

Attachment 17
Addendum to the Final EIR

ADDENDUM TO AN ENVIRONMENTAL IMPACT REPORT

CEQA REQUIREMENTS

This document has been prepared as an Addendum to the Environmental Impact Report ("EIR") (SCH #2012102046) in accordance with the CEQA Guidelines, Section 15164. The EIR was certified by the Napa County Board of Supervisors in December of 2016, for the Hall Brambletree Associates, LP - Walt Ranch Vineyard Conversion - File No. P11-00205-ECPA ("Project"), which consisted of an erosion control plan for the earthmoving associated with the development of approximately 209 net acres of vineyard (± 316 gross acres) in the unincorporated area of Napa County, California. This Addendum analyzes a proposal to amend Mitigation Measure 6.1, which requires the applicant to place into permanent protection no less than 248 acres of oak woodland habitat to offset 27,528 MTCO₂e of the project's Greenhouse Gas Emissions (GHG's).

CEQA Guidelines Section 15164 provides that "[t]he lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred." The conditions in Section 15162 include substantial changes in the project or the circumstances under which the project is undertaken that result in new significant environmental effects, or new significant information showing new significant environmental effects, among others. Pursuant to Section 15164(e), a brief explanation is provided herein documenting the County's decision that preparation of a subsequent EIR is not required.

The Guidelines go on to state that: (1) the addendum need not be circulated, but can be included in or attached to the final EIR (Section 15164(c)), and (2) the County must consider the addendum with the final EIR prior to making a decision on the project (Section 15164(d)).

The analysis provided in this document demonstrates that the circumstances and impacts identified in the EIR remain substantively unchanged by the situation described herein, and supports the finding that the proposed modifications do not raise any new issues and do not cause the level of impacts identified in the previous EIR to be exceeded.

BACKGROUND

On August 1, 2016, the PBES Director approved the Project and certified the Final EIR (SCH #2012102046) for the development of vineyards on the Walt Ranch property ("Walt Ranch" or the "Property"). The Project includes development of approximately 209 net acres of total vineyard within 316 gross acres, as depicted in the EIR and related erosion control plan application (P11-00205-ECPA). The Project, as approved, generally conforms to the Reduced Intensity Alternative as described in the EIR with additional modifications to reflect the requirements of the Updated Mitigation Monitoring and Reporting Program (MMRP) and 15 Conditions of Approval, which further reduce vineyard area due to a number of factors, including geologic and hydrologic constraints, biologic constraints, as well as development areas voluntarily removed by the Applicant in response to community concerns.

The PBES Director's decision was appealed to the Napa County Board of Supervisors by Living Rivers Council (LRC), Circle Oaks County Water District and Circle Oaks Homeowners Association (Circle Oaks), Center for Biological Diversity (CBD) and Napa Sierra Club. On December 20, 2016, the Board of Supervisors denied the appeals, Certified the Environmental Impact Report (EIR) and adopted Findings pursuant to the requirements of the California Environmental Quality Act (CEQA), and approved the Project.

In January 2017, LRC, CBD, and Circle Oaks filed petitions for writ of mandate in the trial court challenging the adequacy of aspects of the EIR. The trial court denied all three petitions, but all three petitioners appealed. In September 2019, the First District Court of Appeal affirmed the trial court's decision, with one exception. The Court ruled that the County's finding regarding the project's mitigation of GHG impacts was not supported by substantial evidence, and Mitigation Measure 6.1 was deemed inadequate because the measure did not identify the location or areas to be preserved or otherwise show that the land to be preserved could be converted to other uses under County policy. In May 2020, the trial court directed the County to reconsider the finding that the mitigation reduced the GHG impact to less than significant. The EIR remains certified, and the project remains approved. However, under the trial court's judgment, the project cannot go forward unless and until the County reconsiders this finding.

