

**BEFORE THE BOARD OF SUPERVISORS  
OF NAPA COUNTY**

In the Matter of:

An appeal filed by Center for Biological Diversity (Appellant or CBD) concerning the Le Colline Vineyard agricultural erosion control application (P14-00410-ECPA) submitted by Le Colline, LLC and Cold Springs, LLC (Applicant) to a decision made by the Designee of the Interim Director (Director) of the Planning, Building and Environmental Services (PBES) Department on March 24, 2023, to: (1) certify the Final EIR prepared for the Le Colline Vineyard project (P14-00410-ECPA); (2) adopt the findings required pursuant to the California Environmental Quality Act (CEQA) including, but not limited to, rejecting the Proposed Project, the No Project Alternative and the Reduced Intensity Alternative, finding the Increased Water Quality and Sensitive Habitat Protection Alternative as revised and as set forth in the FEIR (the Modified Project or the Water and Habitat Alternative) consistent with the Napa County General Plan; (3) adopt the Mitigation Monitoring and Reporting Program; (4) adopt the Water and Habitat Project Alternative; and (5) approve ECPA No. P14-00410-ECPA as revised to reflect the Modified Project, which generally consists of increased stream setbacks to avoid areas with relative higher biological value, and provide for greater wildlife movement. The Modified Project consists of approximately 20.55 acres of new vineyard development. The project site is located on 88.3-acres south of the community of Angwin, on the east side of Howell Mountain Road and west of Cold Springs Road, within the unincorporated portion of Napa County (County). The site is zoned Agricultural Watershed (AW) and general plan designated Agriculture, Watershed and Open Space (AWOS) on Assessor's Parcel Numbers (APNs) 024-300-070, 024-300-071, 024-300-072, and 024-340-001 (the Property).

**RESOLUTION NO. 2023-\_\_\_\_\_**

**FINDINGS OF FACT AND  
DECISION ON APPEAL**

WHEREAS, on or about December 18, 2014, Napa Valley Vineyard Engineering, Inc. on behalf of Le Colline, LLC and Cold Springs, LLC (Applicant) applied (Application) for the Le Colline Vineyard Erosion Control Plan for New Vineyard Development (Project) to the Napa County Planning, Building and Environmental Services (PBES) Department (Department) requesting approval of an Erosion Control Plan (ECP) to install an approximately 32.8 gross acre ( $\pm 25.0$  net acre) vineyard; and

WHEREAS, the proposed Project is located south of the community of Angwin, on the east side of Howell Mountain Road and west of Cold Springs Road, within the unincorporated portion of Napa County (County) and zoned Agricultural Watershed (AW) on assessor parcel numbers (APNs) 024-300-070, 024-300-071, 024-300-072, and 024-340-001; and

WHEREAS, on January 15, 2016, the Department determined the Project Hydrology Study to be technically adequate with respect to Napa County's Conservation Regulation Chapter 18.108, including Policy CON-50(c) of Napa County's General Plan; and

WHEREAS, on March 3, 2016, Napa County Resource Conservation District (RCD) determined the Project to be technically adequate for sediment and erosion control; and

WHEREAS, on or about March 23, 2016, a Timber Conversion Plan (TCP) was submitted to CAL FIRE in connection with the Project; and

WHEREAS, on April 13, 2016, a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) and Initial Study (IS) were circulated and noticed by CAL FIRE. The NOP was circulated through the State Clearinghouse, to the public, local, State, and federal agencies, and other known interested parties for a 30-day review period that ended on May 13, 2016. A newspaper notice was published on April 13, 2016 in the Napa Valley Register. In accordance with CEQA Guidelines Section 15063, three (3) comments were received from the public and County on the NOP; and

WHEREAS, Analytical Environmental Services (AES), on behalf of CAL FIRE as Lead Agency, initiated the environmental review process required by the California Environmental Quality Act (CEQA), to analyze the potential environmental impacts of the Project; and

WHEREAS, on July 28, 2016, a Timber Harvest Plan (THP) for the Project was submitted to CAL FIRE for review; and

WHEREAS, on August 29, 2016, a Pre-Harvest Inspection was conducted at the Project property including representatives of County; and

WHEREAS, on December 2, 2016, CAL FIRE informed County that it was CAL FIRE's position that CAL FIRE was not the proper Lead Agency, and that County was the proper Lead Agency for consideration of the Project; and

