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**PROOF OF SERVICE**

I, the undersigned, certify and declare as follows: I am over the age of eighteen years and not a party to this action. My business address is ROBINSON BRADFORD LLP, 43471 Ridge Park Drive, Ste C, Temecula, California 92590, which is located in Riverside County where the mailing and/or delivery below took place.


On October 10, 2018, I served the following document(s): **DECLARATION OF RICK NEUGEBAUER IN SUPPORT OF DEFENDANT DE PORTOLA ESTATE WINERY, LLC'S OPPOSITION TO TEMPORARY RESTRAINING ORDER** in the above-referenced case, by placing a true copy thereof, enclosed in a sealed envelope, addressed and served as follows:

- |   |   |
|---|---|
|   | BY PERSONALLY DEPOSITING THE MAIL: On the date specified above, I deposited in the mail at the place specified above a copy of the document described above in a sealed envelope, with postage fully prepaid addressed to the individuals and/or to the offices of the addressee(s) below.  |
|   | BY BUSINESS PRACTICE TO ENTRUST DEPOSIT TO OTHERS: I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified below, at my place of business at Stockton, California, a copy of the document described above was placed for deposit in the United States Postal Service mailbox in a sealed envelope, with postage fully prepaid addressed to the individuals and/or to the offices of the addressee(s) below, and that envelope was placed for collection and mailing on that date following ordinary business practice. |
|   | BY EXPRESS SERVICE CARRIER: On the date specified below, I deposited in a box or other facility regularly maintained by Federal Express, United Parcel Service or other express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive DOCUMENTS, a copy of the document mentioned above, in an envelope designed by the said express service carrier, with delivery fees paid or provided for addressed to the individuals and/or to the offices of the addressee(s) below.  |
| X | BY PERSONAL SERVICE: On the date specified below, I caused such envelope to be delivered by hand addressed to the individuals and/or to the offices of the addressee(s) below.  |
|   | BY FAX TRANSMISSION: On the date specified below, I transmitted from a facsimile transmission machine the DOCUMENTS described above addressed to the individuals and/or to the offices of the addressee(s) below. The above-described transmission was reported as complete without error by a transmission issued by the facsimile transmission machine upon which the said transmission was immediately following the transmission to the individuals and/or to the offices of the addressee(s) below.  |

Robert B. Rosenstein, Esq. ROSENSTEIN & ASSOCIATES 28600 Mercedes Street, Suite 100 Temecula, CA 92590  Telephone: (951) 296-3888 Facsimile: (951) 296-3889  <i>Attorneys for Plaintiff, FAZELI VINEYARDS, LLC Dba FAZELI CELLARS</i>	Christina Vanarelli, Esq. CHRISTINA VANARELLI, INC. 674 County Square Drive, Suite 209C Ventura, CA 93003  Telephone: (805) 233-7848 Facsimile: (805) 456-0885  Email: <a href="mailto:Christina@YourVenturaCountyLawyer.com">Christina@YourVenturaCountyLawyer.com</a>  <i>Attorney for Defendants, PAUL WARSON and PLANAW, LLC</i>
---	--

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 10, 2018, at Temecula, California.

  
\_\_\_\_\_  
Riley Bradford

## WESTLAW

## NOTES OF DECISIONS (1)

Exclusive dealings

West's Annotated California Codes  
 Business and Professions Code (Refs & Annos)  
 Division 9. Alcoholic Beverages (Refs & Annos)

## § 23358. Winegrowers; sales

West's Ann. Cal. Bus. & Prof. Code § 23358 | West's Annotated California Codes | Business and Professions Code | Effective: January 1, 2011 (Approx. 2 pages)  
 Article 3. Rights and Obligations of Licensees (Refs & Annos)

**Effective: January 1, 2011**

West's Ann. Cal. Bus. & Prof. Code § 23358

## § 23358. Winegrowers; sales

Currentness

(a) Licensed winegrowers, notwithstanding any other provisions of this division, may also exercise the following privileges:

- (1) Sell wine and brandy to any person holding a license authorizing the sale of wine or brandy.
  - (2) Sell wine and brandy to consumers for consumption off the premises where sold.
  - (3) Sell wine to consumers for consumption on the premises.
  - (4) Sell all beers, wines, and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place as defined in Section 23038 of this code, which is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and which is operated by and for the licensee. At such bona fide public eating place beer, wine, and brandy may be used in the preparation of food and beverages to be consumed on the premises.
  - (5) Produce spirits of wine and blend those spirits of wine into wine produced by the winegrower or sell those spirits of wine to an industrial alcohol dealer.
- (b) A winegrower may also have upon the premises all beers, wines, and brandies, regardless of source, for sale or service only to guests during private events or private functions not open to the general public. Alcoholic beverage products sold at the premises that are not produced and bottled by, or produced and packaged for, the winegrower shall be purchased by the winegrower only from a licensed wholesaler.
- (c) A winegrower shall actually produce on his or her licensed premises by conversion of grapes, berries, or other fruit, into wine, not less than 50 percent of all wines sold to consumers on his or her licensed premise or premises and any licensed branch premise or premises.
- (d) The department may, if it shall determine for good cause that the granting of any such privilege would be contrary to public welfare or morals, deny the right to exercise any on-sale privilege authorized by this section in either a bona fide eating place the main entrance to which is within 200 feet of a school or church, or on the licensed winery premises, or both.
- (e) Nothing in this section or in Section 23390 is intended to alter, diminish, replace, or eliminate the authority of a county, city, or city and county from exercising land use regulatory authority by law to the extent the authority may restrict, but not eliminate, privileges afforded by these sections.

**Credits**

(Added by Stats.1953, c. 152, p. 965, § 1. Amended by Stats.1959, c. 750, p. 2738, § 1; Stats.1965, c. 499, p. 1814, § 9; Stats.1967, c. 1067, p. 2696, § 2; Stats.1970, c. 631, p. 1249, § 1; Stats.1978, c. 16, p. 75, § 1; Stats.1993, c. 238 (S.B.113), § 1; Stats.2008, c. 127 (A.B.2004), § 1; Stats.2010, c. 129 (A.B.1649), § 2.)

