

**Meeting of the Central Valley Flood Protection Board  
July 18, 2008**

**Draft Staff Report  
DWR Floodway Protection Section**

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Item

Consider approval of Permit No. 18356 (Attachment A) to plant a vineyard within the Designated Floodway of the left (south) bank of Dry Creek.

Applicant

Sam Newnam

Location

The project is located in Modesto, east of Claus Road at 4519 Gomes Road. (Dry Creek, Stanislaus County, see Attachment B).

Description

To plant a vineyard, approximately 11 acres, within the Designated Floodway of the left (south) bank of Dry Creek.

Agency Comments and Endorsements:

- The U. S. Army Corps of Engineers has sent a letter stating that the District Engineer has no comments or recommendations regarding flood control because this proposed work does not affect a federally constructed project (Permit Exhibit A).
- The project is in the Mokelumne River designated floodway therefore a local maintaining agency endorsement is not applicable.

CEQA Findings

Board staff recommends that the Board adopt the following CEQA findings:

The Central Valley Flood Protection Board is acting as the CEQA lead agency. The Board has determined that the project is exempt from CEQA under a Class 4 Categorical Exemption (CEQA Guidelines Section 15304) covering minor private alterations in the condition of land, water, and vegetation.

Section 8610.5 Compliance

1. Evidence that the Board admits into its record from any party, State or local public agency, or nongovernmental organization with expertise in flood or flood plain management:

The Board will make its decision based on the evidence in the permit application and attachments, this staff report, and any other evidence presented by any individual or group.

2. The best available science that related to the scientific issues presented by the executive officer, legal counsel, the Department or other parties that raise credible scientific issues.

The accepted industry standards for the work proposed under this permit as regulated by Title 23 have been applied to the review of this permit.

3. Effects of the decision on the entire State Plan of Flood Control:

This project has no effects on the State Plan of Flood Control.

4. Effects of reasonable projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed:

None.

Staff Recommendation

Staff recommends that the Board adopt the CEQA findings, approve the permit, and direct staff to file a Notice of Exemption with the State Clearinghouse.

List of Attachments

- A. Permit
- B. Location map

**DRAFT**

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
**CENTRAL VALLEY FLOOD PROTECTION BOARD**

**PERMIT NO. 18356 BD**

**This Permit is issued to:**

Sam Newnam  
1612 Oakdale Road  
Modesto, California 95355

To plant a vineyard, approximately 11 acres, within the designated floodway of the left (south) bank of Dry Creek. The project is located in Modesto, east of Claus Road at 4519 Gomes Road (Section 19, T3S, R10E, MDB&M, Dry Creek, Stanislaus County).

**NOTE:** Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project described above.

**(SEAL)**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Executive Officer

**GENERAL CONDITIONS:**

**ONE:** This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

**TWO:** Only work described in the subject application is authorized hereby.

**THREE:** This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

**FOUR:** The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and the Central Valley Flood Protection Board.

**FIVE:** Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of the Central Valley Flood Protection Board.

**SIX:** This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 day's notice.

**SEVEN:** It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

**EIGHT:** This permit does not establish any precedent with respect to any other application received by the Central Valley Flood Protection Board.

**NINE:** The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

**TEN:** The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

**ELEVEN:** The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

**TWELVE:** Should any of the work not conform to the conditions of this permit, the permittee, upon order of the Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

## **SPECIAL CONDITIONS FOR PERMIT NO. 18356 BD**

**THIRTEEN:** All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior written approval of the Central Valley Flood Protection Board.

**FOURTEEN:** The Central Valley Flood Protection Board and the State of California and/or any department(s) thereof shall not be held liable for damage(s) to the herein permitted project resulting from release(s) of water from resevoirs, flood fight, operation, maintenance, inspection, or emergency repair.

**FIFTEEN:** The permittee is responsible for all liability associated with construction, operation, and maintenance of the herein permitted project and shall defend and hold harmless the Central Valley Flood Protection Board and the State of California and/or any department(s) thereof from any liability or claim(s) of liability associated therewith.

**SIXTEEN:** The permittee shall be responsible for repair(s) of any damage(s) to the floodway due to construction, operation and/or maintenance of the herein permitted project.

**SEVENTEEN:** The permittee shall contact the Department of Water Resources by telephone, (916) 574-1213, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

**EIGHTEEN:** All cleared trees and brush shall be completely burned or removed from the floodway, and downed trees or brush shall not remain in the floodway during the flood season from November 1st to April 15th.

NINETEEN: Stockpiled material and/or equipment shall not remain in the floodway during the flood season from November 1st to April 15th.

TWENTY: Grapevines shall not be planted within 30 feet of an unprotected streambank.

