this community. Where project improvement plans require construction activities to occur within that 50-foot buffer, fencing shall be placed at the limits of the required construction activity. Placement of the fencing should be determined by a qualified biologist prior to construction and monitored at least once a month by County staff during the construction period to assure the success of this action. This measure will be applied to the proposed project modification.

If you have any questions please call Eric Lichtwardt or myself at 510/236-6810 or via e-mail at [eric.lichtwardt@lsa-assoc.com](mailto:eric.lichtwardt@lsa-assoc.com) or [richard.nichols@lsa-assoc.com](mailto:richard.nichols@lsa-assoc.com).

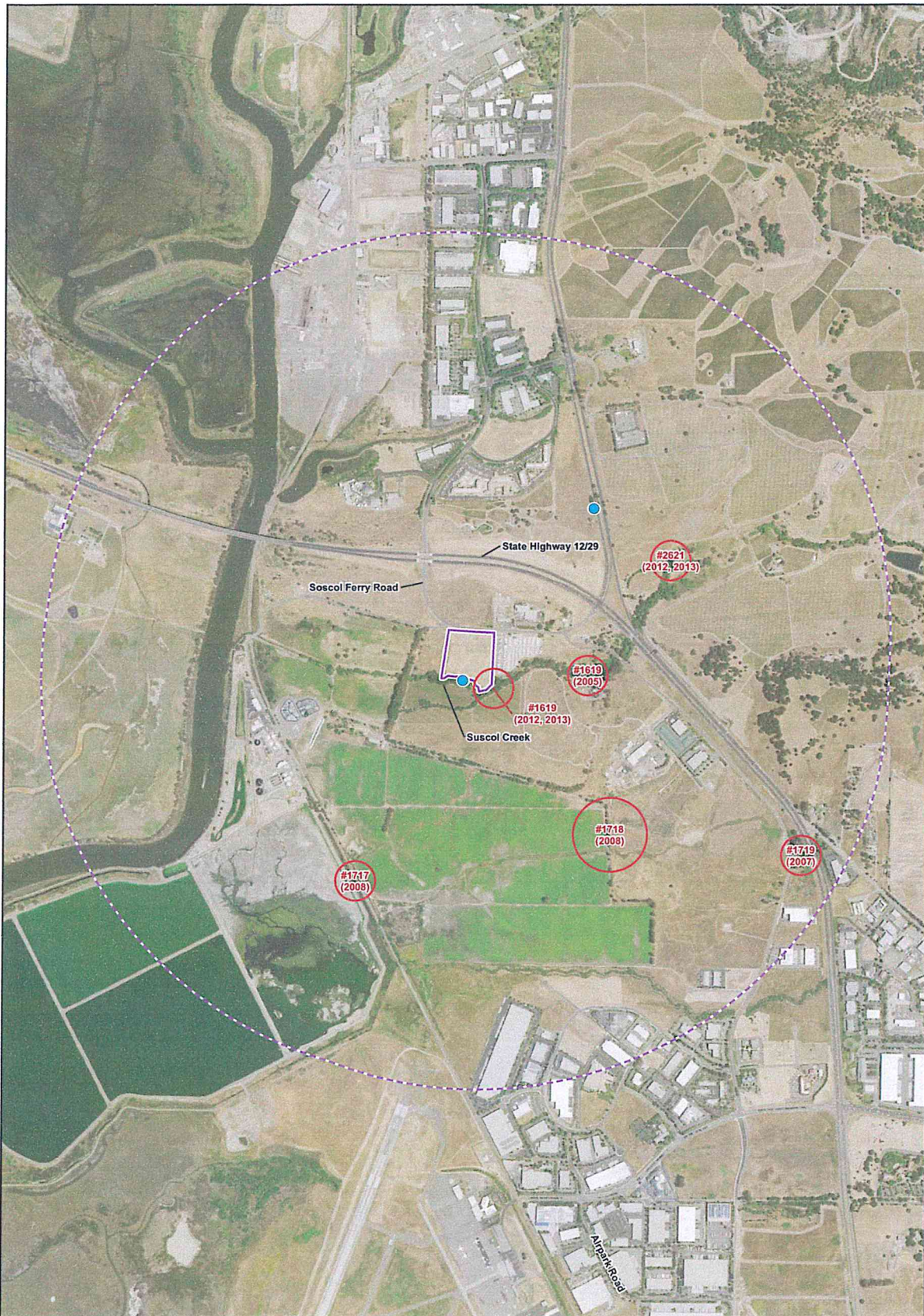
Sincerely,

LSA ASSOCIATES, INC.



Richard Nichols  
Associate

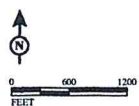




LSA

LEGEND

- Project Site
- 1-mile Buffer of Project Site
- Swainson's Hawk Occurrence (CNDDDB)
- 2015 Swainson's Hawk Observation (nest)



SOURCE: CDFW CNDDDB (06/2015); USDA NAIP Imagery (06/2014).  
 F:\STT1501\GIS\Maps\Swainson's Hawk\Figure 1\_Project Site Location and Swainson's Hawk Nesting Sites.mxd (8/26/2015)

FIGURE 1

*Bedford Property*  
*Napa County, California*  
 Project Site Location and Swainson's Hawk Nesting Sites



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NAPA CALIFORNIA 94558



October 3, 2007

Notification Number: 1600-2007-0323-3

Michael Fennell  
Suscol Creek Winery  
3520 Jomar Drive  
Napa, California 94558

### 1602 LAKE AND STREAMBED ALTERATION AGREEMENT

This agreement is issued by the Department of Fish and Game pursuant to Division 2, Chapter 6 of the California Fish and Game Code:

WHEREAS, the applicant Michael Fennell, Suscol Creek Winery, hereafter called the Operator, submitted a signed NOTIFICATION proposing to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed or lake of the following waters: Suscol Creek, tributary to the Napa River, in the County of Napa, State of California; and

WHEREAS, the Department has determined that such operations may substantially adversely affect existing fish and wildlife resources including water quality, hydrology, aquatic or terrestrial plant or animal species; and

WHEREAS, the project has undergone the appropriate review under the California Environmental Quality Act; and

WHEREAS, the Operator shall undertake the project as proposed in the signed PROJECT DESCRIPTION and PROJECT CONDITIONS (attached). If the Operator changes the project from that described in the PROJECT DESCRIPTION and does not include the PROJECT CONDITIONS, this agreement is no longer valid; and

WHEREAS, the agreement shall expire on December 31, 2010; with the work to occur between June 1 and October 31 and

WHEREAS, nothing in this agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of the responsibility for compliance with applicable Federal, State, or local laws or ordinances. Placement, or removal, of any material below the level of ordinary high water may come under the jurisdiction of the U. S. Army Corps of Engineers pursuant to Section 404 of the Clean Water Act;

THEREFORE, the Operator may proceed with the project as described in the PROJECT DESCRIPTION and PROJECT CONDITIONS. A copy of this agreement, with attached PROJECT DESCRIPTION and PROJECT CONDITIONS, shall be provided to contractors and subcontractors and shall be in their possession at the work site.

Failure to comply with all conditions of this agreement may result in legal action.

This agreement is approved by:

A handwritten signature in black ink, appearing to read "Charles Armor", written over a horizontal line.

Charles Armor  
Regional Manager  
Bay Delta Region

cc: Lieutenant Richardson