## Notes of Decisions containing your search terms (0)

View all 1

West's Ann. Cal. Bus. & Prof. Code § 23358, CA BUS & PROF § 23358  
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West's Annotated California Codes  
 Business and Professions Code (Refs & Annos)  
 Division 9. Alcoholic Beverages (Refs & Annos)

**§ 23356. Manufacturer's or winegrower's license**

West's Ann. Cal. Bus. & Prof. Code § 23356 | West's Annotated California Codes | Business and Professions Code | Effective: September 9, 2004 (Approx. 2 pages)  
 Article 3. Rights and Obligations of Licensees (Refs & Annos)

**Effective: September 9, 2004**

West's Ann. Cal. Bus. &amp; Prof. Code § 23356

**§ 23356. Manufacturer's or winegrower's license**

Currentness

Any manufacturer's or winegrower's license authorizes the person to whom it is issued to become a manufacturer or producer of the alcoholic beverage specified in the license, and to do any of the following:

- (a) Whether manufactured or produced by him or her or any other person, to package, rectify, mix, flavor, color, label, and export the alcoholic beverage specified in the license.
- (b) To sell only those alcoholic beverages as are packaged by or for him or her only to persons holding wholesaler's, manufacturer's, winegrower's, manufacturer's agent's, or rectifier's licenses authorizing the sale of those alcoholic beverages and to persons who take delivery of those alcoholic beverages within this state for delivery or use without the state.
- (c) To deal in warehouse receipts for the alcoholic beverage specified in the license.

**Credits**

(Added by Stats.1953, c. 152, p. 965, § 1. Amended by Stats.2004, c. 437 (A.B.3085), § 3, eff. Sept. 9, 2004.)

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**NOTES OF DECISIONS (1)**

Off-sale general licenses

**Shaun V Knapp**

October 9, 2018 | 04:43 PM | SHAUNKNAPP64

Rectify, mix flavor label. If doing any of these activities, considered "manufacture", need license.

WESTLAW

NOTES OF DECISIONS (1)

Off-sale general licenses

West's Annotated California Codes  
 Business and Professions Code (Refs & Annos)  
 Division 9. Alcoholic Beverages (Refs & Annos)

**§ 23356. Manufacturer's or winegrower's license**  
 West's Ann.Cal.Bus. & Prof.Code § 23356 | West's Annotated California Codes | Business and Professions Code | Effective: September 9, 2004 (Approx. 2 pages)  
ARTICLE 3. RIGHTS AND OBLIGATIONS OF LICENSEES (REFS & ANNOS)

Effective: September 9, 2004

West's Ann.Cal.Bus. & Prof.Code § 23356

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- (a) Whether manufactured or produced by him or her or any other person, to package, rectify, mix, flavor, color, label, and export the alcoholic beverage specified in the license.
- (b) To sell only those alcoholic beverages as are packaged by or for him or her only to persons holding wholesaler's, manufacturer's, winegrower's, manufacturer's agent's, or rectifier's licenses authorizing the sale of those alcoholic beverages and to persons who take delivery of those alcoholic beverages within this state for delivery or use without the state.
- (c) To deal in warehouse receipts for the alcoholic beverage specified in the license.

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(Added by Stats.1953, c. 152, p. 965, § 1. Amended by Stats.2004, c. 437 (A.B.3085), § 3, eff. Sept. 9, 2004.)

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Rectify, mix flavor label. If doing any of these activities, considered "manufacture", need license.



## Valley News -

### De Portola Estate Winery project moving along, despite issues with neighbors

By Jeff Pack  
Writer



Jeff Pack

Rick Neugebauer stands with the "coming soon" sign for the winery he is developing in Temecula Wine Country. De Portola Estate Winery plans to open in the spring of 2020.

Rick Neugebauer, president and CEO of RTN Development in Temecula, decided he had developed and built enough wineries for other people in Temecula Wine Country.

Along with his son, Ted, he wanted to build one for himself.

"We started on this trip a year ago, March 17, to look at the potential of doing a winery since we'd been building other people's wineries and helping them permit and doing the intellectual work and work on code enforcement issues and those types of things for so long," Rick Neugebauer said in an interview at his RTN offices in Old Town Temecula. "We had another investor that we thought was going to put up the money to make this happen, but long story short that didn't happen. We end up having to put our own offering together with prospectus and raised the money we needed and closed on the property."

In December 2017, they began attempting to identify what kind of winery they wanted to be.

"We started down that path to identify who we were, what we were going to be, who we were going to be, what kind of wines we were going to make, the kind of foods we were going to have and even to the point of the architecture," Neugebauer said. "We said, 'Well, we want to be a Spanish-themed winery.' The architecture is what I call 'modern Spanish contemporary.' Our wines, leaning more to the Spanish varietals, tempranillo, garnacha, verdejo, albarino, monastrell. We will have Spanish food like paella, tapas and that type of stuff."

With a last name like Neugebauer, people might wonder how the Spanish influence was decided upon.

"I have a little, like 25 percent, Spanish blood in me, and my grandfather was from Bogota, Colombia, and my mom spent a number of years growing up down there," he said. "Those flavors, those spices, those things have really influenced my palate."

Early this year, Neugebauer was talking with a neighbor winery about the project, and they suggested he attend the next meeting of the De Portola Wine Trail Association Board.

"I go, 'Well, OK, I can come and show you guys what we're doing and what we're thinking,'" Neugebauer said.

But he said a few days later, another member suggested that he not attend. So, he didn't.

"We proceeded down our own path doing what we thought was the right thing," Neugebauer said. "Which is and was, to get our name trademarked and all the items that go along with that, which happened to be making wine, serving food and educating people and having a winery using De Portola Estate Winery as the namesake."

That's when he started to hear the grumblings.

"I was hearing pushback from a couple of the winery owners and winemakers on De Portola that were saying really I shouldn't be using that name because that was their name, that was under De Portola Wine Trail Association, which is a nonprofit 501(c)(3)," Neugebauer said. "Well, I don't see anywhere where that (name is) protected, and I don't really think that both of those are the same thing."

Rick said he began sending updates to De Portola Wine Trail winery owners on the progress from his patent trademark lawyer.

"I said, 'Here, here's where we're at. You guys got 90 days to comment. Anybody have anything to say? Or forever hold your peace,'" he said. "Nothing, absolutely nothing."

By May, he said, the grumblings were turning into threats about potential lawsuits. Then in June, he received correspondence from a local lawyer that he was in violation of trade secrets.

