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By: Lori Walker, Deputy

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HUNDRED ACRE WINE GROUP, INC.

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF NAPA**

12 HUNDRED ACRE WINE GROUP, INC.,

13 Plaintiff,

14 v.

15 COUNTY OF NAPA, a political subdivision
of the State of California,

16 Defendant.

Case No. 22CV001166

**COMPLAINT FOR DECLARATORY
RELIEF**

19 Plaintiff HUNDRED ACRE WINE GROUP, INC. (“Hundred Acre” or “Plaintiff”) alleges
20 as follows:

21 **INTRODUCTION**

22 1. This Action is being brought in order to impose legal and constitutional limits on a
23 pattern and practice of significant administrative overreach by Defendant COUNTY OF NAPA
24 (the “County” or “Defendant”) and, in particular, its Department of Planning, Building &
25 Environmental Services. The County has, without proper legal authority, denied and threatened to
26 deny, the rights of property owners, including Plaintiff, to use and enjoy their lands in a productive
27 and environmentally responsible manner. The County assertion of authority has come to vastly
28 exceed, and to lack any reasonable foundation in, the actual text of the environmental and other

1 land use regulations the County’s purports to enforce.

2 2. Many landowners in the region, including vineyard owners like Plaintiff, have been
3 confronted with mountainous red tape and endless bureaucratic obstacles, when applying for
4 permits to develop productive vineyards to which the land is ideally suited. The County employs
5 delay tactics, demands expensive, onerous and duplicative submissions and reports, with the
6 intention, and the effect, of delaying and avoiding its responsibility to allow legally permitted use
7 of private lands for agricultural purposes, and to deter would-be applicants from pursuing such
8 uses of their land because of the burdensome attorney and expert fees that are necessitated by the
9 County’s practices, and by the arbitrariness of the County’s decision-making process. Indeed, it is
10 not unusual for County staff—which is prone to high turnover—to request that applicant reports be
11 redone and/or updated due solely to the County’s own years-long administrative delays in
12 reviewing proposed projects.

13 3. In this case, the County is attempting to deprive Plaintiff of its property rights with
14 its erroneous interpretation and application of Chapter 18.108 of the County Code of Ordinances
15 (the “Conservation Regulations”). Specifically, it is threatening to penalize Plaintiff for clearing
16 from its property the dead, charred remains of trees incinerated by the 2020 Glass Fire—a
17 widespread and environmentally appropriate activity for which the County has not taken any other
18 public enforcement—to prevent Plaintiff from planting a unique, experimental, dry-farmed
19 vineyard using novel, non-erosive techniques that do not disturb any of the soils on Plaintiff’s
20 land, and instead force Plaintiff to “revegetate” the land with the same type of high-fire-risk trees
21 that fueled the 2017 and 2020 wildfires.

22 4. The County’s threatened enforcement action against Plaintiff is environmentally
23 irresponsible and dangerous. It deprives Plaintiff of the productive use to which its property is
24 ideally suited, and would increase the risk and spread of future wildfires. It is, moreover, directly
25 contrary to the explicit text of the Conservation Regulations, which does not grant the County the
26 authority it is threatening to assert or allow the County to regulate the uses Plaintiff has made of
27 its land.

28

1 on the Property melted safe vaults, and the steel structure of Plaintiff’s barn leading to its total
2 destruction. The insides of trees on the Property burned for days and weeks until the incinerated
3 remains of those trees collapsed into themselves. The remaining stumps continued to burn for
4 months. By the time the fires on the Property were fully and finally burned out, virtually none of
5 the pre-existing vegetation on that undeveloped 80-acre portion remained.