PROPOSED REVISED GHG EMISSIONS MITIGATION

The EIR concluded that GHG emissions from construction activities and carbon emitted due to tree removal would result in the emissions of 105,849 metric tons of carbon dioxide equivalent (MTCO₂e), with virtually all of these emissions related to the removal of approximately 28,616 trees necessary to accommodate the installation of vineyard blocks. The EIR applied a 26 percent reduction threshold of construction emissions, which based on the emissions factors applied, resulted in the requirement to offset 27,528 MTCO₂e which equated to the preservation of 248 acres of oak woodland as detailed in Mitigation Measure 6.1 and Table 6-2 (attached) in the EIR.¹

In May 2021, the applicant submitted to the County a proposal (Attachment A) to address the GHG emissions resulting from the Project, as required by the Court of Appeals opinion and the trial court's subsequent issuance of a writ of mandate to the County. The proposed GHG mitigation is comprised of two elements; 1) the recordation of a conservation easement and, 2) the implementation of a tree planting program. The proposed conservation easement consists of 124 acres of developable oak woodland area, located on areas of oak woodland with less than 30% slope, as generally shown in Figure 1 of the attached Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report prepared by Ascent Environmental, dated April 28, 2021 (Attached). The 124 acres would be in addition to the 525 acres required to be permanently protected offset impacts related to biological resources, ultimately resulting in the protection of no less than 649 acres. The 124 acres proposed for preservation represents an offset of 50 percent of the 27,528 MTCO₂e. The second component of the proposed GHG mitigation includes the planting of 33,580 oak trees (as seedlings) to be managed to ensure a survival rate of no less than 80 percent after five years. According to the Greenhouse Gas Mitigation Report prepared by Ascent Environmental, 16,790 trees would be required to offset the GHG impacts. Therefore, the proposed tree planting alone would offset twice the GHG emissions from the Project. However,

¹ The Reduced Intensity Alternative reduced the number of trees to be removed by the Project by approximately half, to 14,281 trees, which would reduce the GHG impact significantly. Despite this, the preservation area in Mitigation Measure 6.1 was not reduced to reflect this alternative.

the applicant is proposing to reduce the number of trees to be planted from 33,580 to 16,790 trees in the event the County's decision to approve of the revised GHG mitigation is appealed or challenged in court.

The County reviewed the applicant's proposed revision to the mitigation measure and considered additional revisions to ensure that the tree-planting program serves as effective mitigation for this impact. Accordingly, the County has revised Mitigation Measure 6.1 as follows:

Mitigation Measure 6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 124 acres of woodland habitat. The land to be protected under this measure shall consist of not less than 110 acres of suitable woodland habitat located within the parcels shown in Figure 1, attached to the Applicant's May 5, 2021, letter to the County, and not less than 35 acres of suitable woodland habitat located elsewhere on the Property. To be suitable, the area within the easement shall be mapped woodland habitat, less than 30% slope, and outside of Milliken Creek watershed. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

In addition, the Applicant shall plant not less than 16,790 oak trees within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. The Applicant shall further plant an additional 16,790 trees elsewhere on the Property, for a total of 33,580 oak trees.

The measures set forth above shall apply in the event the County adopts this measure, and no administrative appeal of the Director's decision is filed, and no opposition or challenge to this decision is filed with the Court. In the event of such an appeal, opposition, or challenge, the measures set forth above shall still be carried out, subject to the following revision: The number of oak tree seedlings to be planted shall be not less than 16,790 trees, planted within areas of land protected by conservation easement as identified in this or other mitigation measures applicable to the Project. No additional tree planting shall be required pursuant to this Measure.

The tree planting program shall be carried out as described in the Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report (Ascent Environmental, April 2021). The trees shall be monitored and replanted as necessary to show a survival rate of

not less than 80% after five years. Thereafter, the Applicant shall not undertake any actions to degrade the condition of the trees or to diminish their habitat.

DETERMINATION

The proposed action, which consists of amending Mitigation Measure 6.1, does not represent a substantive change to the approved Project as analyzed under the adopted and certified EIR. In order to assess whether additional CEQA review is required as a result of the revised GHG mitigation measure, an analysis of the applicability of Section 15162 of the CEQA Guidelines has been prepared. The table on the following page provides verbatim wording from the Guidelines and a corresponding analysis of the applicability of each section to the proposed project.