"Because, they said, I'm using the same winemaker that has an exclusivity agreement with another winery," Neugebauer said. "So, I took the time; I walked over to (his) office over here which is on the next street and said, 'Hey, I'd like to meet with you guys; let's talk about the problem.'"

Rick said the lawyer, which was representing Fazeli Cellars, told him that they had an agreement with the winemaker in question.

"So, I say, 'Show me the agreement,'" Neugebauer said. "He said, 'Well, it's a verbal agreement.'"

"The rhetoric continued to ramp itself up until the point that they filed an accelerated ex parte motion last Wednesday with the court that is for the temporary restraining order – which was denied by the judge."

Neugebauer said the failed restraining order request is just part of the bigger goal of taking the De Portola name away from the winery.

"In a letter that BJ (Fazeli) sent out, he put a paragraph in there that he sent to all the wine growers, and this is kind of paraphrasing, he goes, 'Just so the rumors don't get out there, the De Portola Wine Trail Association will be suing De Portola Winery for its name and taking away all of their rights to have that.'"

Neugebauer acknowledges that choosing to use the De Portola name for his winery could rattle some cages, but he argued that it won't matter in the long run. He insisted the name will only be a portion of the identity of the region.

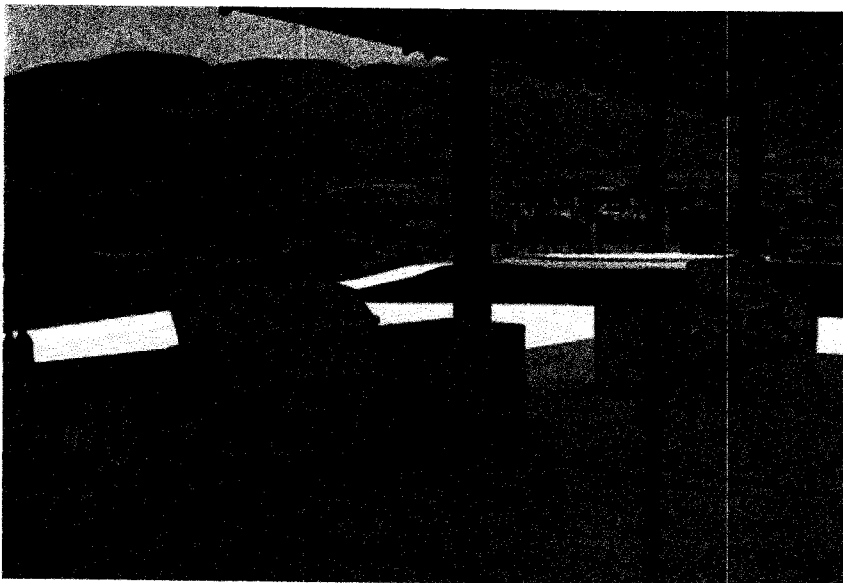
Getting into the wine business at this stage of his career indicates a fairly radical shift for Neugebauer, he said, but he isn't worried about that. He plans on moving his RTN Development offices over to the winery location and working from there, in addition to becoming a winery owner.

"I mean I hear some of the commentary like, 'You're going to be giving up your life,' and it's like, 'OK, that's kinda what I plan to do because it's a big career change,'" he said. "But I looked at everybody else and what were they doing before they became winery owners or vineyard managers or winemakers, what did they do before this? I can take a list around to everyone, and they were all doing other things before this."

According to Neugebauer, the property is 20.9 acres in size, and he has three buildings planned.

"We're entitling it with three buildings, two that are going to be permitted once we get approved," he said. "The tasting room, it's a 14,000-square-foot building that includes about 8,000 feet of patio and a restaurant. Then we have a 10,000-square-foot production building, which is a two-story and a cellar."

Phase two, he said, is a 44-room hotel with another restaurant, a spa and a small conference area.



Courtesy

An artist rendering shows the covered barbecue area at the planned De Portola Estate Winery.

"We've been officially notified that we're going to be at the board of supervisors Nov. 6 for approval of our project," Neugebauer said. "The other thing that we felt was special for our project is that we did get fast track approval."

Despite all the drama and impending issues, Neugebauer is excited about the prospect of opening his own winery with the Spanish flair, he said; that's what he wanted to talk about.

"We're going to have those things that you go to experience in Spain," he said. "We're going to have it here. It's going to be great."

Follow along with the progress and development of De Portola Estate Winery on Facebook at <http://www.facebook.com/DePortolaEstateWinery>.

*Jeff Pack can be reached by email at [jpack@reedermedia.com](mailto:jpack@reedermedia.com).*

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**Rancho  
Water**

November 6, 2018

**VIA HAND-DELIVERY**

Tim Wheeler  
**Riverside County Planning Department**  
Post Office Box 1409  
Riverside, CA 92502-1409

**SUBJECT: DE PORTOLA ESTATES WINERY - PLOT PLAN NO.  
180019**

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**James B. Gilpin**  
**Best Best & Krieger LLP**  
General Counsel

Dear Mr. Wheeler:

Rancho California Water District (RCWD) appreciates the opportunity to provide comments on the De Portola Estates Winery – Plot Plan No. 180019 (Project). RCWD contends that the Project will have significant adverse effects on the Temecula-Murrieta Groundwater Basin. These impacts were clearly identified as part of the County of Riverside's (County) land use planning process for the Wine Country Community Plan. The required mitigation measures to be imposed on all projects in the Wine Country Community Plan were included in EIR No. 524 for the Wine Country Community Plan, as adopted by the County in January 2014. These mitigation measures require the effluent from the proposed Onsite Wastewater Treatment System (OWTS) not to exceed the San Diego Regional Water Quality Control Board (SDRWQCB) water quality thresholds, which the Project's Conditions of Approval fail to achieve.