6 12. Fire-killed trees of the sort left on Plaintiff’s Property are a serious hazard. Fire-
7 killed trees that are still standing may fall at any time, creating personal injury hazards and hazards
8 to structures and downhill vineyards. Fire-killed tree stumps may have entire root structures that
9 are burned through, leaving underground voids that are subject to collapse. Even if the roots of
10 fire-killed trees and stumps are not burned through, they will, over time, decompose, resulting in a
11 complete loss of erosion control assistance. Fire-killed trees and stumps, attract woodboring
12 beetles that, if not controlled, can destroy or imperil nearby trees or even entire forests.
13 Landscapes of fire-killed trees and stumps are eyesores and constant reminders to the community
14 of the physical devastation and emotional trauma wrought by the 2020 wildfires.

15 13. One year after the Glass Fire, *none* of the fire-killed trees and stumps on the
16 Property exhibited any signs of recovery, and none provided any canopy coverage whatsoever. In
17 order to remediate this environmentally unacceptable condition, in or around late September or
18 early October 2021, Plaintiff began removing the remains of those fire-killed trees and stumps
19 from a small portion of the Property nearest to the roadway and surviving structures. None of that
20 activity involved any excavation. Indeed, no excavation was necessary—the tree and stump
21 remains located on the Property were so thoroughly burned through that those remains could
22 simply be picked up or pushed over, and carried away. The remediation also did not involve any
23 vegetation *removal*, because the only material removed was comprised of the charred remains of
24 dead trees and stumps—no live vegetation was disturbed or removed. Moreover, none of those
25 charred remains were removed “to prepare a site for the construction of roads, structures,
26 landscaping, new planting, and other improvements” (Napa County Code § 18.108.030 [defining
27 “earthmoving or earth-disturbing activity”])—they were removed solely for the purpose of
28 mitigating what had become a charred, unsafe and unsightly landscape. In other words, the

1 removal of those fire-killed trees and stumps was not “earthmoving or earth-disturbing activity” as
2 defined by Section 18.108.030 of the Conservation Regulations, nor “vegetation clearing” or
3 “vegetation removal” as those phrases are used in the Conservation Regulations.

4 14. Plaintiff’s clearing of these charred remains from its Property was conducted
5 openly and in full view of neighbors and the larger community. There were no complaints by the
6 neighbors, whose own properties were enhanced by the remediation of the devastated hillside.
7 There were also no complaints, no enforcement activity, and no mention of the Conservation
8 Regulations (defined below), by any County official or employee. That lack of response by the
9 County was consistent with its general approach (and unwritten policy) of not taking action
10 against property owners that have removed, or are removing, from their properties the remains of
11 trees and stumps killed or significantly damaged by the 2020 wildfires. Indeed many, many other
12 landowners’ similar efforts to clear dead and fire-damaged trees and stumps can readily be viewed
13 from any of the County’s major roadways, including Highway 29 and Silverado Trail, yet no
14 known enforcement activity was taken against those owners.

15 **II. Plaintiff Lays Out A Small, Experimental Patch Of Rootstock; The County Tries**
16 **Aggressively To Enforce Inapplicable Conservation Regulations**

17 15. In or about November 2021, Plaintiff learned that, prior to conversion of the valley
18 floor to vineyards, Napa Valley farmers had historically dry-farmed winegrape vineyards on the
19 hillsides so that the valley floor could be utilized for food crops. Armed with this knowledge,
20 Plaintiff began investigating the possibility of dry farming winegrape vines introduced onto the
21 Property without undertaking any disturbance of the soil or other erosive activity. If successful,
22 such a dry-farmed vineyard would provide numerous benefits, including increased erosion control
23 with a vineyard that would develop the deep and extensive root growth required to reach water
24 sources in the ground; a substantial protective fire-break guarding the Property’s, and neighboring
25 properties’ structures; a more beautiful view when compared to the barren, burned-out landscape
26 left behind by the Glass Fire; and potentially an economically productive use of the land.