WHEREAS, on July 24, 2017, CAL FIRE confirmed that County would be the Lead Agency for decision on the Project and Lead Agency status for the Project was transferred to County in September 2017; and

WHEREAS, County, as lead agency, received and considered all comments submitted in connection with the NOP process and confirmed the scope of the Draft EIR (DEIR), and thus caused to be prepared a DEIR for the Project entitled “Le Colline Vineyard Project (January 2019)” (State Clearinghouse No. 2016042030); and

WHEREAS, in accordance with CEQA, the DEIR was released for public and agency review on January 3, 2019. The initial public comment period ran from January 3, 2019 through February 19, 2019, and on February 19, 2019 was extended by the County to February 25, 2019; and

WHEREAS, between the start of the public comment period on January 3, 2019, and its end on February 25, 2019, the County received 100 public and agency written comments on the DEIR; and

WHEREAS, in accordance with CEQA, all comments received on the DEIR during the comment period were responded to and included in a Final EIR (FEIR) released on December 27, 2022. The FEIR included comments and responses to comments on the DEIR in Volume I and revisions to the DEIR in Volume II; and

WHEREAS, in accordance with CEQA and in response to the comments received, the Increased Water Quality and Sensitive Habitat Protection Alternative (Water and Habitat Alternative) presented in the DEIR (Proposed Project), was revised and included in the FEIR Vol. II (as revised, the Modified Project); and

WHEREAS, on December 27, 2022, in accordance with CEQA, the FEIR was mailed to all commenting state and local agencies, organizations and individuals at least ten days prior to the County’s certification of the EIR and consideration of the Project; and

WHEREAS, the revised Water and Habitat Alternative was reviewed by the Engineering Division of the Department and found technically adequate; and

WHEREAS, prior to taking action, the Interim Director of PBES’s designee (Director), considered the Project, the Alternatives, the revised Water and Habitat Alternative and the FEIR, with respect to the ECP; and

WHEREAS, on March 13, 2023, notice was given to all property owners within 1,000 feet of the Project and posted on the County’s PBES Current Projects Explorer page at: [Files - PBES Cloud v2.0](#) of the following tentative actions taken by the Director to: (1) certify the EIR prepared for the Le Colline ECPA (P14-00410-ECPA); (2) adopt the findings required pursuant to the California Environmental Quality Act including, but not limited to, rejecting the Proposed Project, the No Project Alternative and the Reduced Intensity Alternative, finding the Increased

Water Quality and Sensitive Habitat Protection Alternative as revised and as set forth in the FEIR (the Modified Project) consistent with the Napa County General Plan and adopt the Mitigation Monitoring and Reporting Program; and (3) approve ECPA No. P14-00410-ECPA as revised to reflect the Modified Project, which generally consists of increased stream setbacks avoid areas with relative higher biological value, and provide for greater wildlife movement; and

WHEREAS, On March 24, 2023, the Director's Notice of Decision to approve the Modified Project and related action was given to property owners within 1,000 feet of the Project and posted on the County's Current Projects Explorer page at: [Files - PBES Cloud v2.0](#). The Modified Project consists of 20.55 acres of new vineyard on the Property; and

WHEREAS, the approval letter with the final adopted conditions of approval was forwarded to the Applicant on March 24, 2023; and

WHEREAS, on April 7, 2023, the Modified Project was timely appealed by Appellant Center for Biological Diversity (Appellant or CBD) primarily due to concerns about the adequacy of the environmental analysis related to special-status aquatic species and sensitive habitats, wildlife connectivity, wildfire risk, greenhouse gas emissions, aesthetic and recreational impacts to Linda Falls Preserve, and erosion and potential impacts to the watershed (the Appeal); and

WHEREAS, in accordance with Napa County Code (NCC) Section 2.88.080(A), a hearing on the Appeal was scheduled before the Board of Supervisors (the Board) for June 6, 2023, a date at least fifteen but no more than ninety days from the date of submittal of the Appeal; and

WHEREAS, on June 6, 2023, the public hearing was opened and continued to August 15, 2023 to accommodate all parties' schedules. No public testimony occurred on June 6, 2023; and

