

B

Type

X

Docs

Plans

DRN07-0013

Permit Number

2135

Street Number

Diamond MTN Rd

Street Name

MWS

Community Code

120-240-016

APN

COUNTY OF SONOMA - PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403 (707) 565-1900 FAX (707) 565-1103

Print me: **PAUL EBINER**

Date Applied: **APRIL 16, 2007**

INFORMATION WITHIN HEAVY LINE TO BE COMPLETED BY APPLICANT.

JOB ADDRESS: **2135 Diamond Mt Rd**
 PERMIT NUMBER: **DRN07-0013**
 INSPECTION AREA: **40**

2135
 SITE LOCATION INFORMATION - PRINT CLEARLY
 Address: **2221 DIAMOND MT. RD.**
 City: **CALISTOGA**
 ZIP: **94515**
 Sub: **HWY 29**
 APN: **120-240-016**
 Project Phone #: **(707) 942-9681**
 Project Fax #: **()**
 END OF DIAMOND MT. RD AT GREEN GATE
 Subd Name: _____ Unit #: _____ Lot #: _____
 Project: **INSTALL A 18IN. X 20FT CULVERT IN EXISTING E.**
 Living Area: _____ Garage: _____ Decks: _____ Contract Price: _____

OWNER NAME AND ADDRESS
PAUL EBINER
 Address: **2221 DIAMOND MT. RD**
CALISTOGA State: **CA** ZIP: **94515**
942-9681 Fax: ()

APPLICANT NAME AND ADDRESS
 Name: **SAME AS OWNER**
 Mailing Address: _____
 City: _____ State: _____ ZIP: _____
 Day Ph: () Fax: ()

CONTRACTOR INFORMATION
 Name: **OWNER INSTALL**
 State: _____ ZIP: _____
 Fax: ()

OTHER PERSONS (ARCHITECT, ENGINEER, ETC.)
 Name: **Ø**
 Address: _____
 City: _____ State: _____ ZIP: _____
 Day Ph: () Fax: ()

WORKER'S COMPENSATION DECLARATION
 I am under penalty of perjury one of the following declarations:
 and will maintain a certificate of consent to self-insure for worker's compensation, as required by Section 3700 of the Labor Code, for the performance of the work for which this is issued.
 and will maintain worker's compensation insurance, as required by Section 3700 of the Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are:

CONSTRUCTION LENDING DECLARATION
 I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued. (Sec. 3097, Civ. C.)
 Lenders Name: **Ø**
 Lenders Address: _____

on need not be completed if the permit is for one hundred dollars (\$100) or less.
 that in the performance of the work for which this permit is issued, I shall not employ any in any manner so as to become subject to the worker's compensation laws of California, and not if I should become subject to the worker's compensation provisions of Section 3700 of or Code, I shall forthwith comply with those provisions.
 Applicant: **Paul A. Ebner**

RRDB6100 FOR DEPARTMENT USE
 Zoning File No. _____ Acres _____
 Existing Use/Structures _____
 Proposed Use/Structures: **20' long culvert**
 Zoning Min. Yard Requirements: From _____ Left _____ Right _____ Back _____
 NOTE: Fire Safe Standards require all parcels greater than 1 Acre to have a min. 30' setback unless mitigated. Mitigation Required Address subject to change
 Approval for Permit Issuance: _____ Approval for Occupancy: _____
 By: **D. Hardy** Date: **10/29/07**
 Conditions: **NO BR**

OWNER-BUILDER DECLARATION
 I am exempt from the Contractor's License Law for the reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a construct, alter, improve, demolish, or repair any structure, prior to its issuance, also require applicant for such permit to file a signed statement that he or she is licensed pursuant to the Contractor's License Law (Chapter 9 (commencing with Section 7000) of the Business and Professions Code) or that he or she is exempt therefrom and the basis of exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).
 member of the property, or my employees with wages as their sole compensation, will do the and the structure is not intended or offered for sale (Sec. 7044 Business and Professions Code). The Contractor's License Law does not apply to an owner of property who builds or repairs thereon, and who does such work himself or herself or through his or her own employees, provided that such improvements are not intended or offered for sale. If, however, the project or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.
 member of the property, am exclusively contracting with licensed contractors to construct the (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with licensed contractor(s) licensed pursuant to the Contractor's License Law.)
 emp't under Sec. _____ B & P.C. for this

Sewer Connection: Available Fees Paid
 Approved by: _____ Date: _____
 Road Encroachment: Fees Paid
 Approved by: _____ Date: _____
 Septic System Permit/Clearance # _____
 Approved by: _____ Date: _____

DR 16, 2007 Owner: **Paul A. Ebner**
LICENSED CONTRACTOR'S DECLARATION
 I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.
 Lic. No. _____
 Contractor _____

Flood Zone: Yes No 100 Year Flood Elevation: _____
 Site Review
 Drainage Review: **Reg Cellan** Date: **15 Oct 07**
 Approved by: _____ Date: _____
 Fire: _____
 Approved by: _____ Date: _____

ASBESTOS DECLARATION
 I hereby certify that I have read this application and affirm under penalty of perjury that the above information is true and correct to the best of my knowledge and belief, and that I have not been notified pursuant to Part 61 of Title 40 of the Code of Federal Regulations in which asbestos exists in buildings, or portions thereof, undergoing demolition. I hereby affirm that no demolition authorized by this permit is from construction that () does () does not () does not, or that () no demolition is authorized by this permit.

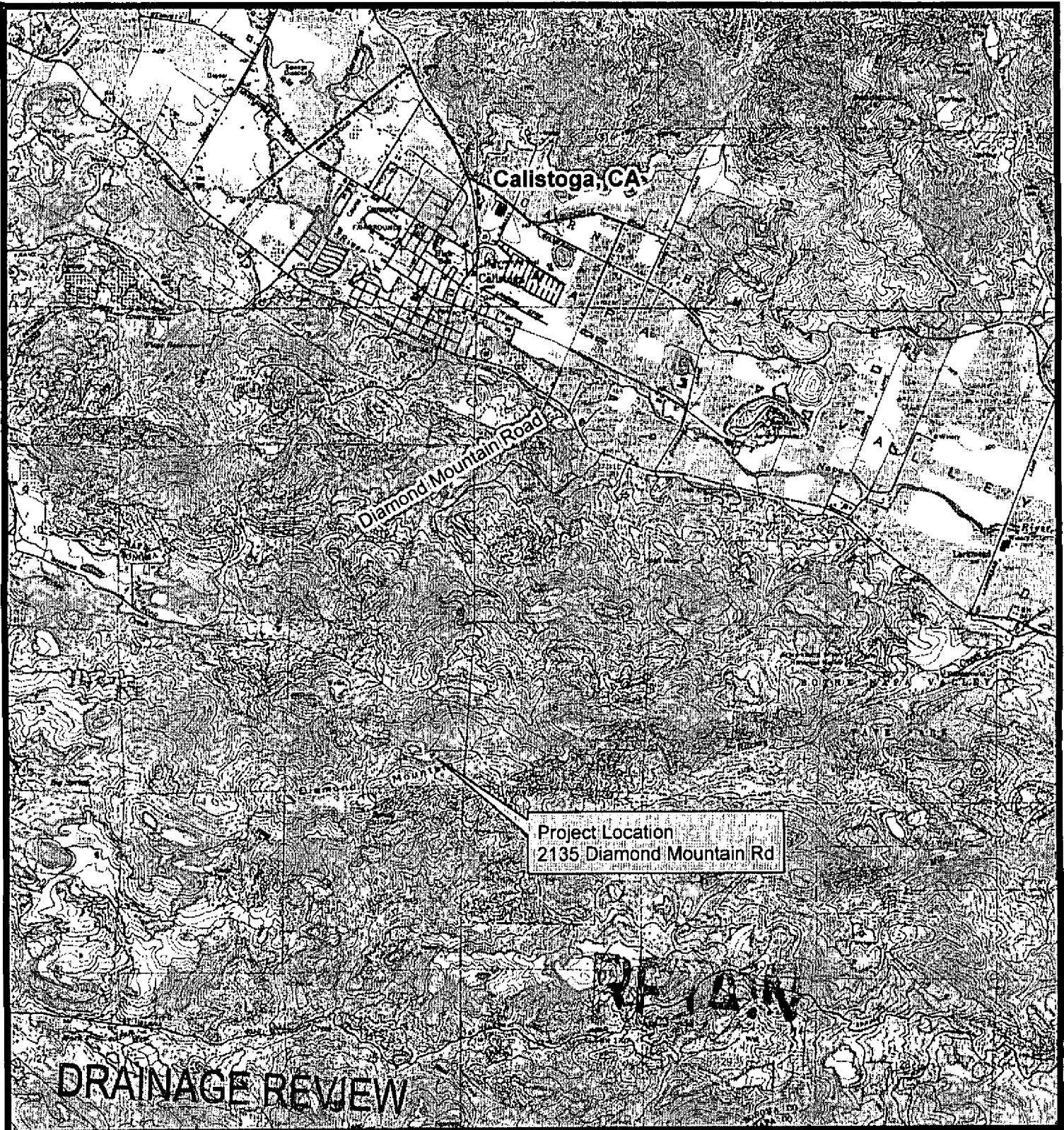
Code Enforcement Violation Yes No Violation #: **VER07-0018**
 This permit is limited to **180** days.
ØPK to issue, 3.4x penalty. Finish will close violation noted above - 11/14/07

I have read this application and affirm under penalty of perjury that the above information is true and correct to the best of my knowledge and belief, and that I have not been notified pursuant to Part 61 of Title 40 of the Code of Federal Regulations in which asbestos exists in buildings, or portions thereof, undergoing demolition. I hereby affirm that no demolition authorized by this permit is from construction that () does () does not () does not, or that () no demolition is authorized by this permit.
 I agree to comply with all local Ordinances and State laws relating to building construction. I authorize representatives of the County of Sonoma to enter upon the above-mentioned property for inspection purposes. If, after making the Certificate of Exemption for the Worker's Compensation provision of the Labor Code I should become subject to such provisions, I will forthwith in the event I do not comply with the Workman's Compensation law, this permit shall be voided.
 Signature: **Paul Ebner**
DIAMOND MT. RD. CALISTOGA 94515
 CITY ZIP
 for Owner Other Licensed Professional

Work Authorized: **Legalize installation of installation of a 18-inch diam x 20-ft long culvert. DOES NOT INCLUDE ROADWAY**

Inspector: **Reg Cellan**
23 May 08
PERMIT SHALL EXPIRE IN THREE (3) YEARS FROM DATE FEES PAID UNLESS OTHERWISE NOTED BY CODE ENFORCEMENT

Machine Space for Permit Fee
PAYMENT REC'D
 \$ _____
OCT 30 2007
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT
COUNTY OF SONOMA
 Distribution: White - File Canary - Applicant Pink - Audit Copy Blue - Assessor Yellow - Inspector



DRAINAGE REVIEW

Ebner Vicinity Map

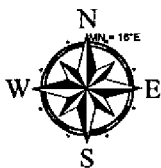
★ GRADING APPROVED ★

Calistoga, California Quadrangle
Section 13, T8N, R7W, MDB&M

Reg Cellan 15 Oct 07

BY **FORM WATER SECTION**
PERMIT AND RESOURCE
MANAGEMENT DEPARTMENT

- as noted
- subject to attached conditions
- subject to soil report recommendations
- requires inspection by Soil Engineer