27 16. By about May 2022, Plaintiff had devised a unique method to install that small
28 experimental vineyard without disturbing any of, and thereby preserving all of, the soils on the

1 Property. The method involves placing a small, bottomless vessel on the ground, and filling that
2 vessel with compost and a single rootstock. The rootstock then grows through the compost and
3 roots into the soil without any tilling, drilling, or other soil disturbing activities. In other words,
4 the layout of the vineyard would involve no “earthmoving or earth-disturbing activity” as that
5 phrase is defined by the Section 18.108.030 of the Conservation Regulations, and would not
6 constitute “planting” as that term is commonly used because the rootstock would not be put or set
7 in the ground, but instead would naturally grow into it. The purpose of the experimental vineyard
8 was to determine (i) whether the rootstock would, in fact, root into the unprepared ground, and
9 (ii) whether, once rooted, the rootstock and grafted vines could be successfully dry farmed.

10 17. In or about May 2022, Plaintiff staked out a small plot for its experimental
11 vineyard, and laid out a small number of bottomless vessels, each filled with compost and a single
12 rootstock.

13 18. On or about May 11, 2022 the County demanded that Plaintiff permit an inspection
14 of its Property based upon its unfounded speculation that the Property “may be in violation of the
15 Napa County Code” and without specifying any particular violation. Because the County took
16 those steps without first attempting to learn from Plaintiff what activity was actually taking place
17 on the Property, and because the County was unable to cite any specific violation—as there were
18 none—Plaintiff exercised its right to decline the requested inspection.

19 19. The County claims that, on June 13, 2022, it took the step of posting a “Stop Work
20 Order” that directed Plaintiff to stop all of its work to introduce the experimental vineyard onto the
21 Property. Plaintiff, however, did not receive any such notice, and no such notice was posted at the
22 Property. Plaintiff is informed and believes that the Stop Work Order—if it was issued as the
23 County claims—was not issued based upon any observed violation of the Conservation
24 Regulations, or any other County Code provision, but rather based merely upon the County’s
25 observation of stakes on the Property.

26 20. On or about June 22, 2022, the County citing unattributed “reports” of “vegetation
27 clearing and land preparation for vineyard,” falsely accused Plaintiff of: (i) removing at least
28 thirty percent of vegetation canopy, (ii) “earth movement within apparent ephemeral and county

1 definitional stream setbacks,” and (iii) “ground preparation including staking for vineyard without
2 an approved Erosion Control Plan.” Based upon those false allegations, the County accused
3 Plaintiff of violations of Sections 10.108.020(C), 18.108.025, 18.108.060, and 10.108.070(A), (B),
4 (D), and (F) of the Conservation regulations, and demanded that Plaintiff: (a) “hire a professional
5 biologist or botanist the prepare a vegetation mapping of the entire property” even though the
6 Glass Fire left virtually no vegetation on the Property; (b) “schedule a pre-application meeting
7 with the Conservation Division to discuss plans for agriculture on the parcel”; (c) hire a qualified
8 professional to prepare a site plan clearly showing the areas converted and to be converted to
9 agriculture; and (d) either apply for an Erosion Control Plan or prepare a “restoration plan”
10 according the Staff’s determination.

11 21. The County’s accusations and regulatory demands were at all times entirely
12 baseless. Plaintiff had never removed any vegetation canopy (the Glass Fire did that), never
13 moved any earth on the Property, and as described above, did not engage in any “ground
14 preparation” when laying out its experimental vineyard. Nothing that Plaintiff did implicated the
15 Conservation Regulations in any way.

16 22. The County’s accusations and regulatory demands were erroneous and unlawful for
17 at least the following specific reasons:

18 a. Section 18.108.020(C) of the Conservation Regulations states only that
19 “[i]n the AW zoning district, a minimum of seventy percent vegetation canopy cover as
20 configured on the parcel existing on June 16, 2016 shall be maintained as part of any use
21 involving earth-disturbing activity.” All of the vegetation canopy cover on the Property was
22 removed (incinerated) by the Glass Fire. It was not removed by Plaintiff, and was not removed as
23 part of any earth-disturbing activity.