WHEREAS, public notices of the Appeal hearing were mailed, emailed and provided to all parties who received notice of the DEIR and within 1,000 feet of the Property and also published in the newspaper on May 17, 2023; and

WHEREAS, on August 15, 2023, at a duly noticed continued public hearing on the Appeal, the Board heard and considered all evidence and testimony regarding the Appeal. The Board closed the public hearing and adopted a motion of intent to uphold the first, third, fourth, eighth and ninth grounds of appeal, deny the second, fifth, sixth and seventh grounds of appeal and reverse the Director's certification of the FEIR and approval of the Modified Project; and

WHEREAS, the Board further directed County Counsel's office to prepare a resolution containing Findings of Fact and Decision on Appeal in support of its proposed decision and to present those findings to the Board for consideration at its meeting on November 7, 2023; and

WHEREAS, on November 7, 2023, a proposed resolution containing the Findings of Fact and Decision on Appeal was presented to the Board for possible adoption; and

WHEREAS, this proposed resolution containing the Findings of Fact and Decision on Appeal having been presented to the Board for possible adoption at a regular meeting of the Board on November 7, 2023, and interested persons having been given an opportunity to address the Board regarding the proposed resolution;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors finds, determines, concludes and decides as follows:

**Section 1. Recitals.**

The Board hereby finds and determines that the foregoing recitals are true and correct.

**Section 2. Conduct of Appeal.**

A. Napa County Code Section 2.88.090 (B) provides that if the appeal pertains to a decision for which a record on appeal exists, the board, in hearing the appeal, shall base its consideration of the appeal on the record on appeal and any extrinsic evidence submitted by the parties and allowed by the chair for good cause shown. "Good cause" means that the proposed evidence, in the exercise of reasonable diligence, could not have been produced to, or was improperly withheld or excluded from, the decision maker. Here, a record on appeal of the Director's decision exists and was provided to the Board.

B. To clarify the County's procedural requirements and expectations regarding land use appeals, the Board of Supervisors requires the parties attend a mandatory pre-hearing conference with a representative of the County Counsel's office and the Chair of the Board to discuss estimates on presentation lengths, scope of evidence, and testimony to be presented, together with witness lists. Any witness not appearing on a witness list is treated as a member of the public and allotted the usual three minutes of speaking time.

C. A pre-hearing conference was held on May 31, 2023, with Appellant, Applicant's counsel, Applicant, Chair Ramos and a Deputy County Counsel. Appellant and Applicant agreed to various procedural matters related to the Appeal hearing including, but not limited to, exchanging witness lists, providing the Chair in advance of the hearing with any requests for "good cause" to either supplement the record with new information and/or requests to have the Appeal heard de novo (e.g., a fresh hearing), time limits for presentations and page limits for supplemental legal arguments. Neither Appellant nor Applicant submitted a "good cause" request to supplement the record on appeal before the Board or to have the Appeal heard de novo.

**Section 3. Findings of Fact and Conclusions of Law on Appeal.**

The Board hereby makes the following findings of fact and conclusions of law in regard to each of the grounds for appeal as stated by Appellant in the Appeal<sup>1</sup>:

**A. First Ground of Appeal.**

**Appellant's Position:** Appellant asserts that the EIR fails to adequately portray and analyze the Modified Project's impacts to special-status species and sensitive habitats in and near the Project area.

**Findings and Decision:** The Board finds and determines as follows:

1) The County's General Plan states that agriculture and related activities are the primary land uses in Napa County (Goal AG/LU-1 and Policy AG/LU-1). The significance of agriculture is echoed through policies and goals that reserve agricultural lands for agricultural use (Policy AG/LU4) and that maintain and enhance the viability of agriculture (Goal E-1) and that support the economic viability of agriculture, including grape growing to ensure the preservation of agricultural lands (Goal AG/LU-3). The General Plan recognizes that preserving watershed open space is consistent with and critical to the support of agriculture and agricultural preservation goals (Policy CON-4). The General Plan also equally reflects the County's commitment to conserve natural resources by determining the most appropriate use of land, matching land uses and activities to the land's natural suitability, and minimizing conflicts with the natural environment and the agriculture it supports (Goal CON-1). Conservation Element policies and goals state the County's commitments to preserve land for forest, recreation, wildlife, wildlife movement and native vegetation (Policy CON-1); protect special status species and their habitat (Goal CON-3); maintain and enhance biodiversity (Goal CON-2); protect connectivity for wildlife movement (Goal CON-5 and Policy CON-18) and preserve, sustain and restore forests, woodlands and commercial timberland for economic, environmental, recreation and open space values (Goal CON-6).