As per the Mitigation and Monitoring Reporting Program outlined in EIR No. 524, there are three (3) mitigation measures for which either the County Planning Department or the County Department of Environmental Health are identified as the responsible party. Presented in the Hydrology and Water Quality section, the three (3) mitigation measures include:

1. **HYD-2:** All implementing projects exceeding a discharge of average aggregate wastewater flow that exceeds the San Diego Regional Water Quality Control Board (SDRWQCB) threshold shall be required to connect to sewer services when it is made available by the Eastern Municipal Water District (EMWD). Most single-family residences may be exempted from the average aggregate wastewater flow requirements, regardless of family units.
2. **PSU Sewer-1:** Interim to sewer services in this region, all implementing projects proposed for construction in the Project area shall provide onsite wastewater treatment that does not exceed a wastewater discharge of 1,200 gpd and to meet compliance with the Basin Plan Groundwater Quality Objectives, as well as additional conditions for salinity management to the satisfaction of the County Department of Environmental Health, RCWD, and the San Diego Regional Water Quality Control Board.

19.2

3. PSU Sewer-2: All implementing projects shall make a fair share contribution toward proposed sewer improvements, as set forth in the phasing and financing plan being developed by EMWD. In addition, all implementing projects shall be responsible for extending sewer lines from available trunk lines as a condition of approval for the project, and/or otherwise ensuring adequate wastewater service consistent with County, RCWD, and Regional Water Quality Control Board requirements, as deemed appropriate by the County during application review, in order to meet water quality standards and comply with applicable policies and regulations adopted by the County, RCWD, and the Regional Water Quality Control Board. Every future project in the Project area shall have special sewer conditions, as established by the County, pursuant to the "Temecula Valley Wine Country (TVWC) Draft Conditions of Approval," adopted by the Board on April 24, 2012.

The Project is located at 37440 De Portola Road, Temecula, and is within the Upper Pauba Ground Water Hydrologic Sub-Area of the Santa Margarita Hydrologic Unit. The San Diego Regional Water Quality Control Board's Water Quality Control Plan for the San Diego Basin (Basin Plan) establishes a Total Dissolved Solids (TDS) groundwater quality objective of 500 mg/l throughout this portion of the Pauba Ground Water Hydrologic Sub-Area, which is upgradient from a point 0.5 miles east of the intersection of Butterfield Stage Road and Highway 79 (Basin Plan, Table 3-3 Endnote O). There is also a Nitrate water quality objective of 45 mg/l. In the absence of site-specific groundwater quality data and project-specific assimilative capacity analyses, Regional Water Quality Control Board policy requires the imposition of a 500 mg/l TDS and a 45 mg/l Nitrate effluent limit on all wastewater discharges from the Project. Accordingly, RCWD requests that these mitigation measures be included in the conditions of approval for the Project. Specifically, that the conditions of approval for the Project include:

- Interim to sewer services in this region being provided by EMWD, the Project shall be permitted to have an Onsite Wastewater Treatment System (OWTS), which does not exceed a wastewater discharge of 1,200 gpd. Note: This is the *maximum daily discharge* that shall be permitted, and may affect the proposed development of the project; and
- The Project shall be responsible for extending sewer lines from sewer trunk lines when made available by EMWD, and destroying the OWTS.

The Project's Condition of Approval Waste Water E. Health 1 is entirely unacceptable to RCWD for the following reasons:

- Allows for an OWTS larger than 1,200 gallons per day, which is specifically prohibited by EIR No. 524 Mitigation Measure PSU Sewer-1;
- Requires sewer connection only after EMWD constructs a sewer "along the project's frontage." This is in direct conflict with EIR No. 524 Mitigation Measure PSU Sewer-2, which specifically states that "all implementing projects shall be responsible for extending sewer lines from available trunk lines as a condition of approval for the project," thereby requiring extension of sewer lines from an EMWD trunk line, to the project's property frontage; and

- Fails to provide any guarantee that “the advanced on-site wastewater treatment” required within this area will provide adequate protection for the groundwater basin. The National Sanitation Foundation (NSF) standards referenced are being incorrectly applied for the Project’s large commercial OWTS. Per the National Sanitation Foundation’s website (<http://www.nsf.org>), NSF/ANSI 40 and NSF/ANSI 245 both cover residential wastewater treatment systems with rated capacities between 400 and 1,500 gallons per day. These standards would not be applicable for a non-residential OWTS, or an OWTS larger than 1,500 gallons per day. These NSF standards cannot guarantee the reduction in TDS and Nitrates. Specifically, NSF 245 only requires a reduction in Total Suspended Solids (TSS) and Nitrogen, and makes no requirements for TDS and Nitrates. Application of the incorrect NSF standards will not safeguard the groundwater basin.

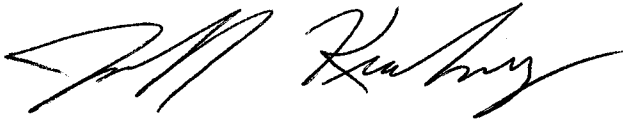
The County’s Department of Environmental Health has made the incorrect determination that due to the Local Agency Management Plan (LAMP), compliance with the California Environmental Quality Act (CEQA) mitigation measures in EIR No. 524 is no longer necessary. RCWD strongly disagrees, and respectfully references Assembly Bill 885, as approved on September 27, 2000, which directed the State Water Resources Control Board (State Water Board) to develop regulations or standards for Onsite Wastewater Treatment Systems (OWTS) to be implemented by qualified local agencies. In order to authorize local agencies to prepare LAMPs, the State Water Board adopted the *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems* on June 19, 2012. The State Water Board simultaneously adopted *The Onsite Wastewater Treatment System Policy Final Substitute Environmental Document* (OWTS Environmental Document). The OWTS Environmental Document clearly presents that ***the intent of the local agency LAMPs is to provide minimum standards for OWTS, and that local agency LAMPs are not to affect other federal and state regulations.*** Per Section 5.3.2 of the OWTS Environmental Document, “The proposed Policy provides minimum standards for siting, construction, operation, and maintenance of specified OWTS in California. The process by which local agencies approve a project that includes construction and operation of an OWTS is a local land use and development process that would remain unchanged by the proposed Policy. Other regulations designed to protect the environment would also be unaffected by implementation of the proposed Policy. This subsection provides an overview of the more important federal, state, and local laws and regulations that protect the environment of California. These laws and regulations would continue to guide the construction and operation of projects in California, including OWTS.” (OWTS Environmental Document, Page 129).

On November 7<sup>th</sup>, County Planning and Department of Environmental Health staff members are scheduled to meet with staff from RCWD, EMWD, and the SDRWQCB to discuss the County’s application of the LAMP in the Wine Country Community Plan Area. Until this issue has been resolved, RCWD must insist that these mitigation measures be incorporated into the Project’s Conditions of Approval.

