

**NORTH BAY WATER DISTRICT**

**RESOLUTION NO. 23-3**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
REGARDING THE PROGRAMMATIC SAFE HARBOR AGREEMENT FOR  
VITICULTURAL ACTIVITIES ON EXISTING VINEYARDS IN THE SANTA ROSA  
PLAIN**

**Directors: Mike Mulas; Craig Jacobsen; Matthew Stornetta;  
Carolyn Wasem; Mike Sangiacomo**

WHEREAS, at the meeting of the Board of Directors of the North Bay Water District ("Board"), on February 9, 2021, the Board considered whether or not the North Bay Water District ("District") should enter into a Programmatic Safe Harbor Agreement For Viticultural Activities on Existing Vineyards in the Santa Rosa Plain ("Safe Harbor Agreement") with the U.S. Fish and Wildlife Service ("Service") as a benefit to the constituency of the District and agriculture in Sonoma County in general; and

WHEREAS, the Board at that time received presentations from Sean Skaggs a lawyer who is an expert on the program and from Michael Martini of SAVE in particular regarding the Farm Bureau of Sonoma County acting as the administrator of the program to take the administrative burden off of North Bay Water District; and

WHEREAS, THE Board discussed whether entering into the Safe Harbor Agreement would be of benefit to the constituency of the District that seek to re-develop vineyard properties and agriculture in general in Sonoma County; and

WHEREAS, the Board considered that the Safe Harbor Agreement does impose certain administrative responsibilities on the District; and

WHEREAS, the Board considered that the District does not have a budget for the administrative responsibilities under the Safe Harbor Agreement; and

WHEREAS, the Board also considered that the Sonoma County Farm Bureau ("Farm Bureau") had offered to enter into an Administrative Services Agreement for the California Tiger Salamander Safe Harbor Program by the terms of which the Sonoma Farm Bureau would administer the Safe Harbor Agreement for the District so that District's resources would not be burdened and that there would be revenues generated from the program that would benefit the District; and

WHEREAS, the District Board received a budget from the Farm Bureau showing how the costs of administration of the Safe Harbor Agreement will be paid from fees paid by cooperating landowners ("Cooperators") who wish to take advantage of the Safe Harbor Agreement; and

WHEREAS, at a special meeting of the Board on February 16, 2021, the Board approved of the North Bay Water District acting as the permit holder for the Safe Harbor Agreement for vineyard replants in Sonoma County and made findings that entering into the Safe Harbor Agreement was in the best interests of the agricultural community and would provide a revenue source for the District; and

WHEREAS, there was considerable discussion about the potential liability of the District for participation and it was agreed that the District should be indemnified by the participants; and

WHEREAS, at the said February 16, 2021 meeting a vote was taken on a resolution, agreeing, in principle, to enter into the Safe Harbor Agreement subject to District counsel concurring that the documents included: (a) an Administrative Services Agreement between the District and the Sonoma County Farm Bureau; (b) Adjustment of the fee schedule as discussed at the meeting; and (c) Amending the language of the Cooperation Agreement to provide for indemnification and liability protection; and

WHEREAS, based on the foregoing the application for participation was finalized and sent in for approval; and

WHEREAS, the District was notified by the U.S. Fish and Wildlife Service on June 3, 2022 that the application was approved and the program is ready to start taking applicants; and

WHEREAS, the District and the Sonoma County Farm Bureau have entered into an administration agreement whereby the Farm Bureau will administer the program; and

WHEREAS, the fee schedule has been adjusted as proposed and discussed; and

WHEREAS, indemnification language was added to the Cooperator Agreement but a minor issue has come up concerning indemnification of the Cooperator to carve out the "sole negligence" of District from indemnification obligations of participating Cooperators; and

WHEREAS, that change to the indemnification language is recommended by District counsel; and

WHEREAS, the Board has determined that it is in the best interests of agriculture and the District to participate in this program and sponsor this program.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED as follows:

1. Each of the Recitals are hereby incorporated by reference.

2. The Board hereby adopts this Resolution 23-3 and resolves as follows:

The Board ratifies the actions taken by the District since February 9, 2021 regarding processing of the Programmatic Safe Harbor Agreement For Viticultural Activities on Existing Vineyards in the Santa Rosa Plain ("Safe Harbor Agreement"). The President and the Secretary of the District are authorized and directed to take any all action necessary and appropriate to implement the Safe Harbor Agreement with the U.S. Fish and Wildlife Service ("Service") as a benefit to agriculture and the District.

3. The Board hereby finds that the actions taken at the February 9, 2021 and February 16, 2021 Board meetings, and as a result of the adoption of this Resolution 23-3 are not a "project" under the California Environmental Quality Act ("CEQA"), as such actions do not have the potential to result in either a direct change in the environment or a reasonably foreseeable indirect physical change in the environment.

Adopted at a Meeting of the Board of Directors of North Bay Water District, conducted in person on June 13, 2023. Carolyn Wasem recused herself from this vote.


**AYES: Mike Mulas; Craig Jacobsen; Matthew Stornetta;  
Mike Sangiacomo**

NOES: None

ABSENT: None

ABSTAIN/RECUSE: **Carolyn Wasem**

June 13, 2023

  
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Director, Carolyn Wasem, Secretary of  
the Board