

AIDV 2012: Brazil

Preservation of the Environment: Focus on the Napa Valley

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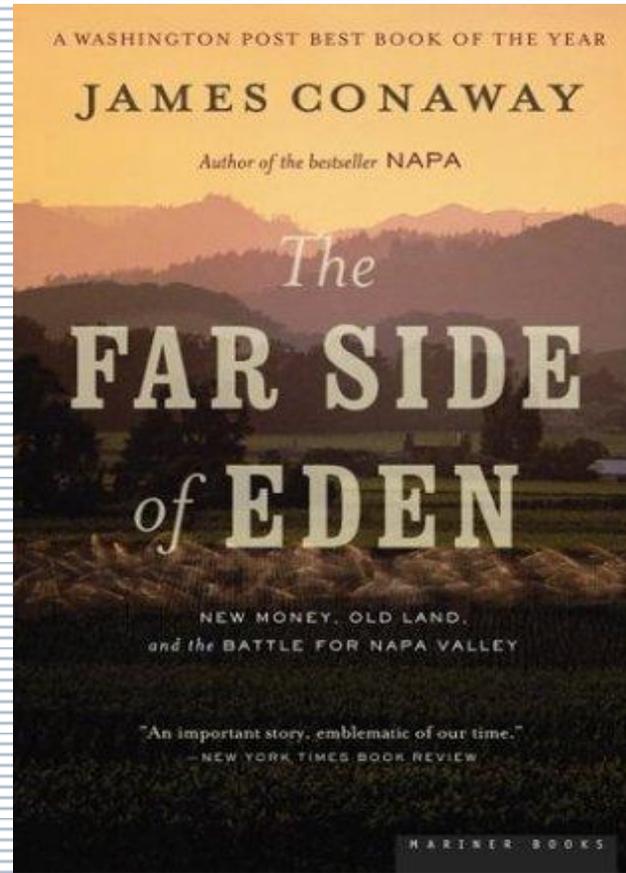


Napa Valley: The Lay of the Land



San Francisco Bay Area

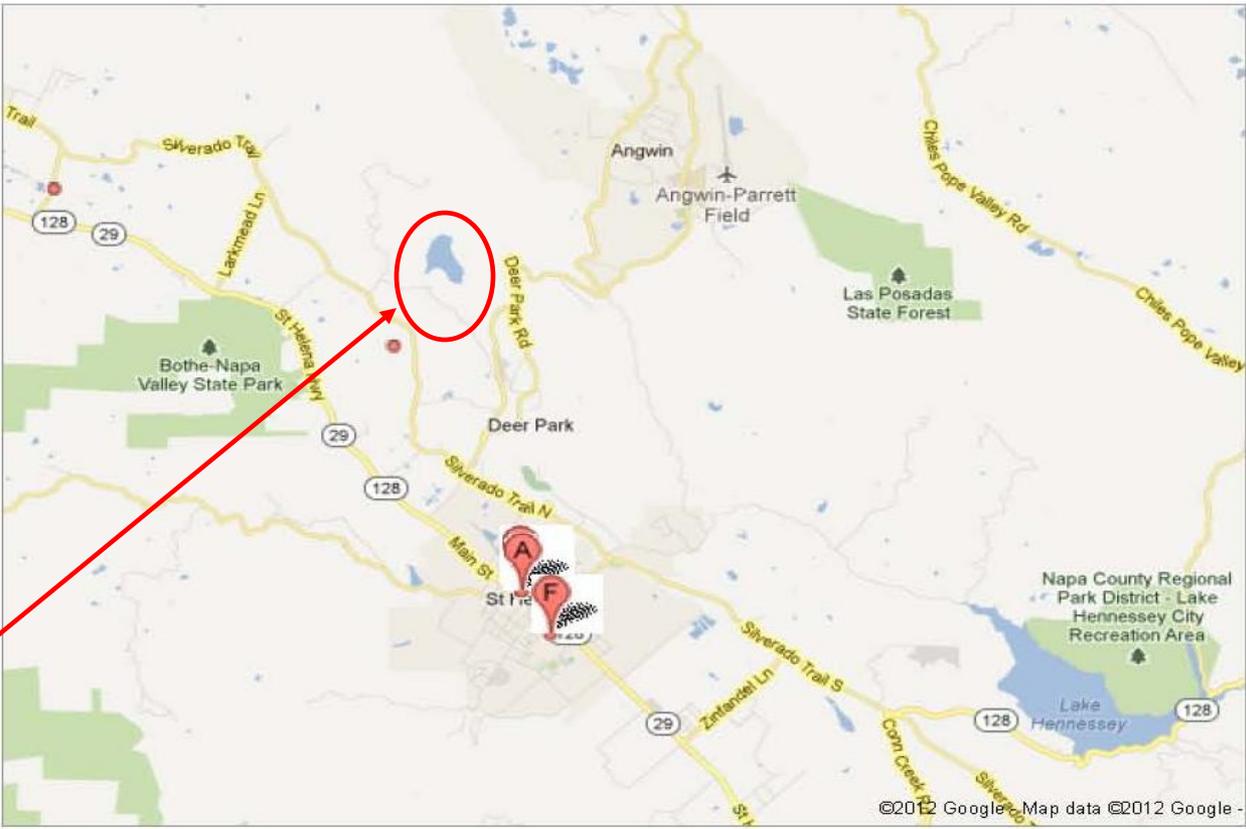
Napa County: Shifting Political Alliances



