

**Oak Woodlands Watershed Protection Initiative, (Measure C) Falls Short On Its Promises**  
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Coming soon to the June ballot is Measure “C”, also known as the “Napa County Watershed and Oak Woodland Protection Initiative of 2018”. Its authors, Mike Hackett and Jim Wilson, believe that protection of water quality, oak woodlands, and streams under existing regulations are insufficient in Agricultural Watershed zoned lands. To achieve that goal, they propose amendments to the county’s zoning rules that would set limitations or prohibitions on oak tree removal, and that streams of all size classification and wetlands be required to have varying setbacks of up to 150 feet. Although earlier versions of the initiative appeared to apply to all lands, exemptions written into the current Measure C ballot apply restrictions only to vineyard planting.

Is this measure needed, and will it achieve its stated result? Is it truly a watershed protection measure, or is it perhaps actually intended to put the brakes on reasonable agricultural uses of the land in the AW and preserve the land for further residential use?

First, a little background.

Napa County already upholds a uniquely advanced position when it comes to watershed protection. This stance was codified with the county’s conservation regulations (aka Hillside Ordinance) that entered into county code in 1991, and continues through to the recently-adopted CA Water Board water quality regulations for vineyard lands in Napa and Sonoma counties. The Napa County Conservation Regulations, (NCCR) were initially considered by the county planning commission in 1990, to address the largely unregulated expansion of hillside vineyards and attendant soil erosion and water quality impairment concerns. By the time final soil erosion control and stream setback regulations were adopted by the Board of Supervisors in September 1991, conversions for all land uses proposed on 5% or steeper terrain came into regulatory play.

Later in the decade, following a challenge by the Sierra Club, the county began to require incorporation of all elements of the California Environmental Quality Act, (CEQA) in their discretionary review and approval of NCCR erosion control plans. From that point forward, NCCR protocols steadily tightened to include a whole host of additional planning requirements, including full biological assessments, wetlands protections, rigid “no-net-runoff increase” for storm water, forestry impact assessments, water availability analysis, and planting limitations or prohibitions for new vineyards in “impacted watershed areas” or groundwater deficient areas. Where land steepness, proximity to streams, and pre-conversion vegetation types had limited or prohibited vineyard planting and general land conversions under NCCR, the addition of CEQA plan review oversight added further significant land use restrictions and county oversight.

Fast forwarding to July 2017, the CA Regional Water Board adopted “General Waste Discharge Requirements” for vineyard lands in the Napa River and Sonoma Creek watersheds, after years of studies and false starts. The resulting General Permit applies to vineyard lands 5 acres or larger. The state will now require vineyard owners to develop water quality protection plans for their “vineyard lands”, which includes roads, streams, and “legacy” erosion areas outside of the vineyard footprint.

Annual water quality monitoring reports are required, and stream setback standards for vineyards are established, (that unfortunately differ from NCCR setback requirements). Are we regulated enough in the AW, or perhaps already over-regulated?

To the urban voter who has not yet heard of these existing protections, Measure “C” might initially sound favorable - on a simple mom-and-apple-pie level. The devil is in the details, and the initiative is filled with problematic layers of them.

This begs the question, “Can you be a conservationist and sustainable land use advocate, and vote “no”?” I served 28 years as the Natural Resources Conservation Service District Conservationist for Napa County. Over my years in that role, I coordinated or served as a collaborator on many watershed protection efforts. Working with the RCD and many other fine organizations and individuals, we helped to birth the RCD Land Stewardship Program, the Napa Sustainable Winegrowing Group, the Putah Creek ag waivers water quality protection effort, numerous fisheries enhancement projects, the Rutherford Dust Napa River Restoration project, Pierce’s Disease riparian restoration research, the Napa County Conservation Information Group, and other watershed protection research and demonstration projects too numerous to list. When soil erosion from recently converted farmland fouled the waters of Bell Canyon reservoir in 1989, we developed remediation plans that would serve as the template for the future county conservation regulations program. It was a very controversial time in Napa County. Regulatory programs were the last option to get a handle on the environmental impacts of farmland development, but clearly were necessary.