Thank you again for the opportunity to provide written comments on the proposed De Portola Estates Winery (Plot Plan No. 180019). If you should have any questions or need additional information, please contact me at this office at (951) 296-6900.

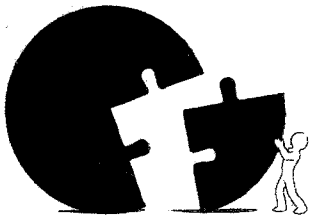
Sincerely,

**RANCHO CALIFORNIA WATER DISTRICT**



Jeff Kirshberg, Ph.D., P.E.  
Water Resources Manager

cc: Jeff Armstrong, General Manager  
Eva Plajzer, Assistant General Manager-Engineering and Operations  
Rich Ottolini, Water Operations Manager



# RIVERSIDE COUNTY PLANNING DEPARTMENT

*Charissa Leach, P.E.*  
*Assistant TLMA Director*

## Memorandum

**DATE:** November 6, 2018  
**TO:** Board of Supervisors  
**FROM:** Russell Brady, Principal Planner  
**RE:** Item 19.2 – Comments Received

Since completion of the Form 11 package, staff has received the attached comments from the Rancho California Water District (RCWD) and from Lorraine Harrington.

On their citation of Temecula Valley Wine Country Community Plan (TVWCCP) EIR Mitigation Measure PSU Sewer-1, although this mitigation measure on its own would appear to establish a set threshold on onsite wastewater treatment to 1,200 gallons per day, the analysis within the EIR which is attached here provides further background that this threshold may not stay in place for the life of the TVWCCP. Subsequently the Regional Water Quality Control Board approved Riverside County Environmental Health's Local Agency Management Program (LAMP) that generally allowed for onsite wastewater treatment up to 10,000 gallons per day which Environmental Health has been utilizing to review development proposals in process since approval of the LAMP. The concerns addressed in RCWD's letter may require further review by staff for consideration.

The attached comments were received from Lorraine Harrington generally concerned about noise being generated by the project and a desire for noise testing prior to approval of the project. Staff has reviewed these concerns and proposes the addition of the below conditions of approval to provide greater clarity regarding compliance with noise standards and the potential need for noise monitoring to occur.

### Exterior Noise Levels

Exterior noise levels produced by any use allowed under this permit, including, but not limited to, any outdoor public address system, shall not exceed 45 db(A), 10-minute LEQ, between the hours of 10:00 p.m. to 7:00 a.m., and 65 db(A), 10-minute LEQ, at all other times as measured at any residential, hospital, school, library, nursing home or other similar noise sensitive land use. In the event noise exceeds this standard, the permittee or the permittee's successor-in-interest shall take the necessary steps to remedy the situation, which may include discontinued operation of the facilities. The permit holder shall comply with the applicable standards of Ordinance No. 847. -Site-specific noise-attenuating features such as hills, berms, setbacks, block walls, or other measures shall be considered for noise attenuation in noise-producing areas of future wineries including, but not limited to, locations of mechanical equipment, locations of shipping facilities, access, and parking areas.

-All special event vendors (DJs, bands, etc.) shall be notified regarding noise conditions of approval

Riverside Office · 4080 Lemon Street, 12th Floor  
P.O. Box 1409, Riverside, California 92502-1409  
(951) 955-3200 · Fax (951) 955-1811

Desert Office · 77588 El Duna Court, Suite H  
Palm Desert, California 92211  
(760) 863-8277 · Fax (760) 863-7040

jar

-Outdoor special events and associated audio equipment, sound amplifying equipment and /or performance of live music shall be limited to the hours of 8:00 am to 10:00pm Monday through Sunday.

-Noise levels shall be kept below levels prescribed in the County's General Plan Noise Element and County Noise Ordinance# 847. Decibel measuring devices shall be used when amplified music is used to ensure compliance.

-Clean-up activities associated with special events shall terminate no later than midnight

-Outdoor speakers for all scheduled events shall be oriented toward the center of the winery property and away from adjoining land uses

-Padding/carpeting shall be installed under music speakers for absorption of music.

#### Noise Monitoring

The permit holder may be required to submit periodic noise monitoring reports as determined by the Department of Building and Safety as part of a code enforcement action. Upon written notice from the Department of Building and Safety requiring such a report, the permittee or the permittee's successor-in-interest shall prepare and submit an approved report within thirty (30) calendar days to the Department of Building and Safety, unless more time is allowed through written agreement by the Department of Building and Safety. The noise monitoring report shall be approved by the Office of Industrial Hygiene of the Health Service Agency (the permittee or the permittee's successor-in-interest shall be required to place on deposit sufficient funds to cover the costs of this approval prior to commencing the required report).



**Rancho  
Water**

November 6, 2018

**VIA HAND-DELIVERY**

Tim Wheeler  
Riverside County Planning Department  
Post Office Box 1409  
Riverside, CA 92502-1409

**SUBJECT: DE PORTOLA ESTATES WINERY - PLOT PLAN NO.  
180019**

Dear Mr. Wheeler:

Rancho California Water District (RCWD) appreciates the opportunity to provide comments on the De Portola Estates Winery – Plot Plan No. 180019 (Project). RCWD contends that the Project will have significant adverse effects on the Temecula-Murrieta Groundwater Basin. These impacts were clearly identified as part of the County of Riverside's (County) land use planning process for the Wine Country Community Plan. The required mitigation measures to be imposed on all projects in the Wine Country Community Plan were included in EIR No. 524 for the Wine Country Community Plan, as adopted by the County in January 2014. These mitigation measures require the effluent from the proposed Onsite Wastewater Treatment System (OWTS) not to exceed the San Diego Regional Water Quality Control Board (SDRWQCB) water quality thresholds, which the Project's Conditions of Approval fail to achieve.