2) The Board affirms the importance of agriculture and its foundational significance towards maintaining the County's rural character and economic vitality. However, upon carefully weighing and balancing General Plan policies and goals, the Board finds that there is a balance between the need to preserve open space lands which is necessary to support vibrant and viable agriculture and in this case that balance was not achieved due to the Modified Project's location and the important natural resources affected by the development of 20.55 acres of new vineyard on the Property. This finding of inconsistency and incompatibility is entirely due to the unique setting and particular features of the location of the Modified Project. It is not about whether vineyards are a good or bad use of land. It is about a project's location and about what is an appropriate use of land when a project is located in proximity to important and sensitive resources. This finding of inconsistency is also specific to the 27-acre clearing needed for 20.55 net acres of new vineyard in the particular configuration, layout and location described in the Modified Project. Any future application for a smaller or reconfigured vineyard project (or other

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<sup>1</sup> This Resolution summarizes the grounds of appeal. For the complete text of the Appeal, please see the actual Appeal dated April 20, 2023.

discretionary development) on the Property is not bound by these Findings and would be subject to its own general plan consistency evaluation.

3) The Board finds that the EIR for the Modified Project fails to adequately portray the Property's unique setting, to adequately analyze the impacts on wildlife connectivity and biodiversity, and greenhouse gas (GHG) emissions. The Board further finds that these inadequacies cause the EIR's impacts to migratory wildlife, connectivity, biodiversity, climate change and GHG emissions to be understated and that potential inconsistencies with County General Plan policies and goals were not adequately disclosed or evaluated in the EIR all of which renders the EIR inadequate as an informational document.

### **Unique Features of the Project Setting and Area**

4) The 88.34-acre property uniquely sits near the headwaters of a Class I stream, within one of eight sensitive domestic watersheds in Napa County, straddles two of the Napa River Basin watersheds, and has more than a dozen watercourses. Specifically, the Property is located near the headwaters of Conn Creek within the Conn Creek - Upper Reach and the Conn Creek and Main Fork watersheds. The Conn Creek watershed is a sensitive domestic water supply drainage as it supports Conn Dam and Lake Hennessey. Conn Creek is the main feeder stream for Lake Hennessey, which is the primary reservoir and drinking water source for the City of Napa and its approximately 80,000 residents. The Property also has two (2) Class II watercourses on-site and thirteen (13) Class III watercourses that flow southwest into Conn Creek.

5) Napa County supports a very high level of biodiversity. General Plan Policy CON-20 reflects the need to protect and maintain the County's biodiversity. Because of its unique setting, the Le Colline site is particularly important to maintaining these high levels of biodiversity. According to the California Department of Fish and Wildlife Services (CDFW), the Property is designated as having high biological diversity value and is located within a "Conservation Planning Linkage" (the second highest connectivity rating) to the north and south, while to the east and west of the Property there are additional Conservation Planning Linkages. Because of this high connectivity value, the Property is especially important for species diversity and terrestrial connectivity.

6) The Project site is located adjacent to Linda Falls Preserve which is owned by the Napa Land Trust. The Linda Falls Preserve is an approximately 177-acre open space protected conservation area within the Conn Creek watershed containing coniferous forest, mixed chaparral and over 132 native plant species. The Modified Project would develop vineyard blocks within 335 feet on average with the closest block located approximately 200 feet from Conn Creek and this biologically sensitive, important and diverse conservation area.

7) The Property's 89.84 acres of forestland is located in the rural town of Angwin at the north end of the largest remaining unburdened Douglas Fir Forest, a vegetation type that covers just 3% of the County. The General Plan recognizes that a large part of Angwin's community character is derived from its rural woody setting and the importance of retaining the

special features of this geographic area when reviewing development projects (Policies AG/LU-55 and 64).