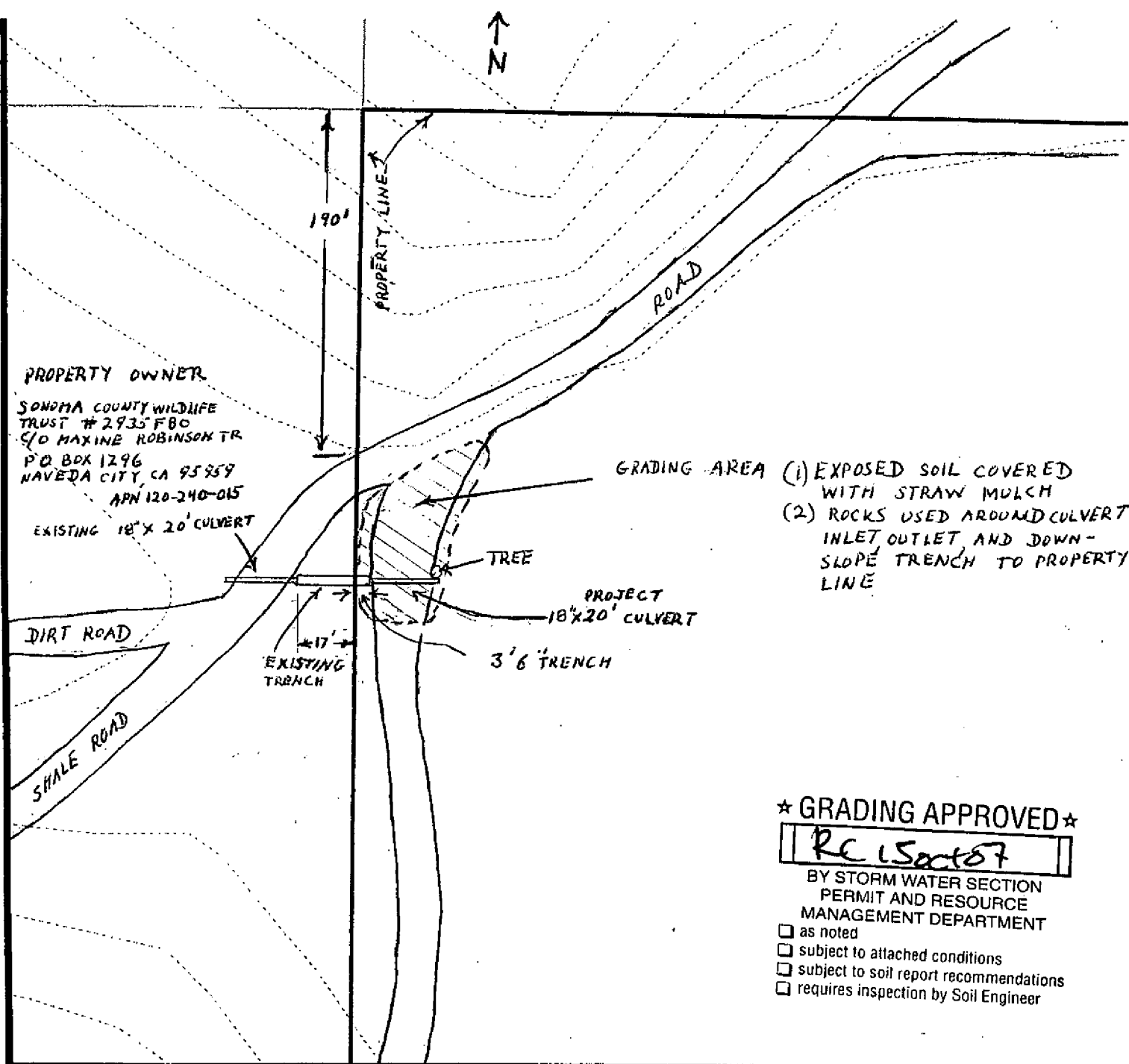


Scale = 1:48,000
1 inch equals 4,000 feet

APN# 120-240-016

Permit # DRN 07-0013

DRN07-0013



- (1) EXPOSED SOIL COVERED WITH STRAW MULCH
- (2) ROCKS USED AROUND CULVERT INLET, OUTLET AND DOWN-SLOPE TRENCH TO PROPERTY LINE

★ GRADING APPROVED ★

RC 15 Oct 87

- BY STORM WATER SECTION PERMIT AND RESOURCE MANAGEMENT DEPARTMENT
- as noted
- subject to attached conditions
- subject to soil report recommendations
- requires inspection by Soil Engineer

Ebner Site Map

Calistoga, California Quadrangle
Section 13, T8N, R7W, MDB&M

APN# 120-240-016

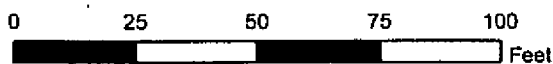
Permit # DRN 07-0013



Scale = 1:480

1 inch equals 40 feet

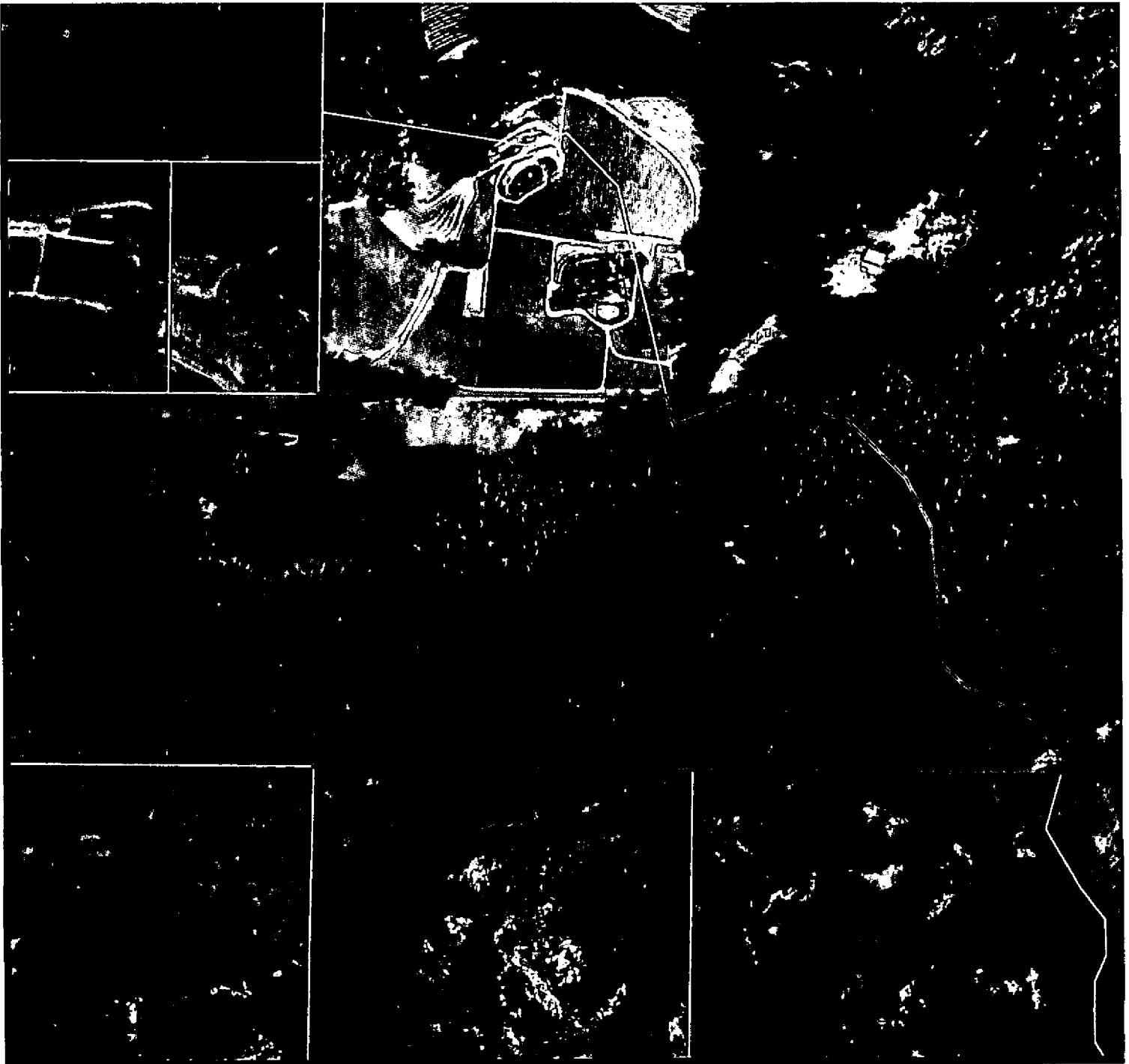
Contour Interval = 20 feet



Legend

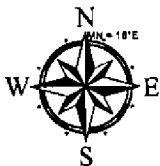
- Property Boundary
- Sonoma County Parcels
- GRADING AREA

Projection: Lambert_Conformal_Conic;
Projected Coordinate System: NAD_1983_StatePlane;
Geographic Coordinate System: GCS_North_American_1983;



Ebner Color Orthophoto

Calistoga, California Quadrangle
 Section 13, T8N, R7W, MDB&M



Scale = 1:6,000
 1 inch equals 500 feet
 Contour Interval = 20 feet





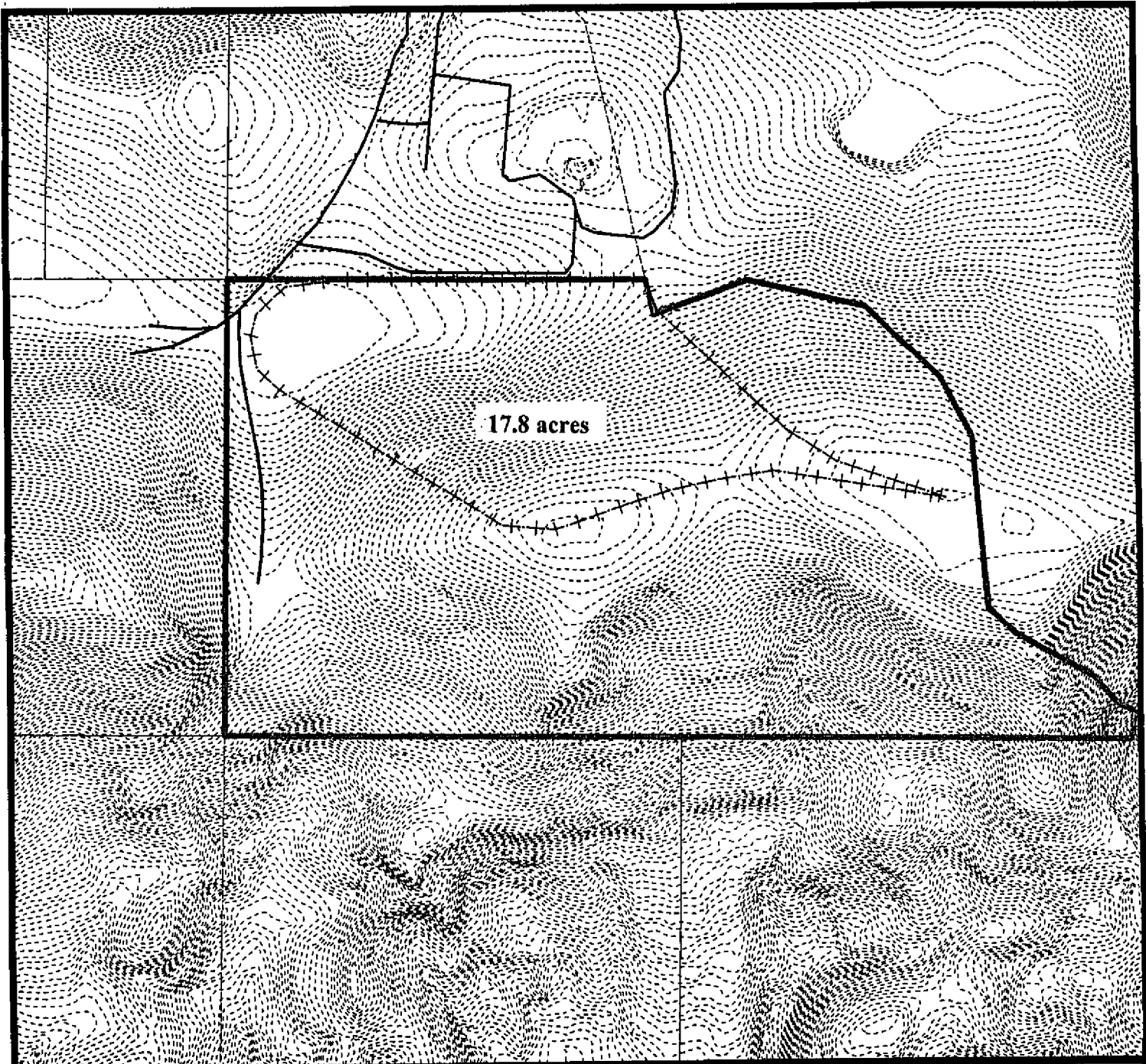
Projection: Lambert_Conformal_Conic;
 Projected Coordinate System: NAD_1983_StatePlane;
 Geographic Coordinate System: GCS_North_American_1983;