24 b. Section 18.108.025 of the Conservation Regulations prohibits “construction
25 of main or accessory structures, earthmoving activity, grading or removal of vegetation or
26 agricultural uses of land” within certain setbacks from streams unless specifically permitted.
27 “Earthmoving activity” is defined, in relevant part, as “any activity that involves vegetation
28 clearing, grading, excavation, compaction of the soil, or the creation of fills and embankments to

1 prepare a site for the construction of roads, structures, landscaping, new planting, and other
2 improvements (including agricultural roads, and vineyard avenues or tractor turnaround areas
3 necessary for ongoing agricultural operations).” The Conservation Regulations do not define
4 “vegetation,” but that word is commonly understood to refer only to *living* trees and plants.
5 Plaintiff’s removal of the dead, charred remains of fire-killed trees and stumps was not
6 vegetation clearing and did not involve excavation, and so was neither “earthmoving activity”
7 nor the clearing or removing of vegetation. It also was not carried out to prepare the Property
8 for any construction, landscaping, new planting or other improvements, both because it was
9 unrelated to Plaintiff’s much later decision to introduce the experimental non-erosive vineyard,
10 and because the introduction of that vineyard did not involve “planting,” which is not defined by
11 the Conservation Regulations but is commonly understood to refer to the process of putting or
12 setting a seed or plant into a hole or trench dug or tilled into the ground. Plaintiff’s removal of
13 the dead, charred remains of fire-killed trees and stumps also was not an activity otherwise
14 prohibited by Section 18.108.025.

15 c. Section 18.108.060 provides that “no construction, improvement, grading,
16 earthmoving activity or vegetation removal associated with the development or use of land shall
17 take place on those parcels or portions thereof generally having a slope of thirty percent or greater
18 as defined in Section 18.108.060(C) unless exempt under Sections 18.108.050 or 18.108.055 or
19 unless an exception through the use permit process is granted pursuant to Section 18.108.040.”
20 (Napa County Code § 18.108.060(A).) As noted in subparagraph (b) above, Plaintiff’s removal of
21 the dead, charred remains of fire-killed trees and stumps was not vegetation clearing and did not
22 involve excavation, and so was not “earthmoving activity” as that phrase is defined in Section
23 18.108.030, and it was not the clearing or removing of “vegetation,” as that term is commonly
24 understood. The Conservation Regulations defines “improvement” as “any man-made
25 immovable item which becomes part of, placed on, or affixed to, a parcel of land. (Napa County
26 Code § 18.108.030.) The staking and layout of Plaintiff’s experimental non-erosive vineyard
27 was not an “improvement” because the stakes and vessels were moveable, not “immovable,” and
28 the rootstock is not “man-made.” There was also no “construction” or “grading” that took place

1 on Plaintiff’s Property, either to remove the fire-killed trees and stumps, or to later lay out
2 Plaintiff’s experimental, non-erosive vineyard.

3 d. Section 18.108.070(A) prohibits “earthmoving activity, grading,
4 improvement, or construction of a structure for nonagricultural purposes” within erosion hazard
5 areas unless done in compliance with the County’s NPDES program. While Plaintiff removed
6 the dead, charred remains of fire-killed trees and stumps for a non-agricultural purpose, that
7 activity was not “earthmoving activity” for the reasons explained above, was not “grading” or an
8 “improvement” as those terms are defined in Section 18.108.030, and was not the “construction
9 of a structure.” The much later staking of Plaintiff’s experimental, non-erosive vineyard
10 certainly was not the construction of a structure (nor any of the other activities prohibited by
11 Section 18.108.070(A)), and was done for an agricultural (not “nonagricultural”) purpose—the
12 growing of winegrapes.

13 e. Section 18.108.070(B) prohibits agricultural earthmoving activity,
14 grading, or improvement” on slopes over five percent within erosion hazard areas until an
15 erosion control plan has been submitted to, and approved by, the County. For the reasons
16 explained above, Plaintiff did not engage in any “earthmoving activity,” and did not construct an
17 “improvement” on its Property. It also did not perform any “grading,” which is defined as
18 “stripping, cutting, filling, contouring, recontouring, or stockpiling of earth or land, including in
19 its cut or fill condition.” Indeed, the very purpose of Plaintiff’s experimental, non-erosive
20 vineyard was to see if a vineyard could be introduced *without* engaging in those activities.