### **Understated Impacts to Wildlife Connectivity and Biodiversity**

8) The EIR incorrectly described the Property as an island of undeveloped lands and as a result found impacts to wildlife connectivity as less than significant (DEIR, pgs.4.4-8 through 4.4-38). Yet according to CDFW, the resource agency responsible for protecting wildlife and natural resources, the Property provides an uninterrupted forested wildlife corridor leading from south to north where it adjoins approximately 2,000 acres of mostly protected lands, allowing wildlife movement in a south to north direction. In particular, there are multiple indications in the eastern portion of the Le Colline property in Blocks E1, E2, and D2 that wildlife are using this area as a corridor: intersecting wildlife trails; scat from bear, bobcat, fox, deer, mountain lion, and other species; sensitive habitat features such as bat roosting trees, raptor perch trees, and drainages; and varied topography for wildlife to forage, hunt, and rest. CDFW further opined that development of the eastern portion of the Project site would potentially impede wildlife movement between high quality habitats, which would contribute to habitat fragmentation and a decrease in genetic exchange (See e.g., DEIR, Comment Letter A-1 CDFW). Although the Modified Project removed a portion of Block E1, because of the high biological value of the Property, the Board remained concerned about adequacy of corridor widths and the corresponding impacts on wildlife movement and connectivity.

9) At the Appeal hearing, CBD Senior Scientist Dr. Yapp testified that the Property is not an island but rather adjacent to approximately 2,000 acres of open space lands most of which are permanently protected including Linda Falls Preserve to the southwest and northwest, Las Posadas State Forest to the east and that the Modified Project would cut off north and south movement. Connectivity Expert Dr. Quinton Martins walked the areas around and north/northeast of Pacific Union College (PUC), as well as the eastern portion of the Property and opined that the area between Cold Springs Road and Howell Mountain Road stands out as a crucial “edge” and pivotal link between the most likely narrow corridor heading north beyond PUC. Edge disturbance effects from noise, trucks, tree felling, human sounds, dust and artificial lighting have been recognized as key threats to wildlife populations, particularly far-ranging species like mountain lions or bears. Further fragmentation of the area proposed for vineyard development will likely increase the threat to wildlife in this area. (See e.g., DEIR Comment Letter A-1 (CDFW); Comments from Biologist Nancy Lecourt, Biologist Brenda Blinn and others). The Property contains a permanent water source, varied topography, and multiple drainages as well as a prominent ecotone border with chaparral to the north, and the Linda Falls Preserve adjoining to the south, for wildlife to forage, hunt and rest. According to Connectivity Expert Dr. Quinton Martins, “perturbation of this area will in all likely events cut off connection to the North.” Written and verbal comments from biologists, local residents and environmentalists described the abundant wildlife observed in the open space areas surrounding the Property and further refuted the EIR’s description of the Property as an obstructed island.

10) The EIR also contradicts itself by claiming that game trails including scat, prey remains, and other evidence of animal passage were found on the property, “however evidence



of distinct continuous natural wildlife corridors was not observed” (Appendix B, DEIR at pgs.4.4-8 and 4.4-39). But verbal and written comments from Angwin residents, local biologists and a forester described the abundant wildlife in the vicinity of the Modified Project including but not limited to bears, deer, bobcat, fox among others. (See e.g., DEIR Comments Letters A-1 (CDFW, Forest Manager Peter Lecourt, M.S. and Dr. Quinton Martins); A-16 (Jim Wilson); A-72 (Elaine deMan) and Comment Letters from Biologist Nancy Lecourt, Biologist Brenda Blinn, California Wildlife Foundation and others). CDFW opined that the Property provides an uninterrupted forested wildlife corridor leading from south to north where it adjoins approximately 2,000 acres of mostly protected lands, allowing wildlife movement in a south to north direction.

11) The Modified Project would punch an approximately 27-acre hole in this important ecosystem. The loss of oak woodlands, Douglas Fir, ponderosa pine forest, chaparral and other native vegetation in this unique and sensitive area to accommodate long narrow vineyard rows would decrease existing habitat and create a fragmented natural landscape. At the Appeal hearing local biologist Jake Rugyt opined that vineyards are a monoculture that provides habitat for invasive plant species which further threatens biodiversity. These resulting fragmented landscapes are vulnerable to loss of ecological diversity and the influx of invasive exotic species (See e.g., DEIR Comment Letters A-3 (Napa County Park and Open Space District) and A-7 (Napa Sierra Club) and others).