Shifting Political Alliances

- ❑ 1970s/1980s: Proponents of open space and agriculture oppose encroaching (sub)urbanization. Examples include opposition to widening of Highway 29 and adoption of 40 acre minimum parcel size, later increased to 160 acres in the hillsides. Vineyards are praised!
- ❑ 1987: Erosion from a hillside vineyard contaminates Bell Canyon Municipal Reservoir.
- ❑ 1991: Conservation Regulations adopted by Board of Supervisors. Open space advocates increasingly join environmentalists in opposition to agriculture.
- ❑ 1999: Sierra Club files lawsuit against Napa County and certain real parties in interest for failure to abide by the California Environmental Quality Act (CEQA) in issuing erosion control plans under the Conservation Regulations. *Sierra Club v. County of Napa, et al.*, Superior Court Case No. 26-07212 and 26-07213.
- ❑ 2012: Although agriculture is the “highest and best use of land” in Napa Valley, most new vineyards require costly and lengthy Environmental Impact Reports under CEQA.

Bell Canyon Reservoir



Bell Canyon

Approaches to Environmental Protection: Two Philosophical Extremes

- ❑ **Deep Ecology:** The natural world is valuable in its own right and should be protected for its own sake, regardless of its utility for people.
- ❑ **Exploitation:** The land and all its resources are there to be exploited for maximum profit by and for people.

Exploitation Has a Long History

- King James Bible – Genesis 1:26:

“And God said, Let us make man in our image, after our likeness: and let them have **domination** over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth.”

- King James Bible – Genesis 1:28:

“And God blesses them, and God said unto them, Be fruitful, and multiply, and **replenish the earth, and subdue it:** and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.”

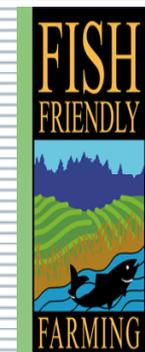
Sustainability

- ❑ Human activity should be “sustainable” and not interfere with the land’s ability to provide all the resources it naturally provides, including fish, wildlife, wilderness values, etc. into the foreseeable future.
- ❑ Must take into account climate change and greenhouse gas emissions, water quality and supply, native habitat and wildlife preservation, erosion control and the community’s social and economic values.



Sustainable Winegrowing Program

Napa Green



Where do these laws fall on this continuum?

- Federal Clean Water Act, 33 United States Code § 1251 et seq. (1972)
- California Environmental Quality Act (CEQA), California Public Resources Code § § 21000-21177 (1970)

Federal Clean Water Act



□ Title 13, U.S.C. § 1251(a):

“(1) it is the national goal that the discharge of pollutants into the navigable waters **be eliminated by 1985**; ...

- This is deep ecology. If you drive a car, you discharge pollutants into navigable waters.

(3) it is the national policy that the discharge of toxic pollutants **in toxic amounts** be prohibited;”

- This reflects a more moderate philosophy, with discharge of toxic pollutants allowed so long as they are not “in toxic amounts.”

California Environmental Quality Act (CEQA), § 21002

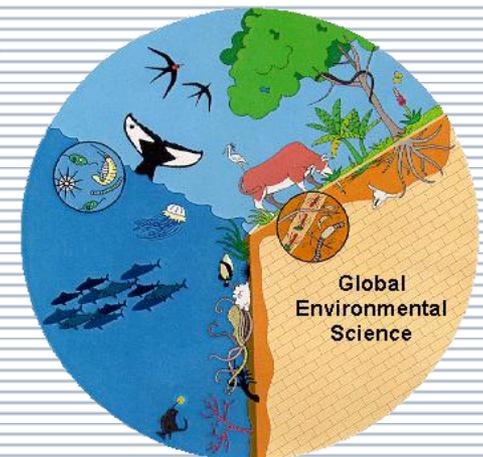
- “Public agencies should not approve projects ... if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.”
- “In the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects **may be approved in spite of one or more significant effects thereof.**”

These provisions require the balancing of the goals of environmental protection and economic development.