APN# 120-240-016
 ★ GRADING APPROVED ★
 Permit # DRN 07-0013
 RC 150107
 BY STORM WATER SECTION
 PERMIT AND RESOURCE
 MANAGEMENT DEPARTMENT

- as noted
- subject to attached conditions
- subject to soil report recommendations
- requires inspection by Soil Engineer

Legend

-  Property Boundary
-  Sonoma County Parcel



Ebner Hydrology Map

★ GRADING APPROVED★

PC150007

Calistoga, California Quadrangle
Section 13, T8N, R7W, MDB&M

BY STORM WATER SECTION
PERMIT AND RESOURCE
MANAGEMENT DEPARTMENT

- as noted
- subject to attached conditions
- subject to soil report recommendations
- subject to inspection by Soil Engineer

Legend

- Property Boundary
- Sonoma County Parcels
- Roads
- Hydrologic Area

APN# 120-240-016

Permit # DRN 07-0013



Scale = 1:5,039

1 inch equals 419.9279 feet

Contour Interval = 20 feet



Projection: Lambert_Conformal_Conic;
Projected Coordinate System: NAD_1983_StatePlane;
Geographic Coordinate System: GCS_North_American_1983;

Ebner Culvert Sizing Calculations

Rational Method Recommended for watershed drainage areas less than 200 acres.

$$Q_{10} = C/A$$

Where:

Q_{10} Predicted peak runoff (cfs) 10-year storm

C Runoff coefficient (0.30 - 0.45 generally recommended, 0.1 for sandy/gravelly soils, 0.3 for loams w/o impeding layers, 0.4 for heavy clay or with shallow impeding layer, or shallow soil over bedrock)

I Rainfall intensity (inches per hour) for the 10-year storm $I = (r/m)^{0.60}$

A Basin drainage area (acres)

K K factor vs. Mean Seasonal Precipitation

C =	0.4
I =	1.7
A =	17.8
K =	1.33

Time of Concentration (Kirpich)

$$T_c = (11.9(L_m)^3/H_f)^{0.385}$$

Where:

T_{c_m} Time of Concentration (hours)

L_m Length of the channel in miles from the head of the watershed to the crossing

H_f Elevation difference in feet between the highest point in the watershed and the crossing

T_{c_m} Match T_{c_m} to closest m with current DDF station data

m minute Rainfall-depth-duration-frequency data from Goodridge (2000) CA weather CD

r rainfall-depth-duration-frequency data in Inches for station # the Geysors RS, DWR# F90 8885

m =	15
r =	0.28

Point	Time of Concentration						Culvert Size
	L (feet)	L_m	H_f	T_{c_m}	T_{c_f}	T_{c_m}	
1	230	0.044	240	0.008	0.5	0.40	1.7
							17.80
							1.33
							16.1
							27

References:

- California Department of Forestry and Fire Protection, Designing Watercourse Crossings for Passage of 100-year Flood Flows, Wood, and Sediment, February 2004
- California Department of Forestry and Fire Protection, Sizing Watercourse Crossings for 100-year Flood Flows, Protection for Threatened and Impaired Watersheds, 2000
- California Geological Survey, California Rainfall and Runoff CD, February 2003, data from:
- California Department of Water Resources, Rainfall depth-duration-frequency for California

★ GRADING APPROVED ★

RC 150607

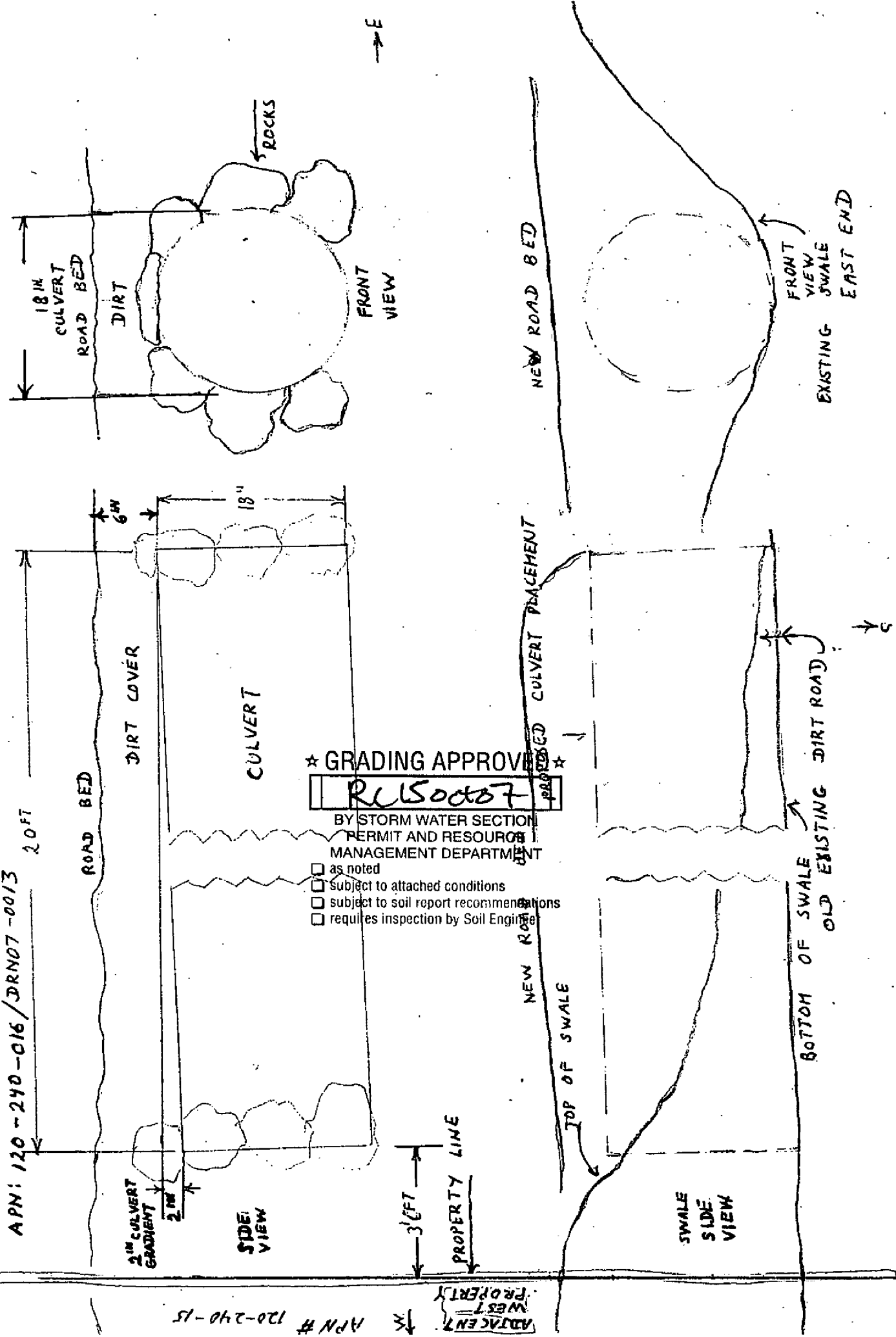
BY STORM WATER SECTION
PERMIT AND RESOURCE
MANAGEMENT DEPARTMENT

- as noted
- subject to attached conditions
- subject to soil report recommendations
- requires inspection by Soil Engineer

PROPOSE: GRADING
 CULVERT PLACEMENT ACROSS EXISTING SWALE
 OF PRIVATE RANCH, FIRE ROAD
 SCALE: 1" = 1 FT

↑ N

PAUL EBINER
 2221 DIAMOND MOUNTAIN ROAD
 CALISTOGA, CA 94575
 SITE: 2135 DIAMOND MT. RD, MWS
 APN: 120-240-016 / DRN07-0013



★ GRADING APPROVED ★
 RLS0007
 BY STORM WATER SECTION
 PERMIT AND RESOURCES
 MANAGEMENT DEPARTMENT
 as noted
 subject to attached conditions
 subject to soil report recommendations
 requires inspection by Soil Engineer

ADJACENT PROPERTY
 WEST PROPERTY
 APN # 120-240-15

PLAN VIEW OF BOTH CULVERTS

SCALE: 1" = 1' FT

ITEM 3C

N ↑

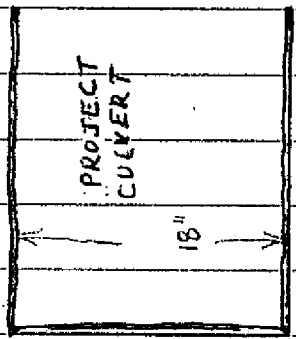
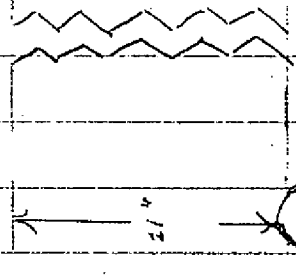
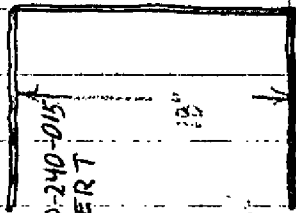
W →

PAUL EBINER
2221 DIAMOND MOUNTAIN RD
CALISTOGA, CA 94575
SITE: 2135 DIAMOND MT. RD, MWS
APN# 120-240-016
DRN 07-0013

APN 120-240-015

APN 120-240-016

CENTRALITY LINE



" BOTH CULVERTS AND TRENCH "

15" BOTTOM OF CHANNEL



6'9"

7' FT

★ GRADING APPROVED ★

RC15 Oct 07

BY STORM WATER SECTION
PERMIT AND RESOURCE
MANAGEMENT DEPARTMENT

- as noted
- subject to attached conditions
- subject to soil report recommendations
- requires inspection by Soil Engineer

S ↓

W ←

"ITEM 3 D"

PAUL EBINER
2135 DIAMOND MOUNTAIN RD
PERMIT # DRN07-0013 / APN # 120-240-016



COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403-2829
(707) 565-1900 FAX (707) 565-1103

EROSION PREVENTION AND SEDIMENT CONTROL NOTES

1. PERFORM EROSION PREVENTION AND SEDIMENT CONTROL IN ACCORDANCE WITH THE LATEST EDITION OF APPENDIX CHAPTER 33 OF THE CALIFORNIA BUILDING CODE, APPLICABLE SONOMA COUNTY REGULATIONS, AND SECTION 20 OF THE CALTRANS STANDARD SPECIFICATIONS.