TWENTY-ONE: Rows of grapevines shall be parallel to the direction of the overbank flow. The minimum row spacing shall be 16-feet and the minimum elevation of trellis cross arms shall be 48-inches.

TWENTY-TWO: Prunings shall be completely burned or removed from the floodway and shall not remain in the floodway during the flood season from November 1st to April 15th.

TWENTY-THREE: After each period of high water, debris that accumulates in the vineyard shall be completely removed from the floodway.

TWENTY-FOUR: All debris generated by this project shall be disposed of outside the floodway.

TWENTY-FIVE: If the herein permitted vineyard results in an adverse hydraulic impact, the permittee shall provide appropriate mitigation measures, to be approved in writing by the Central Valley Flood Protection Board, prior to implementation of mitigation measures.

TWENTY-SIX: The permittee may be required, at permittee's cost and expense, to remove or alter all or any part of the herein permitted project if removal or alteration is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove or modify the herein permitted project at the permittee's expense.

TWENTY-SEVEN: If the herein permitted vineyard, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the vineyard under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

TWENTY-EIGHT: The letter from the Department of the Army dated June 19, 2008, which is attached to this permit as Exhibit A is in reference to this project.



**DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO, CALIFORNIA 95814-2922**

**RECEIVED**

JUN 23 2008

REPLY TO  
ATTENTION OF

Flood Protection and Navigation Section (18356)

Mr. Jay Punia, Executive Officer  
Central Valley Flood Protection Board  
State of California  
3310 El Camino Ave., Rm. LL40  
Sacramento, California 95821

**JUN 19 2008**

Dear Mr. Punia:

We have reviewed an application for a permit by Sam Newman (Reclamation Board Number 18356). These plans include planting approximately 11 acres of a vineyard within the designated floodway of the left (south) bank of Dry Creek. The project is located in Modesto, east of Claus Road at 4519 Gomes Road, at 37.6591°N 120.9136°W NAD83, Stanislaus County, California.

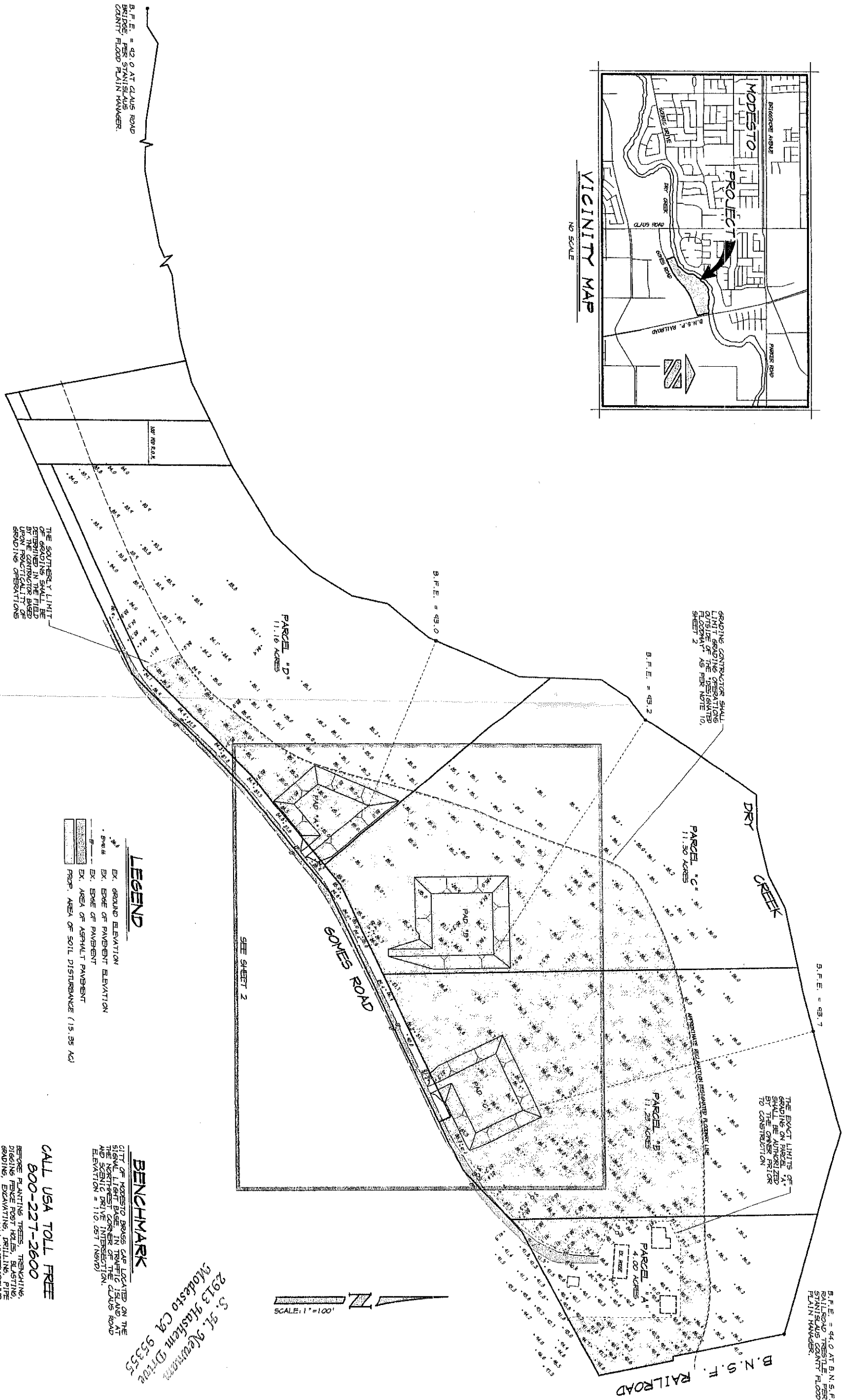
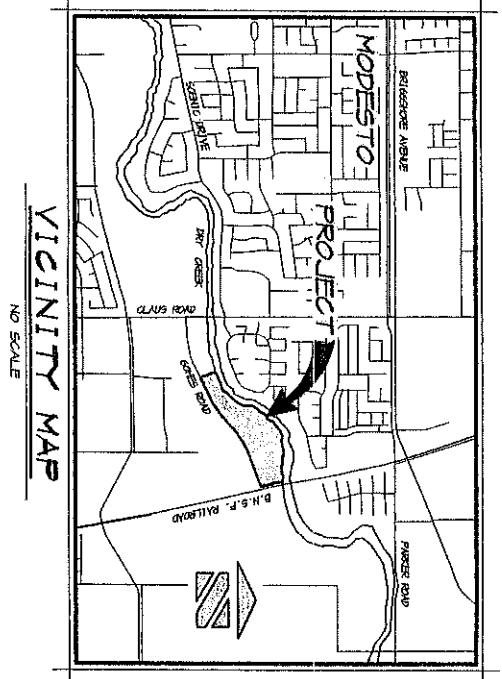
The District Engineer has no comments or recommendations regarding flood control because the proposed work does not affect a federally constructed project.