21 f. Section 18.108.070(D) provides that “site development shall be conducted
22 in a manner, based upon the topography and soil type, which creates no net increase in erosion.”
23 The Conservation Regulations do not define the phrase “site development” or the word
24 “development.” Given the context, and the common understanding of those terms, “site
25 development” must refer to those activities for which the Conservation Regulation requires
26 permitting by the County, *i.e.* earthmoving or earth-disturbing activity, construction, grading,
27 improvement and vegetation removal. As set forth above, Plaintiff did not engage in any of
28 those activities. In any event, Plaintiff’s activity on the Property was conducted in a manner that

1 created no increase in erosion – no soils were disturbed either in removing the dead, charred
2 remains of fire-killed trees and stumps or the later introduction of the experimental, non-erosive
3 vineyard, and the growth of rootstock on and into the Property will provide much more effective
4 erosion control assistance than a barren, charred landscape would.

5 g. Section 18.108.070(F) applies only to those activities that are subject to
6 the Conservation Regulations and review and approval by the County thereunder, *i.e.*
7 earthmoving or earth-disturbing activity, construction, grading, improvement and vegetation
8 removal. Plaintiff did not engage in any of those activities. Moreover, Section 18.108.070(F)
9 provides only that “vegetation removal shall be limited to the minimum amount necessary to
10 accommodate the project and then only if in compliance with the NPDES program or as
11 indicated on the approved erosion control plan or vineyard replanting program or grading or plot
12 plan if standard erosion control measures were applied.” Plaintiff did not remove any
13 vegetation; it removed only the dead, charred remains of fire-killed trees and stumps.

14 23. By August 2022, Plaintiff determined that the potted rootstock successfully rooted
15 into the unprepared ground and reaffirmed, for itself, that the technique did not implicate the
16 Conservation Regulations. On that basis, Plaintiff resumed laying out additional vessels and
17 rootstock on top of the unprepared ground. Ultimately, Plaintiff laid out an experimental, non-
18 erosive vineyard of approximately one-third of an acre in size.

19 24. On September 15, 2022, the County again demanded that Plaintiff permit an
20 inspection of the Property citing unspecified “violation[s] of the Napa County Code.”

21 25. On September 19, 2022, counsel for Plaintiff spoke with County Staff to explain
22 the activity that had taken place on the Property and the reasons why that activity did not amount
23 to earthmoving or earth-disturbing activity” and did not otherwise implicate the Conservation
24 Regulations. In response, the County Staff took the unsupported, and unsupportable, position that
25 *any* development of a vineyard on a hillside requires a County-approved Erosion Control Plan.
26 That position is contrary to actual text of the Conservation Regulations, which addresses only
27 vegetation removal, earthmoving or earth-disturbing activity, construction, and improvement,
28 *none of which Plaintiff engaged in.*

1 regulations. Such a declaration is necessary and appropriate at this time in light of the County’s
2 unjustified, and unjustifiable, demands to enter upon Plaintiff’s property, as well as the County’s
3 demands that Plaintiff hire a professional biologist or botanist to prepare a vegetation mapping of
4 the Property, and that it prepare and file a “restoration plan” to revegetate or naturalize the
5 Property. Absent such declaratory relief, Plaintiff will be subjected to, and required to expend
6 significant sums and effort to respond to, regulatory enforcement activities having no basis in law.

7 **SECOND CAUSE OF ACTION**

8 (For Declaratory Relief – Introduction of Experimental Vineyard)

9 31. Plaintiff incorporates by reference Paragraphs 1 through 30, inclusive, as though
10 fully set forth herein.

11 32. An actual controversy has arisen and now exists between Plaintiff and the County
12 over whether Plaintiff’s layout of its experimental vineyard is or is not activity regulated by the
13 Conservation Regulations.