2. THE APPROVED PLANS SHALL CONFORM WITH THE EROSION PREVENTION AND SEDIMENT CONTROL BEST MANAGEMENT PRACTICES CONTAINED IN THE LATEST EDITIONS OF THE FOLLOWING PUBLICATIONS OR AN EQUIVALENT BEST MANAGEMENT PRACTICE:

EROSION AND SEDIMENT CONTROL FIELD MANUAL BY THE SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD.
MANUAL OF STANDARDS FOR EROSION & SEDIMENT CONTROL MEASURES BY THE ASSOCIATION OF BAY AREA GOVERNMENTS.
CONSTRUCTION SITE BEST MANAGEMENT PRACTICES MANUAL BY CALTRANS.
STORMWATER BEST MANAGEMENT PRACTICE HANDBOOK BY THE CALIFORNIA STORMWATER QUALITY ASSOCIATION.

3. IF DISCREPANCIES OCCUR BETWEEN THESE NOTES, MATERIAL REFERENCED HEREIN OR MANUFACTURER'S RECOMMENDATIONS, THEN THE MOST PROTECTIVE SHALL APPLY.

4. THE OWNER IS RESPONSIBLE FOR OBTAINING AND COMPLYING WITH THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT NO. CAS000002 WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF STORM WATER RUNOFF ASSOCIATED WITH CONSTRUCTION ACTIVITY DISTURBING LAND EQUAL TO OR GREATER THAN ONE ACRE. CONSTRUCTION ACTIVITIES INCLUDE BUT ARE NOT LIMITED TO CLEARING, GRADING, EXCAVATION, STOCKPILING, AND RECONSTRUCTION OF EXISTING FACILITIES INVOLVING REMOVAL AND REPLACEMENT.

5. PRESERVATION OF EXISTING VEGETATION SHALL OCCUR TO THE MAXIMUM EXTENT PRACTICABLE.

★ GRADING APPROVED ★

Paul Ebiner

BY STORM WATER SECTION
PERMIT AND RESOURCE
MANAGEMENT DEPARTMENT

- as noted
- subject to attached conditions
- subject to soil report recommendations
- requires inspection by Soil Engineer

6. THE OWNER IS RESPONSIBLE FOR PREVENTING STORM WATER POLLUTION GENERATED FROM THE CONSTRUCTION SITE YEAR ROUND. THE OWNER MUST IMPLEMENT AN EFFECTIVE COMBINATION OF EROSION PREVENTION AND SEDIMENT CONTROL ON ALL DISTURBED AREAS DURING THE RAINY SEASON (OCTOBER 15 - APRIL 15).
7. EROSION PREVENTION AND SEDIMENT CONTROL MEASURES SHALL BE INSPECTED BY THE OWNER BEFORE FORECASTED STORM EVENTS AND AFTER ACTUAL STORM EVENTS TO ENSURE MEASURES ARE FUNCTIONING PROPERLY. STORM EVENTS PRODUCE AT LEAST 1 INCH OF PRECIPITATION IN A 24 HOUR PERIOD. EROSION PREVENTION AND SEDIMENT CONTROL MEASURES THAT HAVE FAILED OR ARE NO LONGER EFFECTIVE SHALL BE PROMPTLY REPLACED. EROSION PREVENTION AND SEDIMENT CONTROL MEASURES SHALL BE MAINTAINED UNTIL DISTURBED AREAS ARE STABILIZED.
8. CHANGES TO THE EROSION PREVENTION AND SEDIMENT CONTROL PLAN MAY BE MADE TO RESPOND TO FIELD CONDITIONS. CHANGES SHALL BE NOTED ON THE PLAN WHEN MADE.
9. DISCHARGES OF POTENTIAL POLLUTANTS FROM CONSTRUCTION SITES SHALL BE PREVENTED USING SOURCE CONTROLS TO THE MAXIMUM EXTENT PRACTICABLE. POTENTIAL POLLUTANTS INCLUDE BUT ARE NOT LIMITED TO: SEDIMENT, TRASH, NUTRIENTS, PATHOGENS, PETROLEUM HYDROCARBONS, METALS, CONCRETE, CEMENT, ASPHALT, PAINT, STAIN, OILS, WOOD PRODUCTS, RESINS, HERBICIDES, CHEMICALS, HAZARDOUS WASTE, SANITARY WASTE, VEHICLE OR EQUIPMENT WASH WATER AND CHLORINATED WATER.
10. ENTRANCE(S) TO THE CONSTRUCTION SITE SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING OF POTENTIAL POLLUTANTS OFFSITE. POTENTIAL POLLUTANTS DEPOSITED ON PAVED AREAS WITHIN THE COUNTY RIGHT-OF-WAY, SUCH AS ROADWAYS AND SIDEWALKS, SHALL BE PROPERLY DISPOSED OF AT THE END OF EACH WORKING DAY OR MORE FREQUENTLY AS NECESSARY.
11. EXPOSED SLOPES SHALL BE PROTECTED BY USING EROSION PREVENTION MEASURES TO THE MAXIMUM EXTENT PRACTICABLE, SUCH AS ESTABLISHING 70% VEGETATION COVERAGE, HYDROSEEDING, STRAW MULCH, GEOTEXTILES, PLASTIC COVERS, BLANKETS OR MATS.
12. WHENEVER IT IS NOT POSSIBLE TO UTILIZE EROSION PREVENTION MEASURES, EXPOSED SLOPES SHALL EMPLOY SEDIMENT CONTROL DEVICES, SUCH AS FIBER ROLLS AND SILT FENCES. FIBER ROLLS AND SILT FENCES SHALL BE TRENCHED AND KEYED INTO THE SOIL AND INSTALLED ON CONTOUR. SILT FENCES SHALL BE INSTALLED APPROXIMATELY 2 TO 5 FEET FROM TOE OF SLOPE.

13. HYDROSEEDING SHALL BE CONDUCTED IN A THREE STEP PROCESS. FIRST, EVENLY APPLY SEED MIX AND FERTILIZER TO THE EXPOSED SLOPE. SECOND, EVENLY APPLY MULCH OVER THE SEED AND FERTILIZER. THIRD, STABILIZE THE MULCH IN PLACE.

APPLICATIONS SHALL BE BROADCASTED MECHANICALLY OR MANUALLY AT THE RATES SPECIFIED BELOW. SEED MIX AND FERTILIZER SHALL BE WORKED INTO THE SOIL BY ROLLING OR TAMPING. IF STRAW IS USED AS MULCH, STRAW SHALL BE DERIVED FROM WHEAT, RICE OR BARLEY AND BE APPROXIMATELY 6 TO 8 INCHES IN LENGTH. STABILIZATION OF MULCH SHALL BE DONE HYDRAULICALLY BY APPLYING AN EMULSION OR MECHANICALLY BY CRIMPING OR PUNCHING THE MULCH INTO THE SOIL. EQUIVALENT METHODS AND MATERIALS MAY BE USED ONLY IF THEY ADEQUATELY PROMOTE VEGETATION GROWTH AND PROTECT EXPOSED SLOPES.

<u>MATERIALS</u>	<u>APPLICATION RATE</u> (POUNDS PER ACRE)
SEED MIX	
<i>Bromus mollis</i> (BLANDO BROME)	40
<i>Trifolium hirtum</i> (HYKON ROSE CLOVER)	20
FERTILIZER	
16-20-0 & 15% SULPHUR	500
MULCH	
STRAW	4000
HYDRAULIC STABILIZING*	
M-BINDER OR SENTINEL	75-100
EQUIVALENT MATERIAL	PER MANUFACTURER

*NON-ASPHALTIC, DERIVED FROM PLANTS

14. THE OWNER SHALL PROTECT STORM DRAIN INLETS FROM POTENTIAL POLLUTANTS UNTIL DRAINAGE CONVEYANCE SYSTEMS ARE FUNCTIONAL AND CONSTRUCTION HAS BEEN COMPLETED.
15. ENERGY DISSIPATERS SHALL BE INSTALLED AT STORM DRAIN OUTLETS WHICH MAY CONVEY STORM WATER FLOW LEADING TO SOIL EROSION.
16. SOIL AND MATERIAL STOCKPILES SHALL BE PROPERLY PROTECTED TO MINIMIZE SEDIMENT AND POLLUTANT TRANSPORT FROM THE CONSTRUCTION SITE.
17. SOLID WASTE, SUCH AS TRASH, DISCARDED BUILDING MATERIALS AND DEBRIS, SHALL BE PLACED IN DESIGNATED COLLECTION AREAS OR CONTAINERS. THE CONSTRUCTION SITE SHALL BE CLEARED OF SOLID WASTE DAILY, OR AS NECESSARY, AND REGULAR REMOVAL AND PROPER DISPOSAL SHALL BE ARRANGED.
18. A CONCRETE WASHOUT AREA, SUCH AS A TEMPORARY PIT, SHALL BE

DESIGNATED TO CLEAN CONCRETE TRUCKS AND TOOLS. AT NO TIME SHALL CONCRETE PRODUCTS AND WASTE BE ALLOWED TO ENTER COUNTY WATERWAYS SUCH AS CREEKS OR STORM DRAINS.

19. PROPER APPLICATION, CLEANING AND STORAGE OF POTENTIALLY HAZARDOUS MATERIALS, SUCH AS PAINTS AND CHEMICALS, SHALL BE CONDUCTED TO PREVENT THE DISCHARGE OF POLLUTANTS.
20. WHEN UTILIZED, TEMPORARY RESTROOMS AND SANITARY FACILITIES SHALL BE LOCATED AND MAINTAINED TO PREVENT THE DISCHARGE OF POLLUTANTS.
21. APPROPRIATE VEHICLE STORAGE, FUELING, MAINTENANCE AND CLEANING AREAS SHALL BE DESIGNATED AND MAINTAINED TO PREVENT DISCHARGE OF POLLUTANTS.

Mr. Paul A. Ebiner
2221 Diamond Mt. Rd.
Calistoga, Ca. 94515
Sep. 26, 2007

Sonoma County PRMD
2550 Ventura Ave.
Santa Rosa, Ca. 95403

Project #DRN 07-0013 at APN 120-240-016 to legalize a culvert installation

A permit is being sought from the county of Sonoma PRMD for the installation of a 18" culvert across an existing north-south private, ranch, fire road on parcel APN 120-240-016 at 2135 Diamond Mt. Rd., Mark West Springs. (project parcel) The road is along the west property line of the project parcel.

Normally during the winter months after a period of rains water would flow intermittently across the road via a swale in the road. In the Fall of 2006 to improve erosion control in the swale a culvert was placed in the swale and covered with dirt. For erosion prevention and sediment control the exposed soil was covered with straw mulch. Rocks were used around the culvert inlet, outlet, and down slope trench to the project property line.

The adjacent down slope property lies west of the project parcel. This property assessor's parcel number is APN 120-240-15 and the address is 1 Sharp Rd. Mt. Sonoma County records show the owner of this parcel to be:

Sonoma County Wildlife Trust #2935FBO
c/o Maxine Robinson TR.
P.O. Box 1296
Nevada City, Ca. 95959-1296

On this down slope property prior to the Fall of 2006, there was installed a 18" culvert under an existing road 17 feet west of the project property line. During the installation of this culvert a trench was excavated from the culvert east across the property line and into the project property to receive the concentrated flow from the project property.

This culvert replaced a 12" culvert which still lies near this trench. The 18" culvert is also 20'6" from the project culvert and the trench is inline with the project trench. The project trench is connected directly to this trench.