I oppose Measure “C” for a number of reasons. For all of its laudable stated goals, it is poorly crafted and weak on the deliverables it promises. It is well-established that ballot box initiatives that put voters in the uncomfortable and truly inappropriate position of determining the need for and the validity of complex, arcane regulatory procedures are a bad idea. We learned that from ballot measures that were put to Napa County voters in 2004. Measures “O” and “P”, (which were defeated) promoted similar stream setback regulatory requirements that we see in the current Measure “C”.

In its simplest terms, Measure “C” initiative language singles out vineyard land conversions on AW zoned lands as the primary threat to oak woodlands and water quality. It assumes that 10,000 acres and more of land will be developed for vineyards by the year 2030. When a presumed resulting target of 795 acres of oak woodland removal has been met, (an oddly calculated number) stringent permit procedures and complex environmental mitigation requirements kick in for those wishing to plant vineyards. Versus earlier versions of the initiative, most other land conversions other than vineyard planting are now exempt from these proposed regulations.

The measure’s assumption that hillside vineyard development is spiraling out of control is poorly researched. If proponents had taken the time to consult available land slope maps and become familiar with county environmental sensitivity mapping and county planning standards, they would have reached the finding that very small pockets of plantable land remain available anywhere in Napa County, let alone the AW. In all probability, the current deficit of wine grape supply in the Napa Valley

Appellation would be driving extensive conversions of land to vineyards if existing regulation would allow.

Without any mention of the very stringent, effective and time-proven stream setback requirements that are already in place with the NCCR's, Measure "C" states that the county should adopt/ overlay an entirely new set of setback distances. Using State of California stream classifications, "Class I, II, and III" the measure creates setbacks that would overlay and create conflicts with existing NCCR setbacks. NCCR setbacks are variable, and based on scientifically-determined distances based on land slope erodibility, while the measure's setbacks are rigid and fixed. Similar alternative setbacks have been proposed in the past by environmental activists. They are affectionately referred to by many environmental scientists as "the setbacks for anyone but me". Interestingly, the 25 foot mandatory setback spelled out for the lesser Class III streams in the measure is actually less than the 35 foot to 60 foot land slope-determined setbacks for some NCCR-defined streams. If "wider is better" the measure steps on its own foot here. It should also be noted that in the 17 years that NCCR stream setback standards have been in place, no scientifically documented studies or cases have been presented to empirically note deficiencies in protecting stream water quality and habitat. This is important.

It is also important to note that Measure "C" stream and wetland habitats are already further protected by state and federal agencies, including the California Department of Fish and Wildlife, the California Regional Water Quality Control Board, and by the US Army Corp of Engineers. None of these science-based resource agencies employs a rigid setback distance prescription from defined streams and wetlands. Rather, applicants for permits or requesting jurisdictional findings are tasked with keeping their projects from encroaching on sensitive aquatic areas, and are further required to provide professional determinations from biologists and erosion control planners on appropriate setback distances. Measure "C"'s rote setback distances of 75 feet, (Class II streams), 125 feet, (Class I streams) and 150 feet, (wetlands) are extreme and in most cases unnecessary.