A file (200600982) has been opened because a Section 10 and/or Section 404 permit may be required. Please advise the applicant to contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Division, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250.

If you have any questions concerning our comments on this permit application, please contact Ms. Paige Caldwell at (916) 557-6903 or Mr. Robert Murakami at (916) 557-6738.

Sincerely,

Meegan G. Nagy, P.E.  
Chief, Flood Protection and Navigation Section



**LEGEND**

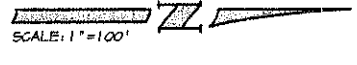
- EX. GROUND ELEVATION
- EX. EDGE OF PAVEMENT ELEVATION
- EX. EDGE OF ASPHALT PAVEMENT
- PROP. AREA OF SOIL DISTURBANCE (15.35 AC)

**BENCHMARK**  
 CITY OF MODESTO BRASS CAP LOCATED ON THE SIGNAL LIGHT BASE IN TRAFFIC ISLAND AT THE NORTHWEST CORNER OF CLAVIS ROAD. ELEVATION = 110.257 (NAD83)

**CALL USA TOLL FREE**  
 800-227-2600

BEFORE PLANTING TREES, TREENING, DIGGING FENCE POST HOLES, BLASTING, GRADING, EXCAVATING, DRILLING, PIPE RUSHING, ETC., CALL UNDERGROUND SERVICE ALERT FOR UNDERGROUND CLEARANCE.  
 USA WILL PROVIDE INFORMATION ABOUT OR LOCATE UNDERGROUND UTILITIES FOR YOU.

S. 94.960000  
 2913.945000  
 Modesto CA 95355



**BASE FLOOD ELEVATION DETERMINATION**  
**GOMES ROAD HOME SITES**  
 STANISLAUS COUNTY CALIFORNIA



**ASSOCIATED ENGINEERING, INC.**  
 Surveying • Design • Planning  
 4206 TECHNOLOGY DRIVE  
 MODESTO, CALIFORNIA 95336  
 PH: (209) 545-3390 FAX: (209) 545-3875

| REVISION | DATE | DESCRIPTION | BY |
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|          |      |             |    |
|          |      |             |    |

**REGISTERED PROFESSIONAL ENGINEER**  
 No. 9888  
 Exp. 03/07  
 DATE: 1/25/06  
 SCALE: 1"=100'  
 DWG: 325A-05(800)  
 DESIGNED: R.D.C.  
 SHEET 1 OF 2

SHEET 1 OF 2