EDAW Inc
2099 Mt. Diablo Blvd., Suite 204, Walnut Creek, CA 94596
T 925.279.0580 F 925.279.0581 www.edaw.com

May 30, 2007

RETAIN

Mr. Pete Parkinson
Sonoma County Permit &
Resource Management Department
2550 Ventura Ave.
Santa Rosa, CA 95403

Captain Dave Fox
California Department of Fish and Game
7329 Silverado Trail
Napa, CA 94558

Subject: Pending Grading Permit Application DRN 07-0013 for Paul Ebner at 2135 Diamond Mountain Road APN 120-240-016, Sonoma County, California

Dear Mr. Parkinson and Captain Fox,

The purpose of this letter is to inform your office of potential violations of the State Regional Water Quality Control Board regulations, California Department of Fish and Game Code, Sonoma County Code, the Clean Water Act, and Endangered Species Act resulting from impacts to vernal pools due to grading activities and the construction of a culvert on the property identified above. These activities were conducted within waters considered to be within U.S. Army Corps of Engineers and State Regional Water Quality Control Board jurisdiction. Our client, Frederic W. Constant, wrote a letter to your office on February 2, 2007 requesting an investigation of possible violations of environmental regulations, particularly concerning the vernal pools and the Loch Lomond button-celery (*Eryngium constancei*), federally and state listed Endangered plant species. Mr. Constant submitted a second letter dated May 1, 2007 notifying your office that our firm was conducting an analysis of the site to determine possible violations. This letter is the product of our analysis, which includes a history of the subject property, a description of the vernal pool and endangered plant species, a summary of applicable regulations, and our conclusions regarding potential violations.

1.1. Site Setting

The subject property, referred to as the Ebner Parcel, is located in Sonoma County in the southeast quarter of Section 13, Township 8 North, Range 7 West according to the Calistoga U.S. Geological Survey 7.5-minute quadrangle (Figure 1). The Ebner Parcel is accessible via a private road off of Diamond Mountain Road through Mr. Constant's property in Napa County. Topography of the site ranges from 2,375 feet to 2,100 feet above sea level. The existing vegetation consists of Oregon Oak (*Quercus garryana*), valley oak (*Quercus lobata*), and *Pseudotsuga mendiesii* (Hrusa and Buckmann 2000).

1.2. Site History

In 1997, Mr. Constant submitted a Timber Harvesting Plan (THP) and obtained a Timber Conversion Permit (TCP) to convert a total of 17.9 acres from timberland to vineyard (THP # 1-97-397 NAP/SON). The THP/TCP covered two separate conversions, one consisting of 6.5 acres in Napa County on APN 020-100-012 and another consisting of 11.4 acres in Sonoma County on APN 120-240-013. During the environmental review process for the THP/TCP, two vernal pools were discovered within 50 feet and 150 feet respectively of the proposed 11.4 acre timberland conversion. As shown on Figure 2, one vernal pool is located on the northwest corner of the Ebner Parcel and another vernal pool is located to the northwest on two other parcels (APNs 120-240-018 and 015). The eastern pool on the Ebner Property drains to the

western pool. According to the THP, a fork of Porter Creek, a minor Class III Watercourse which is undesignated on USGS maps, heads at the vernal pools. A rough sketch of these features was drawn on a figure included in the THP and attached as Figure 3. An existing private road and culvert running approximately north-south crosses Porter Creek between the two pools. Porter Creek is a first order creek that eventually feeds the Russian River to the west. At this time, the federally and state Endangered Loch Lomond button-celery was also found in both vernal pools.

Mr. Constant consulted with the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) to determine appropriate conservation measures for the vernal pool, specifically the one located on the Ebner Parcel, and endangered species. The USFWS also advised Mr. Ebner of the sensitivity of the area which he acknowledged in several letters to the California Department of Forestry (CDF). As a result, Mr. Constant was required to implement the following avoidance and minimization measures as conditions of his THP/TCP.

1. The CDF required an "uncut vegetative buffer zone" adjacent to the vernal pool located on the Ebner Parcel, approximately 100 feet from the Constant south property line and approximately 150 feet from the edge of the vernal pool on the Ebner Parcel. The area was flagged by a registered professional forester and distinguished from the THP boundary flagging (Mitigation Measure #2).
2. In case of removal of any trees within the uncut vegetated buffer zone, Mr. Constant was required to contact CDF to review the trees proposed for removal (Mitigation Measure #3).
3. CDF required any trees felled in the uncut vegetated buffer zone to fall away from the vernal pool in a manner which maximizes protection of existing vegetation within the buffer zone (Mitigation Measure #4).
4. CDF required a rock wall to be constructed between the THP area and the vernal pool on the Ebner Parcel and the installation of filter fabric (Mitigation Measure # 5).
5. Mr. Constant was required to mark with paint the trees forming the boundary line between the conversion area and wildlife buffer in the southwestern portion of the project area to ensure that the boundary line would be maintained should existing flagging be removed or deteriorate (Additional Mitigation #1).
6. The rock wall was required to be adjacent to the southern property boundary and the filter fabric was required to extend sufficiently high to trap sediment behind the wall during peak storm events (Additional Mitigation #2).
7. Check dams were required along the backside of the rock wall no further than 50 feet apart to prevent sediment from moving downslope toward the wildlife buffer zone (Additional Mitigation #3).
8. To dissipate the runoff collected behind the rock wall, a drainage structure was required from a point along the wall running along the upslope side of the flagged/painted wildlife buffer zone. The beginning point of the structure had to provide for a sufficient slope to the structure to carry runoff. The drainage structure had to consist of a rock lined ditch underlain with filter fabric. The structure was to be constructed in a manner that allowed runoff to leave the structure and filter through the wildlife buffer zone before entering the adjacent vernal pool. The straw bale and/or filter fabric between the vineyard and the wildlife buffer zone had to be constructed on the upslope side of the drainage structure. The structure had to be constructed prior to October 15 and before land clearing activities began (Additional Mitigation #4).
9. Where the drainage structure meets the rock wall, a settlement pond had to be constructed to trap any significant amount of sediment in runoff (Additional Mitigation #5).
10. Exposed soil between the vineyard and rock wall had to be seeded and/or mulched prior to October 15 (Additional Mitigation #6).

11. After the end of the rainy season, sediment trapped behind the rock wall after winter had to be removed using the same access used to build the wall (Additional Mitigation #7).
12. All work was required to be completed by September 15 with the exception of work related to implementing mitigation measures (Additional Mitigation #8).
13. The rock wall had to remain in place until 1999 at which time employees from CDFG, USFWS, and CDF were required to inspect the wall to determine if it should remain in place (Additional Mitigation #9).

The timberland conversion was completed and all mitigation measures were implemented. Extensive effort was made to avoid and minimize impacts to the vernal pools. The rock wall and vegetated buffer zone continues to exist on Mr. Constant's property to protect these resources.

1.3. Sensitive Biological Resources

On December 15, 2005, the USFWS issued a *Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon*. Recovery plans are mandated under the Endangered Species Act (ESA) to determine the actions necessary to achieve self-sustaining, wild populations of listed species. According to the *Recovery Plan*, the vernal pool on the Ebner Parcel is within the Diamond Mountain core area of the Lake-Napa vernal pool region (USFWS 2005). The *Recovery Plan* identifies core areas that are ranked as Zone 1, 2, or 3 in order of priority for recovery. The Diamond Mountain core area is designated Zone 1, giving it highest priority for protection. The Diamond Mountain vernal pools are shallow, spring-fed, and classified as Northern Basalt Flow Vernal Pools (Sawyer and Keeler-Wolf 1995). The surface area of the pools and soil type have not yet been determined. A survey conducted by B. Hunter in 1996 found that Loch Lomond button-celery dominated both pools (USFWS 2005). Other associated plant species found that year included Douglas' pogogyne (*Pogogyne douglasii*), Kellogg's yampah (*Perideridia howellii*), spikerush (*Elocharis* spp.), leafy common madia (*Madia elegans* spp. *densifolia*), and winecup clarkia (*Clarkia purpurea*) (USFWS 2005).

The USFWS listed the Loch Lomond button-celery as Endangered under the ESA on December 23, 1986 (USFWS 1986). The plant has been proposed for downlisting to Threatened, but that action is still pending (USFWS 1993). The CDFG listed the Loch Lomond button-celery as Endangered under the California Endangered Species Act (CESA) in 1987 (CDFG 1991). The California Native Plant Society has considered the plant rare and endangered since 1980 and has placed it on the California Native Plant Society's List 1B. The plant is biennial or perennial, with an overwintering rootstock. The blooming period is typically between June and August after water evaporates from the pools (CDFG 1985, 1994). According to the *Recovery Plan*, the greatest threats to the plant include land use conversion, changes in hydrology, runoff from adjacent roads, drainage ditches, and culverts and diversions reducing flow of water to the plant's habitat (USFWS 2005).

The *Recovery Plan* summarizes efforts CDFG and USFWS have made to protect the vernal pool on the Ebner Parcel and the Loch Lomond button-celery present at this location. Specifically, the *Recovery Plan* states:

The California Department of Fish and Game has reviewed timber harvest plans and other land uses for areas adjacent to any of the populations and has provided recommendation on how to avoid impacts to *E. constancei* (e.g., K. Aasen *in litt.* 1995, B. Hunter *in litt.* 1996, A. Buckmann *in litt.* 1998). In addition, their biologists conducted surveys for this species (USFWS 1985), and the agency is investigating ways to protect the Diamond Mountain occurrence (Hrusa and Buckmann 2000).

In addition, as previously states, the USFWS has advised Mr. Ebner of the sensitivity of the vernal pools and endangered plant species, which he acknowledged in several letters to CDF. Figures 4 and 5 indicate other special-status plant and wildlife species that occur within the vicinity of the Ebner Parcel. As shown on Figure 4, there is potential for foothill yellow-legged frog (*Rana boylei*), A California Species

of Special Concern, to occur on the Ebner Parcel and the species are known to occur within 3.75 miles of the vernal pools. As shown on Figure 5, Cobb Mountain lupine (*Lupinus sericatus*), CNPS List 1B.2¹, *Calistoga ceanothus* (*Ceanothus divergens*), CNPS List 1B.2, and Napa false indigo (*Amorpha californica* var. *nepensis*), CNPS List 1B.2, all are known to occur within one mile of the Ebner Parcel.

1.4. Observed Activities and Violations

EDAW conducted a site reconnaissance on May 9, 2007. During the site visit, it was apparent that vegetation had been recently cleared between the existing road and the eastern vernal pool on the Ebner Parcel. Site Photos 1 and 2 depict the trees that have been removed from this location. The ground appeared graded and leveled at the edge of the pond where it is bordered by the easement road. A newly constructed culvert approximately 20 linear feet by 18 inches extended from the eastern vernal pool to the existing culvert over which the existing easement road crosses. It appeared that a dirt levee had been constructed using the new 18 inch culvert. Dirt has been backfilled over the culvert and the area has been graded and mowed to form what appears to be a roadbed. Site Photo 3 presents a "before picture" of the vernal pool where the culvert was constructed and Site Photo 4 depicts the location of the culvert and new levee/road after construction. Mr. Constant stated that he witnessed the culvert being constructed in October 2006. In addition, EDAW observed an area between the vegetated buffer zone on the Constant property and the vernal pool that appeared graded and compacted. Mr. Constant informed us that Mr. Ebner had stockpiled approximately 50 cubic yards of graded soil at this location approximately 6 years ago (see Site Photos 1 and 2). Site Photo 5 is a view of the stockpiled dirt looking from the edge of the vernal pool towards the easement road. The stockpiled dirt was not covered during the winter, causing sediment to leach into the vernal pool as indicated in Site Photo 6. This photo also shows a pile of vegetation that was cleared and piled to be burned. Mr. Constant stated that CDFG had requested Mr. Ebner to remove the stockpiled soils due to potential impacts to the vernal pool. CDFG should have correspondence in their records of these activities along with Mr. Ebner's response.