As per the Mitigation and Monitoring Reporting Program outlined in EIR No. 524, there are three (3) mitigation measures for which either the County Planning Department or the County Department of Environmental Health are identified as the responsible party. Presented in the Hydrology and Water Quality section, the three (3) mitigation measures include:

1. **HYD-2:** All implementing projects exceeding a discharge of average aggregate wastewater flow that exceeds the San Diego Regional Water Quality Control Board (SDRWQCB) threshold shall be required to connect to sewer services when it is made available by the Eastern Municipal Water District (EMWD). Most single-family residences may be exempted from the average aggregate wastewater flow requirements, regardless of family units.
2. **PSU Sewer-1:** Interim to sewer services in this region, all implementing projects proposed for construction in the Project area shall provide onsite wastewater treatment that does not exceed a wastewater discharge of 1,200 gpd and to meet compliance with the Basin Plan Groundwater Quality Objectives, as well as additional conditions for salinity management to the satisfaction of the County Department of Environmental Health, RCWD, and the San Diego Regional Water Quality Control Board.

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Best Best & Krieger LLP  
General Counsel

3. PSU Sewer-2: All implementing projects shall make a fair share contribution toward proposed sewer improvements, as set forth in the phasing and financing plan being developed by EMWD. In addition, all implementing projects shall be responsible for extending sewer lines from available trunk lines as a condition of approval for the project, and/or otherwise ensuring adequate wastewater service consistent with County, RCWD, and Regional Water Quality Control Board requirements, as deemed appropriate by the County during application review, in order to meet water quality standards and comply with applicable policies and regulations adopted by the County, RCWD, and the Regional Water Quality Control Board. Every future project in the Project area shall have special sewer conditions, as established by the County, pursuant to the "Temecula Valley Wine Country (TVWC) Draft Conditions of Approval," adopted by the Board on April 24, 2012.

The Project is located at 37440 De Portola Road, Temecula, and is within the Upper Pauba Ground Water Hydrologic Sub-Area of the Santa Margarita Hydrologic Unit. The San Diego Regional Water Quality Control Board's Water Quality Control Plan for the San Diego Basin (Basin Plan) establishes a Total Dissolved Solids (TDS) groundwater quality objective of 500 mg/l throughout this portion of the Pauba Ground Water Hydrologic Sub-Area, which is upgradient from a point 0.5 miles east of the intersection of Butterfield Stage Road and Highway 79 (Basin Plan, Table 3-3 Endnote O). There is also a Nitrate water quality objective of 45 mg/l. In the absence of site-specific groundwater quality data and project-specific assimilative capacity analyses, Regional Water Quality Control Board policy requires the imposition of a 500 mg/l TDS and a 45 mg/l Nitrate effluent limit on all wastewater discharges from the Project. Accordingly, RCWD requests that these mitigation measures be included in the conditions of approval for the Project. Specifically, that the conditions of approval for the Project include:

- Interim to sewer services in this region being provided by EMWD, the Project shall be permitted to have an Onsite Wastewater Treatment System (OWTS), which does not exceed a wastewater discharge of 1,200 gpd. Note: This is the *maximum daily discharge* that shall be permitted, and may affect the proposed development of the project; and
- The Project shall be responsible for extending sewer lines from sewer trunk lines when made available by EMWD, and destroying the OWTS.

The Project's Condition of Approval Waste Water E. Health 1 is entirely unacceptable to RCWD for the following reasons:

- Allows for an OWTS larger than 1,200 gallons per day, which is specifically prohibited by EIR No. 524 Mitigation Measure PSU Sewer-1;
- Requires sewer connection only after EMWD constructs a sewer "along the project's frontage." This is in direct conflict with EIR No. 524 Mitigation Measure PSU Sewer-2, which specifically states that "all implementing projects shall be responsible for extending sewer lines from available trunk lines as a condition of approval for the project," thereby requiring extension of sewer lines from an EMWD trunk line, to the project's property frontage; and



- Fails to provide any guarantee that “the advanced on-site wastewater treatment” required within this area will provide adequate protection for the groundwater basin. The National Sanitation Foundation (NSF) standards referenced are being incorrectly applied for the Project’s large commercial OWTS. Per the National Sanitation Foundation’s website (<http://www.nsf.org>), NSF/ANSI 40 and NSF/ANSI 245 both cover residential wastewater treatment systems with rated capacities between 400 and 1,500 gallons per day. These standards would not be applicable for a non-residential OWTS, or an OWTS larger than 1,500 gallons per day. These NSF standards cannot guarantee the reduction in TDS and Nitrates. Specifically, NSF 245 only requires a reduction in Total Suspended Solids (TSS) and Nitrogen, and makes no requirements for TDS and Nitrates. Application of the incorrect NSF standards will not safeguard the groundwater basin.

The County’s Department of Environmental Health has made the incorrect determination that due to the Local Agency Management Plan (LAMP), compliance with the California Environmental Quality Act (CEQA) mitigation measures in EIR No. 524 is no longer necessary. RCWD strongly disagrees, and respectfully references Assembly Bill 885, as approved on September 27, 2000, which directed the State Water Resources Control Board (State Water Board) to develop regulations or standards for Onsite Wastewater Treatment Systems (OWTS) to be implemented by qualified local agencies. In order to authorize local agencies to prepare LAMPs, the State Water Board adopted the *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems* on June 19, 2012. The State Water Board simultaneously adopted *The Onsite Wastewater Treatment System Policy Final Substitute Environmental Document* (OWTS Environmental Document). The OWTS Environmental Document clearly presents that ***the intent of the local agency LAMPs is to provide minimum standards for OWTS, and that local agency LAMPs are not to affect other federal and state regulations.*** Per Section 5.3.2 of the OWTS Environmental Document, “The proposed Policy provides minimum standards for siting, construction, operation, and maintenance of specified OWTS in California. The process by which local agencies approve a project that includes construction and operation of an OWTS is a local land use and development process that would remain unchanged by the proposed Policy. Other regulations designed to protect the environment would also be unaffected by implementation of the proposed Policy. This subsection provides an overview of the more important federal, state, and local laws and regulations that protect the environment of California. These laws and regulations would continue to guide the construction and operation of projects in California, including OWTS.” (OWTS Environmental Document, Page 129).

On November 7<sup>th</sup>, County Planning and Department of Environmental Health staff members are scheduled to meet with staff from RCWD, EMWD, and the SDRWQCB to discuss the County’s application of the LAMP in the Wine Country Community Plan Area. Until this issue has been resolved, RCWD must insist that these mitigation measures be incorporated into the Project’s Conditions of Approval.