TABLE 1: Comparison of CEQA Requirements and Request

| CEQA Requirement Section 15162(a) | Relationship to Proposed Project |
|--|---|
| When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following: | <p>The EIR was adopted by the Napa County Board of Supervisors in December of 2016.</p> <p>The information below summarizes the substantial evidence in support of the County's determination that the preparation of a subsequent EIR is not required.</p> |
| (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; | There are no changes in the proposed project that would require major revision of the adopted EIR that analyzed and mitigated the potential significant impacts of the Project. The proposed revised GHG mitigation measures continue to offset more than 27,528 MTCO ₂ e through a combination of preserving existing oak woodlands, a tree replanting program and the GHG related benefits from the 525 acres required to be preserved to mitigate for biological impacts. Therefore, no new significant environmental effects would occur as a result of the amended Project. |
| (2) Substantial changes will occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or | The proposed revised GHG mitigation measure now includes a tree replanting component whereas the previous mitigation measure did not. Based on the Walt Ranch GHG Mitigation Report prepared by Ascent, the total number of trees lost in the Hennessey fire in areas eligible for replant is estimated to be 482,987, which is far greater than the 16,790 trees needed to sequester 27,528 MTCO ₂ e. Given the tree planting would occur in areas mapped as oak woodland, there would be no impacts related to the conversion of one natural land cover type to another, for |

| | |
|---|---|
| | <p>example grassland to oak woodland. The tree planting would not only serve to provide carbon sequestration, but would also enhanced the oak woodland habitat. Therefore, the County has concluded that the proposed amendment is not a substantial change in circumstances.</p> |
| <p>(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:</p> | <p>Since the EIR was certified in December of 2016, the subject property has burned twice, once in 2017 and again in 2020, burning an estimated 97 percent of the property. As such, the number of trees and corresponding sequestered carbon on the property is likely far less than what it was in 2016 when the EIR was certified. However, the applicant has not requested the GHG mitigation be revised accordingly and has proposed to provide the same of level of GHG offset as previously required by the EIR.</p> |
| <p>(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;</p> | <p>The proposed Project remains substantially the same and will not have any significant effects that were not discussed in the adopted EIR as there is no additional vineyard development or related infrastructure included in the project proposal.</p> |
| <p>(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;</p> | <p>No significant effects previously examined and mitigated in the EIR will be made more severe by the proposed revised GHG mitigation measure. In fact, as described above and further detailed in the Walt Ranch GHG Mitigation Report prepared by Ascent, the revised GHG mitigation measure will provide for greater mitigation than what is currently required in the EIR. Specifically, as Ascent notes the approved project entails removing 14,281 trees (assuming that the trees are still present as many were consumed by the fires in 2017 and 2020), however the revised GHG mitigation measure proposes the planting of a minimum of 16,790 trees resulting in a net increase of 2,509 trees. And in the event the County's decision to approve the revised mitigation plan is not appealed or challenged in court the total number of trees planted would be 32,580.</p> |
| <p>(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project,</p> | <p>The EIR adopted for this project considered three alternatives including; 1) no project, 2) reduced intensity, and 3) multiple resource protection. In addition, two alternatives were considered but removed for consideration,</p> |

| | |
|--|--|
| but the project proponents decline to adopt the mitigation measure or alternative; or | including; 1) full development, and 2) off-site alternatives. The reduced intensity alternative was determined to be the environmentally superior alternative and adopted as part of the certification of the EIR. None of the other alternatives were previously found not to be feasible; they were eliminated for other reasons that have not changed. In addition, the adopted EIR included 37 Mitigation Measures. None of these mitigation measures were found to be infeasible or have been declined by the project proponents. |
| (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. | The proposed revised GHG mitigation measure would continue to offset the 27,528 MTCO ₂ e identified in the EIR through a combination of preservation and a tree replanting program. Most of the trees would be planted within conservation easement areas on the Property and will be permanently protected. |

CONCLUSION

Based on the analysis provided above and the referenced supporting attachments, the proposed Project, which would amend Mitigation Measure 6.1, would not result in new or more severe environmental impacts and no additional CEQA review is required. This addendum shall be attached to the existing Environmental Impact Report (SCH #2012102046).

Attachments:

- A. May 5, 2021 GHG Mitigation Proposal
- B. Please visit: <https://www.countyofnapa.org/2876/Current-Projects-Explorer> to access the EIR and related approval documents