14 33. The County contends that Plaintiff’s layout of its experimental vineyard constituted
15 “ground preparation” that falls under, and violated, Conservation Regulations Sections 18.108.060
16 and 18.108.070(A), (B), (D), and (F). Plaintiff contends that its introduction of the experimental
17 vineyard onto its Property was not “ground preparation” and was not subject to, and did not
18 violate, those or any other Conservation Regulations for at least the reasons stated above.

19 34. The County has taken the position that, notwithstanding the foregoing, Plaintiff’s
20 layout of its experimental vineyard is controlled by the Conservation Regulations, and that
21 Plaintiff is required to apply for, and obtain, an Erosion Control Plan in order to continue its
22 experimental vineyard. The County’s position conflicts with the Conservation Regulations
23 themselves, which limit only certain activities, none of which Plaintiff engaged in.

24 35. The stated purpose of the Conservation Regulations is “to ensure the continued
25 long-term viability of county agricultural resources by protecting county lands from excessive soil
26 loss which if unprotected could threaten local water quality and quantity and lead ultimately to
27 loss of economic productivity,” and “to provide greater environmental protection for natural
28 environmental resources, particularly agricultural lands, forests, wildlife habitat, and water.”

1 (Napa County Code § 18.108.010(A)). The experimental, non-erosive vineyard serves those
2 purposes. Now proven to be successful, the vineyard ensures the continued long-term viability of
3 agricultural resources, protects the Property from soil loss (and thus protects local water quality
4 and quantity), and, if expanded, will serve as a further fire-break in future wildfire events and thus
5 also will protect other county lands.

6 36. Plaintiff desires a judicial determination and declaration concerning whether
7 Plaintiff’s layout of its experimental vineyard is or is not subject to the Conservation Regulations
8 and whether that activity did or did not violate those regulations. Such a declaration is necessary
9 and appropriate at this time in light of the County’s unjustified, and unjustifiable, demands to enter
10 upon Plaintiff’s property, as well as the County’s demand that Plaintiff apply for an Erosion
11 Control Permit that the County will never seriously consider or grant. If declaratory relief is not
12 granted, Plaintiff will be subjected to, and required to expend significant sums and effort to
13 respond to, regulatory enforcement activities having no basis in law.

14 **THIRD CAUSE OF ACTION**

15 **(Violation of the Equal Protection Clause of the California Constitution Article I § 7)**

16 37. Plaintiff incorporates by reference Paragraphs 1 through 36, inclusive, as though
17 fully set forth herein.

18 38. Article 1, Section 7 of the California Constitution provides, in part: “A person may
19 not be . . . denied equal protection of the laws.”

20 39. “The concept of the equal protection of the laws compels recognition of the
21 proposition that persons similarly situated with respect to the legitimate purpose of the law receive
22 like treatment.” (*Gray v. Whitmore* (1971) 17 Cal.App.3d 1, 21.)

23 40. The County’s selective enforcement of the Conservation Regulations against Glass
24 Fire victims that seek to farm non-erosive vineyards on their hillside properties, and non-
25 enforcement of those same regulations against other Glass Fire victims making other uses of their
26 properties (including leaving them barren) is unsupported by any rational reason. Indeed, refusing
27 to permit the non-erosive introduction of vineyards on burned-out hillsides likely *increases* the
28 risk of erosion because those same hillsides will not return to woodland on any observable

1 timescale leaving them subject to substantial erosion during precipitation events, while the roots of
2 non-erosive vineyards would substantially assist in controlling that erosion.

3 41. The County’s action in seeking to prevent Plaintiff from introducing a non-erosive
4 vineyard on his Property, while allowing similarly-situated property owners to make other uses of
5 their Properties (including agricultural uses, or no uses at all) is arbitrary and capricious, and it
6 unconstitutionally deprives Plaintiff of the equal protection of the law guaranteed under Article I,
7 Section 7 of the California Constitution.

8 42. Accordingly, Plaintiff seeks a declaration that the County’s selective enforcement
9 of the Conservation Regulations against Plaintiff violates Article I, Section 7 of the California
10 Constitution.