**Letter to Tim Wheeler/Riverside County Planning Department**

**November 6, 2018**

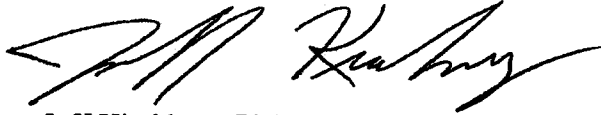
**Page 4**

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Thank you again for the opportunity to provide written comments on the proposed De Portola Estates Winery (Plot Plan No. 180019). If you should have any questions or need additional information, please contact me at this office at (951) 296-6900.

Sincerely,

**RANCHO CALIFORNIA WATER DISTRICT**



**Jeff Kirshberg, Ph.D., P.E.  
Water Resources Manager**

cc: **Jeff Armstrong, General Manager**  
**Eva Plajzer, Assistant General Manager-Engineering and Operations**  
**Rich Ottolini, Water Operations Manager**

18UK:lm027AFEG



## **Wheeler, Timothy**

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**From:** lorraine harrington <lfh415@yahoo.com>  
**Sent:** Monday, November 05, 2018 10:21 AM  
**To:** COB  
**Cc:** Wheeler, Timothy; District3  
**Subject:** Opposition to BOS Nov 6 Agenda Item: Fast Track No 2018-01 for Plot Plan 180019

**Please distribute this letter to all Supervisors prior to the Public Hearing on Nov 6, 2018. Thank you.**

To: Supervisor Chuck Washington, 3rd District, and entire Board of Supervisors

Re: Opposition to Fast Track No 2018-01 for Plot Plan 180019; Request to Augment Noise Testing

Dear Supervisors,

I am writing to you as a resident of Wine Country and a neighbor who may be impacted by the outdoor amplified music proposed in Plot Plan 180019 (De Portola Estate Winery). I know from the many months I spent as a member of the Wine Country Community Plan Advisory Committee that noise levels generated by outdoor amplified music were of real concern to the neighborhoods surrounding AND IN THE VICINITY OF the wineries. I remember in particular a study that was done at the request of neighbors a mile from Monte de Oro Winery that illustrated that noise measurements at the required measurement points on the winery property lines showed compliance with County Standards, but measurements **a mile away** showed unacceptable levels, due to topographical anomalies. I also remember a major winery owner (Mike Rennie of Leoness) telling the Committee that this "was not Rocket Science. Just put the amplified music indoors". Much to the dismay of many residents, this foolproof solution was cut from the final version of the Plan.

We all know that topography in the Wine Country does unpredictable things to noise. What we must acknowledge is that the County's current standards may not fit all situations.

What we have with the current Plot Plan is a winery with a neighborhood up the hill from it. (I live beyond this immediate neighborhood). I don't think any of us know how the sound is going to travel. I realize that the Conditions of Approval already require that De Portola Estate Winery do a follow up Noise Evaluation at its first outdoor event, but should we discover then that neighbors are being disturbed, we would face either an Enforcement issue (and we know the constant complaints about enforcement) or a cost issue for the owner (in potentially having to alter his plot design **after the fact**). Why not try to figure this out before the project is built? My suggestion is to try to prevent a bad situation by requiring the winery to hold an event **prior to project approval**, with band and DJ (because sound from DJs is worse than bands) while measuring the noise

impact in the surrounding neighborhood as well as at the property's perimeter. I would ask that you do this before approving the project.

This might sound at first like a hokey idea. But I know from my involvement with the residents that: 1) people are generally amenable to cooperating in a neighborly fashion to "make things work" with implementation of the Wine Country Plan, and 2) they don't pay much attention to notification of Public Hearing like today's, but will bang on my and other Committee members' doors after something is put in place to try to get it turned around. I think we all want to avoid situations of potential conflict. I am trying to reach the winery owner to discuss this idea but I urge the Board of Supervisors to postpone approval until such a test event could be staged. The cost/benefit to both the project budget and the goodwill of the neighborhood suggests the BOS could help create a win/win.

Or, take the easiest approach and require that amplified music be put indoors.

Thank you.

Lorraine Harrington  
3580 Pauba Road, Temecula

## CHAPTER 3.0, PROJECT DESCRIPTION

### Page 3.0-1, under 3.2 Project Location heading

“The Project is generally located in the Southwest Area Plan in the southwestern portion of unincorporated Riverside County, approximately three miles north of the border with San Diego County (refer to Exhibit 3.0-1, Regional Location Map). The Project covers approximately 18,990 acres of land located east of the City of Temecula, approximately one half mile north of the Pechanga Reservation, south of Lake Skinner, and northwest of Vail Lake (refer to Exhibit 3.0-2, Policy Area Map). This area contains some of Riverside County’s prime agriculture lands within the Temecula Valley.”

### Page 3.0-12, second paragraph

“The traffic study prepared for the Project recommends innovative street improvements, which would minimize/reduce traffic impacts created by implementing projects allowed pursuant to the Project. These improvements include, but are not limited to:”

### Page 3.0-13, Paragraph under Septic Facilities heading

“Numerous properties within the Project area currently utilize septic systems for wastewater disposal. At this time, the San Diego Regional Water Quality Control Board (RWQCB) is concerned about the use of onsite wastewater treatment systems (OWTS) within the Project area due to groundwater quality concerns. In response to this, RWQCB has requested that all commercial implementing projects proposing OWTS with an average aggregate (total) wastewater flow greater than 1,200 gallons per day (gpd) must be referred to them for assessment of compliance with water quality standards.<sup>2</sup> Note that the 1,200 gallon per day standard is under review by RWQCB and may not remain in place throughout the life of the Project. Residential development projects (proposing five or more residential lots or units) will be required to connect to the sewer system once in place.<sup>3,4</sup> It is possible that future implementing projects within the Project area Country may include OWTS as the wastewater solution (refer to Section 4.13, *Public Services and Utilities* for additional details).”

### Page 3.0-17, under Aesthetics/Light and Glare Project Design Features heading, item numbers 4, 8 and 9

4. “The Project (revised SWAP Policy 1.5) will require a density minimum lot size of one dwelling unit per ten (10) acres for new residential tract maps and parcel maps except in

<sup>2</sup> San Diego Regional Water Quality Control Board. *Temecula Valley Wine Country Memorandum*. Submitted to Mr. Steve Van Stockum, Director of Riverside County Department of Environmental Health (May 27, 2010).