The Role of Science: Vineyards and the Environment

Hydrology and Geology

- Changes in soil permeability: runoff
- Changes in geomorphology: bank instability
- Sediment delivery to streams
- Flooding



Vineyards and the Environment

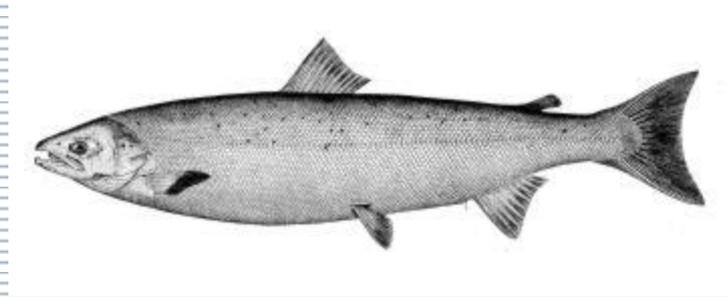
Groundwater Extraction:

- Effects of irrigation on water table and neighboring wells
- Effects on stream base flow

Vineyards and the Environment

Fish Biology:

- Effects of sediment on fish and their habitat
 - interference with gill function
 - embedding spawning gravels
 - filling and loss of summer pool habitat
 - aggradation of stream bed: increased water temperature
 - effects of groundwater pumping on stream base flow: loss of summer pool habitat



Vineyards and the Environment

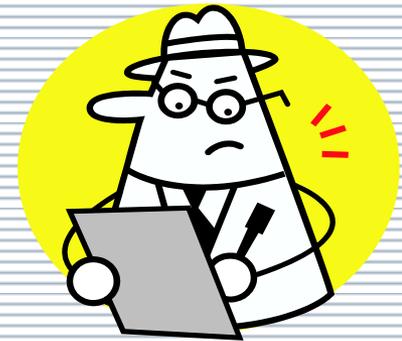
Wildlife:

- Endangered or threatened species - loss of habitat
- Examples:
 - Northern Spotted Owl
 - California Freshwater Shrimp
 - Vernal Pool Fairy Shrimp



Environmental Issues: Navigation Strategy

- 1. Prepare an Early Action Plan:** Utilize legal and technical expertise at the outset of project planning to identify required natural resource permits, to strategize on ways to avoid or obtain these permits and to integrate your natural resource planning with the project time frame and budget. Prepare the client to devote more time and resources to navigating this maze than may have been required in the past.



Environmental Issues: Navigation Strategy

- 2. Identify Key Issues:** Focus on wetlands, species and tree issues immediately. Three important questions are:
- A. Will the project require the fill of any “jurisdictional waters”?
 - B. Could the project adversely affect any listed or candidate species under the Endangered Species Act? This will require biological studies.
 - C. Do the state forestry laws require a timber harvest plan or timber conversion permit?

Environmental Issues: Navigation Strategy

- 3. Identify Water Issues:** Ensure that the client has sufficient water rights and water supply, that all stormwater permits have been obtained, and that waste discharge requirements have been met. If not, make appropriate applications.



Environmental Issues: Navigation Strategy

4. Investigate Governmental

Regulations: Investigate any relevant city, county, state or federal setback, forest, water or erosion protection laws, including those under governmental consideration, and plan accordingly.



Local Ordinances

- General Plan (local constitution)
- Zoning ordinances
- Grading ordinances
- Specialized ordinances; e.g., Napa County Conservation Regulations, viewshed ordinance, groundwater ordinance, tree protection ordinance

State Laws

- ❑ California Environmental Quality Act (CEQA)
- ❑ Fish & Game Code
- ❑ Porter Cologne Water Quality Act
- ❑ Water Code (water rights statute)
- ❑ Forest Practices Act

Federal Laws

- Clean Water Act
- Endangered Species Act
- Clean Air Act

Other Approaches

- Include environmental protections in the appellation laws. In New World countries where this may not be possible, consider ranking terroirs like the environmentalists rank species (endangered, threatened, sensitive, candidate).
- Volunteerism
 - Huichica Creek Land Stewardship Program (Carneros)
<http://www.naparcd.org/huichicacreekstewardship.htm>
 - Napa Green Certification
<http://www.naparcd.org/greencerttext.htm>
 - Rutherford Dust Napa River restoration project
http://www.rutherforddust.com/RDRT_updates.html

Thank You

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