11 43. Plaintiff has no adequate remedy at law and will suffer serious and irreparable harm
12 unless the County is enjoined from enforcing the Conservation Regulations to prohibit Plaintiff
13 from maintaining, or further introducing, a non-erosive vineyard on his Property.

14 **FOURTH CAUSE OF ACTION**

15 **(Violation of the Due Process Clause of the California Constitution Article I § 7)**

16 44. Plaintiff incorporates by reference Paragraphs 1 through 43, inclusive, as though
17 fully set forth herein.

18 45. Article 1, Section 7 of the California Constitution provides, in part: “A person may
19 not be deprived of life, liberty, or property without due process of law.”

20 46. “Procedural due process requires that before a person is deprived of his life, liberty
21 or property he must be given notice of the proceeding against him, he must be given an
22 opportunity to defend himself, and the propriety of the deprivation must be resolved in a manner
23 consistent with essential fairness.” (*Gray, supra*, 17 Cal.App.3d at 21 [citations omitted].)

24 47. “When, as here, a governmental entity vested with broad administrative powers
25 acts in an arbitrary manner so as to affect capriciously the property or property rights of persons
26 subjected to its administrative controls it has denied to those persons due process of law.
27 ‘Arbitrary action is not due process.’” (*Walsh v. Kirby* (1974) 13 Cal.3d 95, 105–06 [citation
28 omitted].)

1 48. The County's attempted enforcement of the Conservation Regulations against
2 Plaintiff based solely on his introduction of a non-erosive vineyard on his Property is unlawful,
3 without rational basis, and wholly arbitrary. Any attempted enforcement of the Conservation
4 Regulations to prohibit Plaintiff from farming his non-erosive vineyard, or to extract other
5 concessions from him in exchange for the permitting of that non-erosive vineyard, even when the
6 introduction of that vineyard entailed *none* of the activities expressly regulated by the
7 Conservation Regulations is arbitrary, and constitutes a violation of Plaintiff's right to due
8 process.

9 49. In addition, the County has violated the California Constitution's guarantee of due
10 process insomuch as their attempted enforcement of the Conservation Regulations fail to provide
11 any meaningful procedure for challenging the applicability of those Regulations to Plaintiff's
12 activities. (*Vaquero Energy, Inc. v. County of Kern* (2019) 42 Cal.App.5th 312, 329, *review*
13 *denied* (Feb. 26, 2020).)

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for relief and judgment as follows:

16 1. For a declaration that Plaintiff's removal of the remains of fire-killed trees and
17 stumps did not violate any of Napa County Code Sections 18.108.020(C), 18.108.025, 18.108.060,
18 and 18.108.070(A), (B), (D) and (F), and is not subject to regulation by the County pursuant to
19 those sections;

20 2. For a declaration that Plaintiff's experimental vineyard, and Plaintiff's introduction
21 of the same onto his Property, did not violate any of Napa County Code Sections 18.108.060 and
22 18.108.070(A), (B), (D), and (F), and is not subject to regulation by the County pursuant to those
23 sections;

24 3. For a declaration that the County's enforcement of the Conservation Regulations,
25 as applied to Plaintiff, constitutes a violation of Plaintiff's rights under the California Constitution
26 to equal protection and due process;

27 4. For an order temporarily, preliminarily, and permanently enjoining and prohibiting
28 the County from seeking to enforce the Conservation Regulations against Plaintiff with respect to

1 Plaintiff's removal of the remains of fire-killed trees and stumps and/or Plaintiff's introduction of
2 the experimental, non-erosive vineyard on the Property;

3 5. For reasonable attorneys' fees and costs in the prosecution of this action pursuant to
4 law, including Code of Civil Procedure Section 1021.5; and

5 6. For such other and further relief as this Court may deem just and proper.

6 DATED: October 6, 2022

Respectfully submitted,

7 COBLENTZ PATCH DUFFY & BASS LLP
8

9 By:



10 JONATHAN R. BASS
11 Attorneys for Plaintiff
12 Hundred Acre Wine Group, Inc.
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