<sup>3</sup> As described further in Section 4.13, *Public Services and Utilities*, the Riverside County Board of Supervisors adopted the “Temecula Valley Wine Country Draft Conditions of Approval”, on February 14 2012, in order to ensure timely provision of and funding for adequate wastewater infrastructure.

<sup>4</sup> Single family homes (or projects with fewer than five units) are assumed to generate less than the 1,200 gpd RWQCB threshold, based upon a typical “equivalent dwelling unit” wastewater generation of 265 gpd, per Appendix H, page 2-3 of May 2011 West Yost report entitled “Wine Country Infrastructure Study”.



Table 4.13-6  
Summarized Available Capacity and Sewer Connections for Wine Country

Trunk Main System	Available Capacity (mgd)	Maximum Number of EDU Connections
Nicolas Road System	0.467	1,535
Rancho California Road	0.034	50
Highway 79 South	0.324	440
<b>Totals</b>	<b>0.825</b>	<b>2,025</b>
Source: EMWD, <i>Wine Country Infrastructure Study</i> , prepared by West Yost Associates, May 2011.		

~~Exhibit 4.13-8, Sewers Evaluated in the Remaining Available Capacity Analysis~~, shows the location of the sewer trunk mains analyzed by the EMWD Infrastructure Study.

As an alternative to a regional wastewater collection and treatment system operated by EMWD, the Winery District area of the Project may also continue utilizing onsite wastewater treatments systems (OWTS) subject to requirements established by RWQCB. Currently, RWQCB delegates approval authority for such OWTS's to the County for projects with an average aggregate wastewater flow of less than 1,200 gallons per day, but this delegation of authority is under review RWQCB. Aggregate daily wastewater flows shall include the project's existing and proposed wastewater flow calculations). Any expansion of an existing facility that results in exceeding an aggregate daily wastewater flow of 1,200 gallons per day shall require referral to an assessment by the State Water Board.

Natural Resources Conservation Service (NRCS) provides general soils information, as shown on the attached Exhibit 4.13-9, *NRCS Soils Map – Areas of Infiltration* that can be useful for estimating the potential for infiltration required for operation of a OWTS. The exhibit has been provided as a planning tool for identifying the areas within the Project area that have soils capable of disposal of wastewater by rapid infiltration and are not intended to be used for design, or to determine whether infiltration is feasible for any given site. Based on the information mapped by NRCS a majority of the Project area is considered to have a "very limited" infiltration, meaning a reduced capability of allowing for rapid wastewater infiltration. In addition, some areas have soils that are considered to be somewhat limited or not limited to rapid wastewater infiltration. For this reason, it is not anticipated that future implementing projects will rely on rapid wastewater infiltration to support sewer services. Instead it is anticipated that backbone sewer infrastructure will be constructed to serve existing development and new implementing projects.

**Utilities – Solid Waste**

County Ordinance No. 657 divides unincorporated areas of the County into collection permit areas as shown on a map entitled "Solid Waste Collection Permit Areas of Riverside County." The map is subject to modification by the Board of Supervisors. Waste collection services to the Project area are provided by Waste Management Inc. under contract to the County of Riverside. Services to residential areas include provision of a three-barrel system that provides for collection of trash, recyclables, and green waste. The company also provides E-waste collection, bulky item collection, and ADA walk-in services. Businesses are provided with solid waste bins and weekly service.

Solid waste generated within the Project area would be taken to either the Perris Transfer Station located at 1706 Goetz Road in the City of Perris (operated by CR&R) or the Moreno Valley Transfer Station located at 17700 Indian Street in Moreno Valley (operated by Waste Management, Inc). Solid

Mitigation and Monitoring Reporting Program

Mitigation Measure	Responsible Party or Parties	Timing for Mitigation Measure	Method of Verification	County Verification of Compliance (Date/Initials)
<p><b>PSU SEWER-1</b></p> <p>Interim to sewer services in this region, all implementing projects proposed for construction in the Project area shall provide onsite wastewater treatment which does not exceed a wastewater discharge of 1,200 gpd and to meet compliance with the Basin Plan Groundwater Quality Objectives, as well as, additional conditions for salinity management to the satisfaction of the County Department of Environmental Health, the Rancho California Water District, and the San Diego Regional Water Quality Control Board (SDRWQCB).</p>	<p>County Department of Environmental Health; SDRWQCB</p>	<p>Prior to issuance of occupancy permits</p>	<p>Plan check; Site inspection</p>	
<p><b>PSU SEWER-2</b></p> <p>All implementing projects shall make a fair share contribution toward proposed sewer improvements, as set forth in the phasing and financing plan being developed by EMWD. In addition, all implementing projects shall be responsible for extending sewer lines from available trunk lines as a condition of approval for the project, and/or otherwise ensuring adequate wastewater service consistent with County, Rancho California Water District and Regional Water Quality Control Board requirements, as deemed appropriate by the County during application review, in order to meet water quality standards and comply with applicable policies and regulations adopted by the County, Rancho California Water District and the Regional Water Quality Control Board. Every future project in the Project area shall have special sewer conditions as established by the County pursuant to the "Temecula Valley Wine Country (TVWC) Draft Conditions of Approval" adopted by the Board on April 24, 2012.</p>	<p>County Planning Department or designee; EMWD</p>	<p>Prior to issuance of occupancy permits</p>	<p>fair share contribution; provision of special sewer conditions per 4/24/12 TVWC Draft Conditions of Approval regarding sewer service</p>	
<p><b>PSU WASTE-1</b></p> <p>All implementing project proponents shall make every effort feasible to recycle, reuse, and/or reduce the amount of construction and demolition materials (i.e., concrete, asphalt, wood, etc.) generated by implementing projects of the Project that would otherwise be taken to a landfill. This diversion of waste must exceed a 50 percent reduction by weight. The project shall complete the Riverside County Waste Management Department Construction and Demolition Waste Diversion Program Form B or Form C process as evidence to ensure compliance. Form B (Recycling Plan) must be submitted and approved by the Riverside County Waste Management Department and provided to the Department of Building and Safety prior to the issuance of</p>	<p>Riverside County Waste Management Department</p>	<p>Prior to issuance of building permits Prior to issuance of occupancy permits</p>	<p>Review/acceptance of Form B Review/acceptance of Form C</p>	