Although constructing the culvert may not have directly impacted the vernal pool, there may be potentially significant indirect impacts. Construction of the culvert may have filled the margin of the vernal pool (personal observation, Guinon and Ogilvie 2007). It is possible that the culvert lowered the elevation of the drainage from the eastern pool to the western pool, thereby altering the hydrology of the area and causing the eastern vernal pool to drain faster. Altering the hydrology of the vernal pools will likely impact the Endangered Loch Lomond button-celery. Most importantly, the culvert was placed across Porter Creek, designated as a minor Class III Watercourse in the THP. This action constitutes fill of a wetland or waters of the U.S. and waters of the State in violation of the Clean Water Act and the California Porter-Cologne Water Quality Control Act.

1.5. Regulatory Requirements and Ramifications

Riparian areas, wetlands, other waters of the U.S., waters of the State, and special-status species and natural communities are considered sensitive biological resources and fall under the jurisdiction of several state and federal regulatory agencies. In addition, Sonoma County Code and the Draft Sonoma County General Plan 2020 protect biotic resources as designated on Figures OSRC 5a through 5i in the Draft General Plan. Depending on the type and extent of impacts or potential impacts to these resources, federal, state, and/or local permits may be required from the following agencies.

1.5.1. Federal Jurisdiction – United States Army Corps of Engineers

Section 404 of the Clean Water Act (CWA) requires a permit from the U.S. Army Corps of Engineers (USACE) with the concurrence of the U.S. Environmental Protection Agency for the discharge of dredged or fill material into navigable waters, or waters of the U.S. (33 U.S.C. § 1344). USACE regulations broadly

¹ The California Native Plant Society tracks species that are eligible for State listing as endangered, threatened or rare. Projects that may impact plants appearing on the 1B list require review under the California Environmental Quality Act.

define waters of the U.S. to include: 1) all waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of tide; 2) all interstate waters including interstate wetlands; 3) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, vernal pools, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce; 4) tributaries of the above; and 5) territorial seas (33 C.F.R. § 328.3).

Federal jurisdictional wetlands are defined as those areas that are inundated or saturated by surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (33 C.F.R. § 328.3). Wetlands generally include swamps, bogs, vernal pools, seeps, marshes, and similar areas (33 C.F.R. § 328.3).

Because of the recent Supreme Court decision in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (531 U.S. 159 [2001]), USACE no longer maintains jurisdiction over "isolated" wetlands and waters. The USACE maintains jurisdiction over "adjacent wetlands," which are hydrologically connected to navigable waters or tributaries of navigable water, even if such wetlands appear to otherwise be "isolated" (*U.S. v. Riverside Bayview Homes*, 474 U.S. 121 [1985]).

In our opinion, Porter Creek is a water of the U.S. because it is a tributary to the Russian River (a navigable-in-fact water of the U.S.); therefore, a USACE permit was required to construct the culvert across the creek. In addition, the vernal pools are adjacent wetlands with a hydrological connection to Porter Creek; therefore, construction activities impacting these wetlands require a USACE permit. Even though a non-reporting Nationwide Permit was in effect in October 2006 at the time of the culvert installation, we believe this activity would not be covered by a non-reporting permit because of the impacts to a special aquatic site.

1.5.2. Federal Jurisdiction – U.S. Fish and Wildlife Service

If a federal agency determines that a proposed federal action (*i.e.*, issuance of a Clean Water Act Section 404 Permit from USACE) "may affect" a listed species and/or designated critical habitat, the agency must consult with the U.S. Fish and Wildlife Service for plants and wildlife in accordance with § 7 of the ESA. The action agency (*i.e.* the agency issuing the permit or providing federal funding) must determine whether the action is likely to adversely affect listed species or critical habitat (16 U.S.C. § 1536[a][3]). Avoidance and minimization measures may be required for the action agency to determine that an action is not likely to adversely affect listed species or critical habitat. If an action is not likely to adversely affect listed species or critical habitat, the USFWS may issue a letter of concurrence and informal consultation is concluded. If, however, an action is likely to adversely affect listed species or critical habitat, the action agency must enter into formal consultation with USFWS which will result in a Biological Opinion to determine whether or not the action is likely to jeopardize the continued existence of a listed species or result in adverse modification to critical habitat (16 U.S.C. § 1536[a][2]).

Although recovery plans are not regulatory, the ESA indicates that recovery plans should guide Federal agencies in fulfilling their obligations under Section 7(a)(1) to "utilize their authorities in furtherance of the purpose of [the ESA] by carrying out programs for the conservation of endangered species and threatened species." In addition, recovery plans provide guidance for Section 7(a)(2) consultations and the development of Habitat Conservation Plans.

In this case, a federally listed species is confirmed present near the location of the newly constructed culvert and a USACE permit was likely required to construct the culvert, providing federal nexus. Therefore, Mr. Ebner (via USACE) was required to enter into Section 7 consultation with USFWS to determine affects to the federally listed Endangered Loch Lomond button-celery.

1.5.3. State Jurisdiction – Regional Water Quality Control Board

The state Regional Water Quality Control Board (RWQCB) may be involved in approval of a project in two ways, depending on whether state or federal jurisdiction applies. One, pursuant to Section 401 of the Clean Water Act, any Section 404 authorization from the USACE for the discharge of dredged or fill material into waters of the U.S. must be accompanied by a certification from the state RWQCB that the activity will not violate state water quality standards. The RWQCB has a policy of no-net-loss of wetlands in effect and typically requires mitigation for all impacts to wetlands before it will issue a water quality certification. In addition, State law requires that a final environmental document developed in accordance with the California Environmental Quality Act (CEQA) must be reviewed prior to Section 401 Certification.

Two, in addition to Section 401 Water Quality Certifications for federal permits, the RWQCB has authority over waters of the "State" under the Porter-Cologne Water Quality Control Act. The top of bank, or the outermost edges of riparian vegetation, determines the boundaries of waters of the State. The RWQCB asserts that it has authority over all wetlands, including "isolated" wetlands. Therefore, even though a federal permit (*i.e.* a Section 404 Permit from USACE) and the accompanying Section 401 Certification may not be required for isolated wetlands, an applicant must still obtain a permit from the RWQCB for impacts to isolated wetlands. Under the Porter-Cologne Water Quality Control Act (Cal. Water Code §§13000-14920), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the State's waters. Therefore, even if a project does not require a federal permit, it may still require review and approval by the RWQCB.

To meet the RWQCB standards for water quality protection as well as the broader jurisdiction generally asserted by them, it has become necessary to prepare a report addressing all hydrologic issues related to a project application. The report involves an analysis of pre-project watershed and water quality conditions (*e.g.*, before and after percent impervious surface analysis, before and after runoff analysis, design alternatives to address post-project changes in the watershed, and minimization of these changes [BMPs]). Additionally, the report should include a discussion of impacts to waters of the State and biological resources and how the project avoided those impacts to the maximum extent feasible, stressed minimization of impacts, and proposed mitigation for unavoidable impacts.

In this case, if a USACE permit is required for constructing the culvert across Porter Creek, then a 401 Water Quality Certification is also necessary. In addition, the vernal pools and the watercourse connecting the two pools are within State jurisdiction and approval must be obtained under the Porter-Cologne Act for impacts to the vernal pools and Porter Creek.

1.5.4. State Jurisdiction – California Department of Fish and Game

The California Department of Fish and Game (CDFG) exercises jurisdiction over wetland and riparian resources associated with rivers, streams, and lakes under California Fish and Game Code §§ 1600 to 1607. The CDFG has the authority to regulate work that will:

- 1) Divert, obstruct, or change the natural flow of a river, stream, or lake.
- 2) Change the bed, channel, or bank of a river, stream, or lake.
- 3) Use material from a streambed.

The California Department of Fish and Game asserts that its jurisdictional area along a river, stream, or creek is usually bounded by the top of bank, or the outermost edges of riparian vegetation. Typical activities regulated by CDFG include installing outfalls, stabilizing banks, creek restoration, implementing flood control projects, constructing river and stream crossings, diverting water, damming streams, gravel mining, logging operations, and jack-and-boring. Prior to undertaking an activity that will impact any of the above biological resources, a Streambed Alteration Agreement must be obtained from the CDFG.

In addition to jurisdiction over wetland and riparian resources, CDFG maintains jurisdiction over state protected species. If a project may result in take or destruction of a state protected species under the California Endangered Species Act (CESA), the CDFG must be consulted.

In this case, CDFG should have been consulted regarding impacts to the Loch Lomond button-celery.

1.5.5. Sonoma County Code

As you are aware, no person may perform grading, filling, or clearing of vegetation without first obtaining a grading permit (Sonoma County Code § 26C-383). Although there are exceptions for minor grading, filling, or vegetation clearing, it is not clear that these exceptions apply in this case. The exact area of grading, filling, and vegetation clearing performed on the Ebner Parcel is unknown at this time.

In addition, although the Draft Sonoma County General Plan has not been adopted, the County should be aware that the vernal pools, including the area in which the new culvert was constructed, is designated as a sensitive biotic resource in the Draft Plan. The area is considered a sensitive biotic resource due to special-status species habitat as well as wetland habitat. Sonoma County policies would require a site assessment and adequate mitigation for ministerial permit applications proposed within locations mapped as special-status species habitat. For ministerial permit applications proposed within designated marshes and wetlands, a setback of 100 feet would be required, or 50 feet based upon site assessment and appropriate mitigation. For discretionary permits, policies require a site assessment, compliance with agency requirements, and adequate mitigation. Adequate mitigation requirements range from avoidance to replacement of habitat to achieve no net loss.

1.6. Conclusions

In conclusion, the activities (including removal of vegetation, grading, and construction of a culvert across Porter Creek) constitute potential violations of the State Regional Water Quality Control Board regulations, California Department of Fish and Game Code, Sonoma County Code, the Clean Water Act, and Endangered Species Act. Before conducting such activities, Mr. Ebner was required to obtain the following permits:

- RWQCB permit for fill of waters of the State
- Consultation with CDFG for potential impacts to vernal pools and the state listed Endangered Loch Lomond button-celery
- Sonoma County grading permit


In addition, if Porter Creek is considered a water of the U.S., then the following additional permits were required:

- Section 404 permit from USACE for fill of waters of the U.S.
- Section 401 Water Quality Certification from the RWQCB
- Section 7 consultation with the USFWS for impacts to the Diamond Mountain core area for vernal pool recovery and impacts to the federally listed Endangered Loch Lomond button-celery

Not only has Mr. Ebner violated several environmental regulations by not obtaining the appropriate permits, his actions have been directly contrary to avoidance and minimization efforts detailed above in Section 1.2 as required in Mr. Constant's THP/TCP. In addition, Mr. Ebner's actions are adverse to efforts of CDFG and USFWS to conserve the Diamond Mountain core area as detailed in the *Recovery Plan for Vernal Pool Ecosystems*. We respectfully request that you deny issuing a grading permit for the activities related to constructing the culvert and take appropriate action as authorized.

Please feel free to contact Marylee Guinon at 925-279-0590 or Julie Ogilvie at 925-279-0598 with any questions or comments.