If Measure C proponents are convinced that further control or prohibition of agricultural activities in the AW will lead to significant protection of water quality, they haven't consulted the exhaustive studies conducted by the CA Regional Water Quality Control Board. The board's Total Maximum Daily Load, (TMDL) listing of the Napa River for the Napa River largely bases its overall sediment allocation findings for the watershed basin on the Limiting Factors Analysis report for Soda Canyon Creek. The creek is a tributary to the Napa River, and has a mostly-hillside watershed comprised of rural residential properties, open space, vineyards, and limited amounts of grazing land. The Water Board study, conducted between 1994 and 2004 found that 253,500 metric tons of sediment is annually transported in the creek. Of that total, erosion on vineyard and grazing lands is estimated to contribute 26.4% of the sediment load. Doing the math, that leaves "naturally occurring causes", "human actions", including rural residence roads, creek erosion, and "urban storm water discharges" as the source for 73.6% of water quality impairment. Rural, AW area residents, who comprise a goodly percentage of the vocal proponents of this measure clearly must think that they are not part of the problem. They have instead exempted themselves from the requirements. That should bother us all.

Much more can and will likely be said about the questionable nature of the claims and the over-layered, conflicting and costly regulatory requirements proposed by Measure "C". The proponents are clearly not satisfied by the job county government has done in overseeing and enforcing conservation regulations. They expect county government to sort it out and "coordinate with" state and federal resource agencies to insure that setback requirements are effective. As a 34 year career employee of a federal, (non-regulatory) agency, I found first hand by personal experience that coordination and cooperation between agencies to enforce county natural resource regulations is a pipe dream. Between 1997 and 2007, I chaired a local group of local, state, and federal agency representatives. Our stated purpose was get to know one another on a first name basis and jointly develop unified policy and procedures for issuing a one-stop-shop single permit for property owner stream restoration projects. It was a well-intentioned effort, and I was genuinely fond of my agency counterparts, but after 10 years of efforts and no single agreement that all agencies could support, the experiment ended. Proponents of Measure "C" seem confident that once this very convoluted and rambling initiative is approved by voters, county government will figure out a way to fund it and make it work. If passed, I would expect that Measure "C" will spend more time in the courts than it will being applied to protect our watersheds in any meaningful or tangible way.

Does a "no" vote on Measure "C" reduce or eliminate our ability to protect and enhance our AW oak woodlands and watersheds? In my opinion, defeat of the measure sends a strong and important message - the residents and voters of Napa County expect proponent stakeholders, natural resources scientists, agriculturalists, and rural residential property owners to work together and come back with a better approach.

Last October, 30,639 acres of lands, many of them oak woodlands burned in the Atlas, Tubbs, and Nuns wildfires. Following immediately after the wildfires, the Napa County Farm Bureau Natural Resources Committee met with CalFire representatives to discuss the fire aftermath and how future disasters might be prevented or reduced. One of the key discussion topics was fire prevention. CalFire made it clear that any local help would be appreciated to convince our state legislative representatives to restore and strengthen fire prevention programs. These programs, such as controlled, prescribed burns, facilitate fuel load reduction in a natural and safe manner and benefit us all. Shouldn't we now be focusing on what needs to be done to restore and protect the millions of oaks that were destroyed, rather than spending huge amounts of money fighting about how hundreds or perhaps thousands of oaks need to be protected from a perceived threat from agriculture?

Heavy-handed regulation should ALWAYS be the last resort in solving natural resources problems. A defeat of Measure "C" also sends the message that voters would rather support and encourage the many effective voluntary-based natural resources organizations and their programs that are already in place. Outstanding work has been done by the Rutherford Dust Restoration Team, for example (thank you Davie Pina, et al!). These projects are restoring many miles of habitat in the Napa River, (and are frequently being undertaken by agricultural property owners); and these projects are breathtaking examples of watershed protection at its very best. The Napa County RCD "Acorns to Oaks" and "LandSmart" programs are and will continue to be very effective in contributing to the protection of streams, clean water, and oak woodland restoration. Support the RCD and donate to their good work.

The Land Trust of Napa County is protecting tens of thousands of acres of AW lands from any kind of development. A very long list of agricultural and rural landowners have deeded land or established conservation easements that forever protect watersheds, streams, and oak woodlands.

Can a long-time conservationist sleep at night and still vote “NO” on Measure “C”?

Yes, I can, and I urge you to vote ‘No’ on Measure C as well.