Yours sincerely,


Marylee Guinon
Principal
EDAW


Julie Ogilvie
Regulatory and Permitting Project Manager
EDAW

cc: Fred and Mary Constant
Captain Dave Fox, California Department of Fish and Game
Peter Straub, U.S. Army Corps of Engineers
Bill Hurley, Regional Water Quality Control Board
Ryan Olah, U.S. Fish and Wildlife Service
Ken Sanchez, U.S. Fish and Wildlife Service
Reg Cullen, Sonoma County Permit & Resource Management Department

Encl. Figure 1. Site Location Map
Figure 2. Location of Vernal Pools
Figure 3. Timber Harvest Plan Project Map
Figure 4. Special-Status Plant Species in Vicinity
Figure 5. Special-Status Wildlife Species in Vicinity
Site Photos

References

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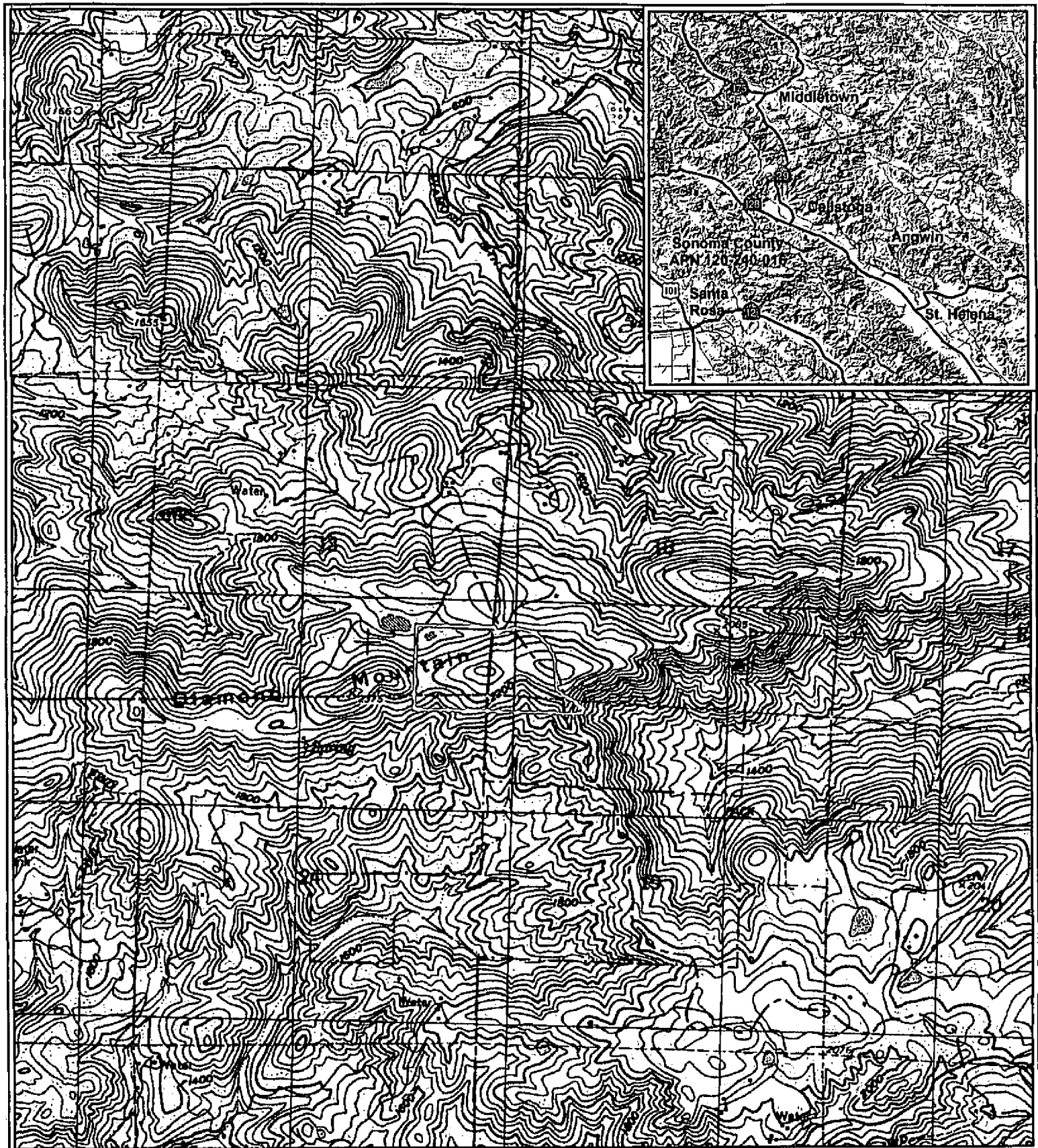
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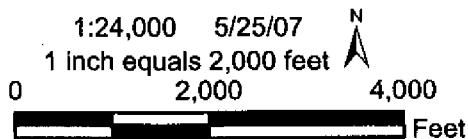


Legend

Sonoma County
APN 120-240-016

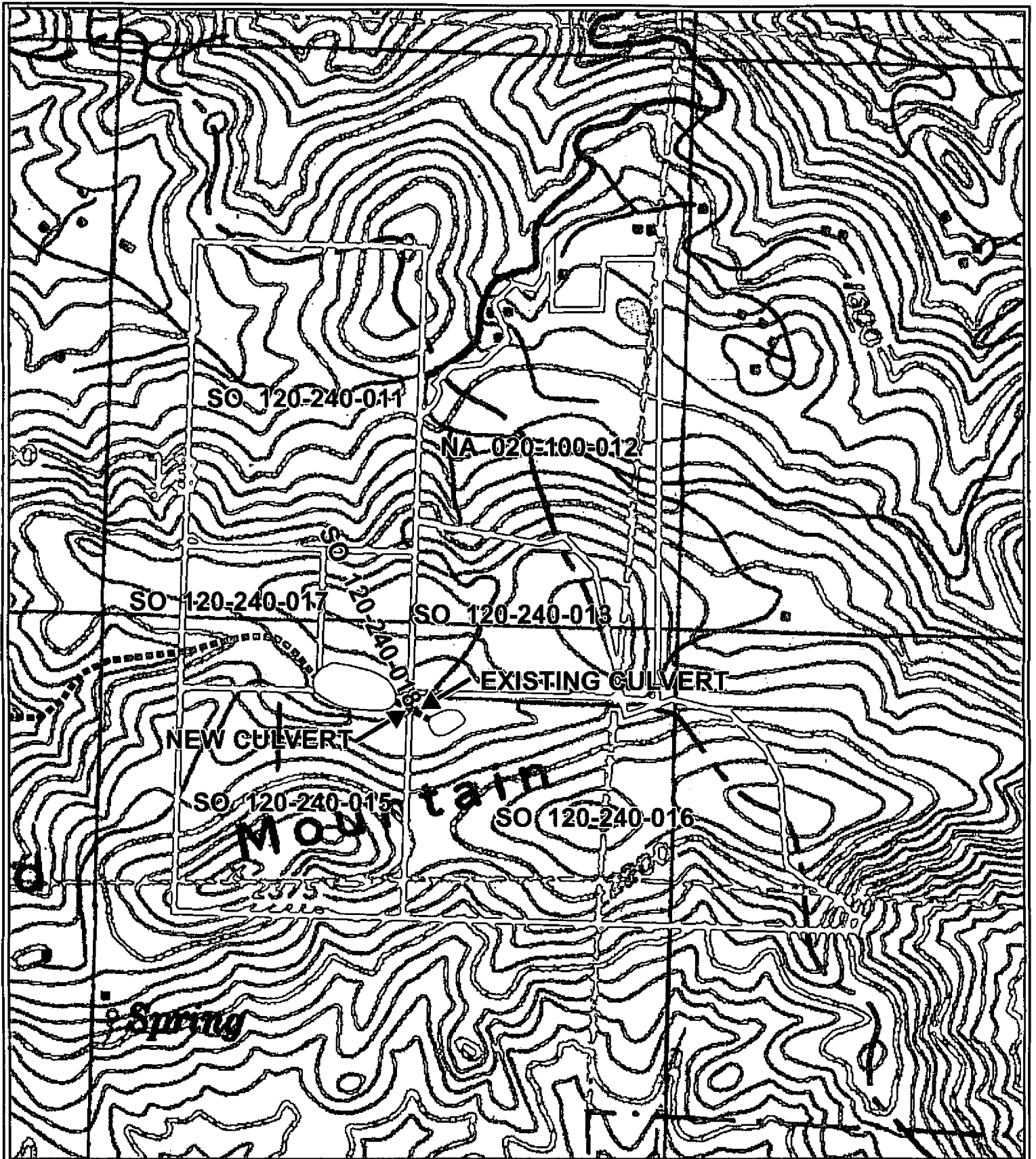
This document provided for the sole use of the Constant Wine Company. Quadrangle base from USGS (1978). Elevation and hydrology data from NRCS (2004; 1993). Open space data from GreenInfo Network (2002). This document not intended for detail design work.

Figure 1
Location of Sonoma County APN 120-240-016
Constant Wine Company
 Sonoma & Napa Counties, California






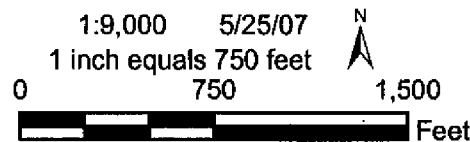
EDAW | AECOM

EDAW Natural Resources - Walnut Creek
 2099 Mt. Diablo Blvd. Suite 204
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 925.279.0580 www.edaw.com



Legend

-  Vernal Pool
-  Class III Watercourse
-  Parcel Boundaries



This document provided for the sole use of the Constant Wine Company. Quadrangle base from USGS (1978). This document not intended for detail design work.

Figure 2

*Location of Vernal Pools
Constant Wine Company
Sonoma & Napa Counties, California*

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**Constant Vineyard Conversion
And Timber Harvest Plan**

-- Project Map --

121 Diamond Mountain Road, Calistoga, CA

source: Sonoma County Planning Dept. C-22

USGS 7 1/2' Calistoga Quad 1993

location: Portion E 1/2 of the E 1/2 Section 13

T8N R7W MDB&M

scale: 1" = 370' CI = 40'

lrf

- Revision 3 - 10/4/97
- Revision 4 - 10/20/97
- Revision 5 - 12/5/97

7/97 Rev. 1 5/7/97 Rev. 2

Legend:

• - • = End of County Road Revision #6

== = Permanent Roads

= = = Seasonal Road (unsurfaced ranch road)

~ ~ ~ = Conversion/THP area

□ = Vineyard

○ = Landing site

⊗ = Irrigation Pond

⊙ = Vernal Pool (Dry)

⋯ = Class III Watercourse

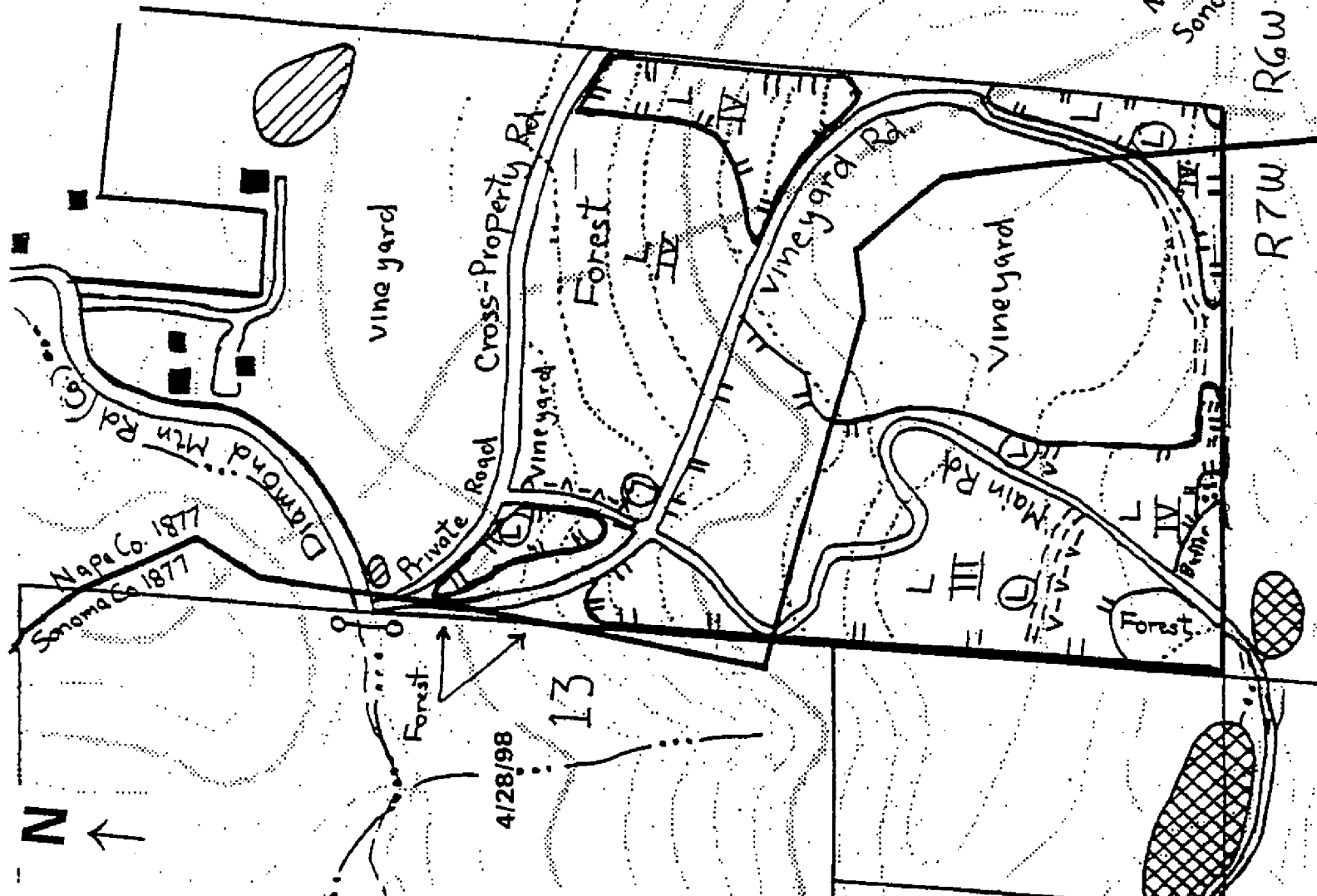
Forest = Forested Reserve

Buffer = Vernal Pool Buffer

v - v - v = Roads to be obliterated

⊞ = Additional buffer

Note:
The USGS Quad and the Sonoma County Lot Line Map contain inaccuracies and distortions. The Engineers Site plan, based on actual survey is utilized for measurements and acreages.



RECEIVED

APR 3 0 1998

COAST AREA OFFICE
RESOURCE MANAGEMENT

Figure 3

-12-

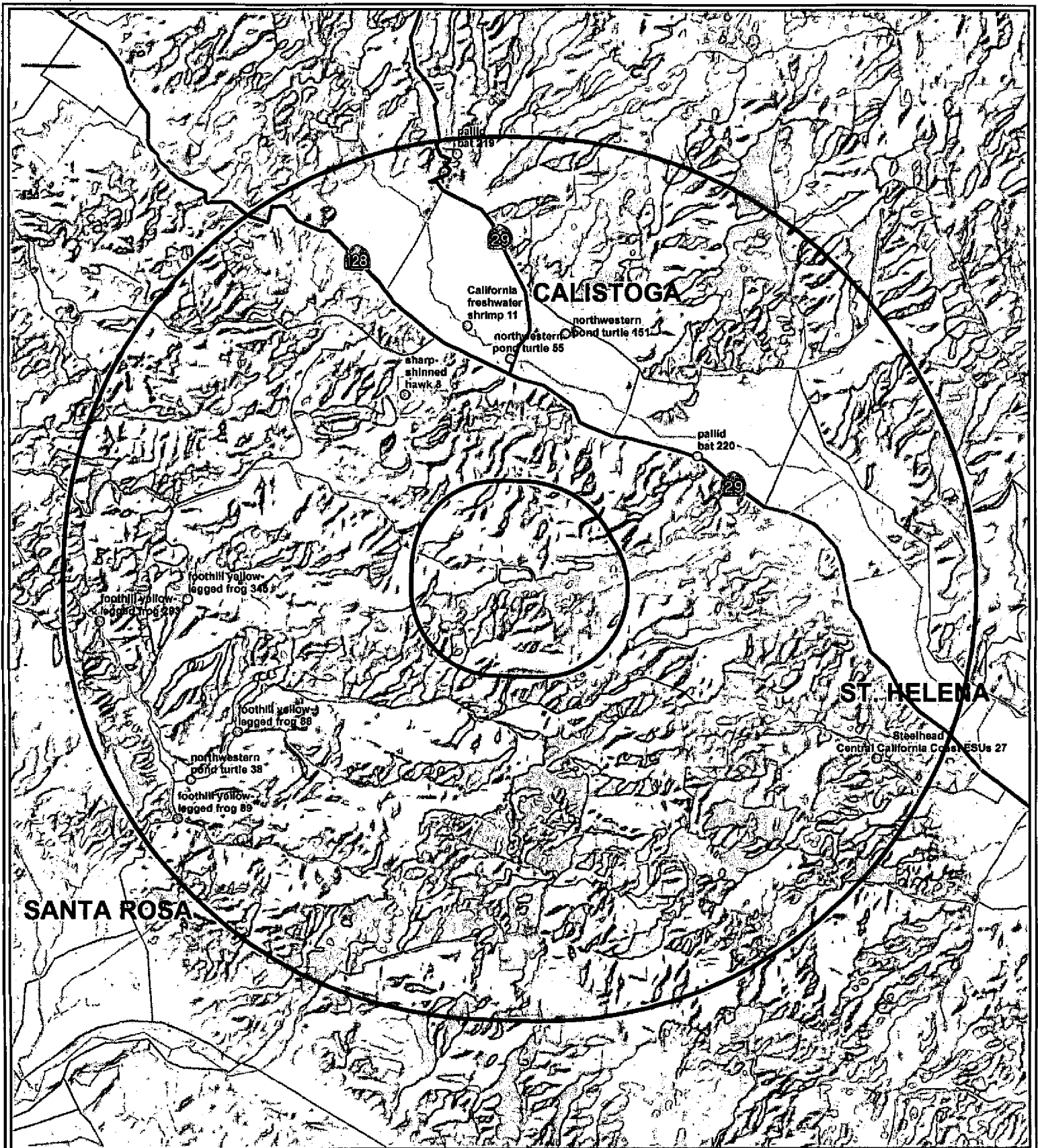
18

13

Napa Co. (1877)
Sonoma Co. (1877)

R6W

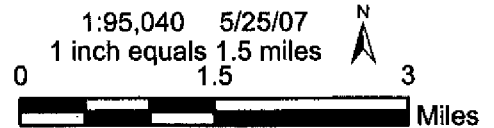
R7W



Legend

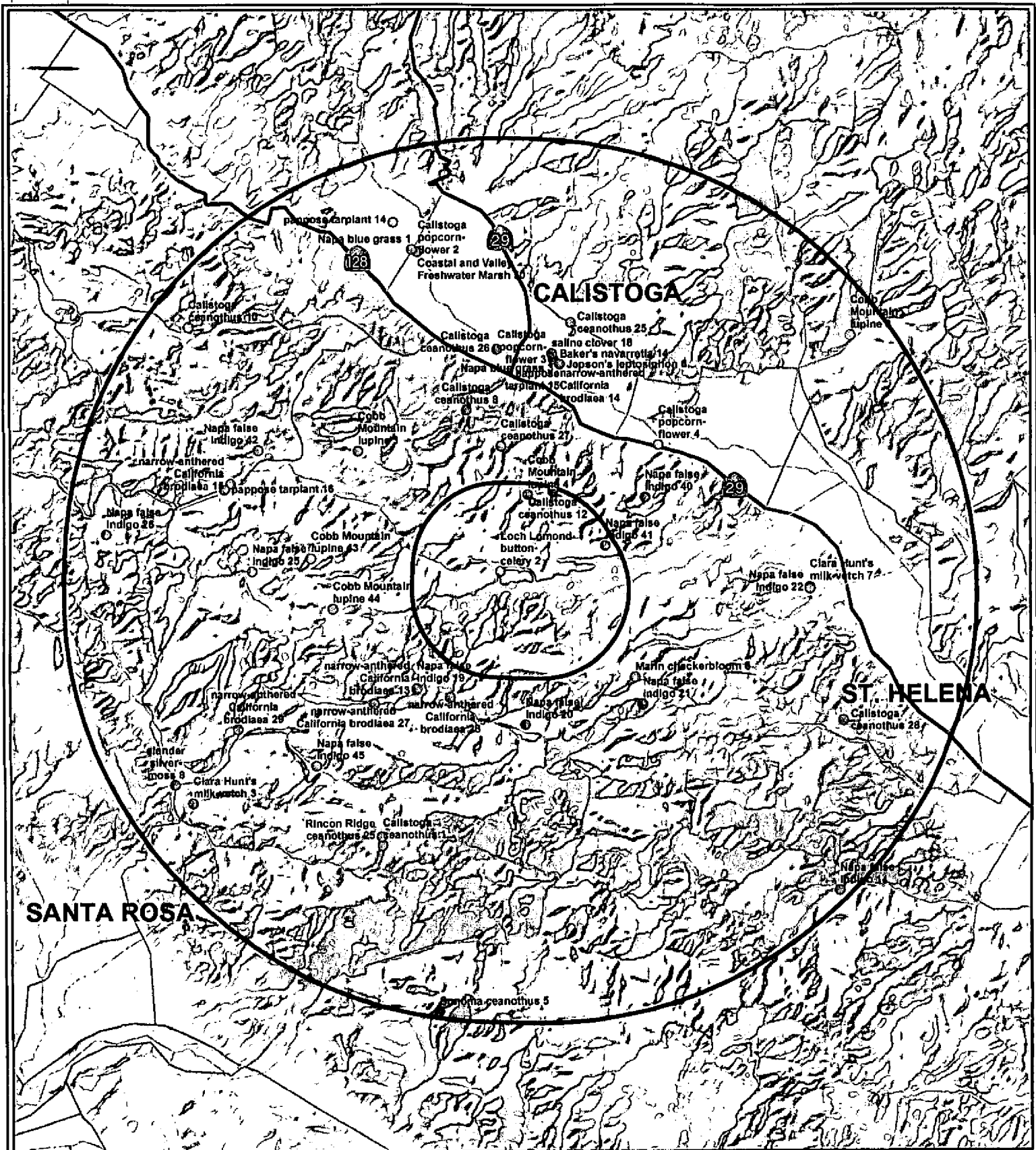
- Special-Status Wildlife Occurrence
- One Mile Radius of the Study Site
- Five Mile Radius of the Study Site
- Sonoma County APN 120:240-016

Figure 4
Special-Status Wildlife Occurrences Within Five Miles of the Study Site
Constant Wine Company
 Sonoma & Napa Counties, California



This document provided for the sole use of Constant Wine Company. Special-Status occurrences from the Department of Fish & Game Natural Diversity Database (April 28, 2007). Elevation and hydrologic data from NRCS (2004). Open space data from GreenInfo Network (2002). This document not intended for detail design work.

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 925.279.0590 www.edaw.com



Legend

- Special-Status Plant Occurrence
- One Mile Radius of the Study Site
- Five Mile Radius of the Study Site
- ▭ Sonoma County APN 120-240-016

Figure 5
Special-Status Plant Occurrences Within Five Miles of the Study Site
 Constant Wine Company
 Sonoma & Napa Counties, California

1:95,040 5/25/07
 1 inch equals 1.5 miles
 0 1.5 3 Miles



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Site Photos



Site Photo 1. Stockpiled soils and removed trees



Site Photo 2. Stockpiled soils removed, trees, vernal pool to right.



Site Photo 3. Vernal pool before culvert constructed



Site Photo 4. Newly constructed culvert and levee reached at margin of vernal pool and across Class III Watercourse



Site Photo 6. Stockpiled soils looking toward easement road.



Site Photo 6. Sediment leached to vernal pool from stockpiled soils on Ebiner Parcel.