12) When considering the adequacy of an EIR, the lead agency is entitled to weigh the evidence relating to the accuracy and sufficiency of the information in the EIR and to decide whether to accept it (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 C3d 376, 408). The Board has weighed the evidence in the record and finds that the EIR failed to adequately describe the unique features of the Property and its setting and that biological impacts including, but not limited to, the important and significant wildlife corridors and movement in the area and impacts on wildlife movement and migration were understated.

13) An EIR's analysis of significant impacts may be found legally inadequate when it lacks the level of detail necessary for an informed understanding of the nature and magnitude of the impact (*Sierra Club v. County of Fresno* (2018) 6 C5th 502, 520). The Board finds that the EIR lacks sufficient information for the Board to make an informed decision about the nature and magnitude of the Modified Project's potential biological impacts.

### **Failure to Disclose the Proposed Project's Potential Inconsistencies with the County General Plan**

14) “[W]hile there is no requirement that an EIR itself be consistent with the relevant general plan, it must identify and discuss any *inconsistencies* between a proposed project and the governing general plan [Citation.]” (*City of Long Beach v. Los Angeles Unified*

*School Dist.* (2009) 176 Cal.App.4th 889, 918–919). Failure to identify potential inconsistencies causes the EIR to lack sufficient information to permit informed decision-making by the Board.

15) The Board finds that for the reasons described herein, the EIR failed to identify and discuss the Modified Project’s potential inconsistency with the following General Plan policies and goals:

Policy CON -1: The County will preserve land for greenbelts, forest, adequate water supply, air quality improvement, habitat for fish, wildlife and wildlife movement, native vegetation, and natural beauty and to encourage management of these areas in ways that promote wildlife habitat renewal, diversification, and protection.

Policy CON-4: The General Plan recognizes that preserving watershed open space is consistent with and critical to the support of agriculture and agricultural preservation goals.

Policy CON-6: The County shall impose conditions on discretionary projects which limit development in environmentally sensitive areas such as those adjacent to rivers or streamside areas and physically hazardous areas such as floodplains, steep slopes, high fire risk areas and geologically hazardous areas.

Goal CON-6: Preserve, sustain and restore forests, woodlands, and commercial timberland for their economic, environment, recreation, and open space values.

Policy CON-13: The County shall require that all discretionary agricultural projects to consider and address impacts to wildlife habitat and avoid impacts to fisheries and habitat supporting special-status species to the extent feasible. Where impacts to wildlife and special-status species cannot be avoided, projects shall include effective mitigation measures and management plans including provisions to (d) provide protection for habitat supporting special-status species through buffering or other means and (e) provide replacement habitat of like quantity and quality on- or off-site for special- status species to mitigate impacts to special-status species.

Policy CON-14: To offset possible losses of fishery and riparian habitat due to discretionary development projects, developers shall be responsible for mitigation when avoidance of impacts is determined to be infeasible. Such mitigation measures may include providing and permanently maintaining similar quality and quantity habitat within Napa County, enhancing existing riparian habitat, or paying in-kind funds to an approved fishery and riparian habitat improvement and acquisition fund. Replacement habitat may occur either on-site or at approved off-site locations, but preference shall be given to on-site replacement.

Policy CON-18 (a): To reduce impacts on conservation and connectivity, in sensitive domestic water supply drainages, the vegetation selected for retention should be in areas designed to maximize habitat value and connectivity.

CON Policy 18 (d): To reduce impacts on conservation and connectivity, the County shall require discretionary projects to retain movement corridors of adequate size and habitat quality to allow for continued wildlife use based on the needs of the species occupying the habitat.

Policy CON Policy 18 (e): The County shall require new vineyard development to be designed to minimize the reduction of wildlife movement to the maximum extent feasible.

Policy CON-22: The County shall encourage the protection and enhancement of natural habitats which provide ecological and other scientific purposes.

Policy CON-24: Maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures including one or more of the following:

- a) Preserve, to the extent feasible, oak trees and other significant vegetation that occur near the heads of drainages or depressions to maintain diversity of vegetation type and wildlife habitat as part of agricultural projects.
- b) Comply with the Oak Woodlands Preservation Act (PRC Section 21083.4) regarding oak woodland preservation to conserve the integrity and diversity of oak woodlands, and retain, to the maximum extent feasible, existing oak woodland and chaparral communities and other significant vegetation as part of residential, commercial, and industrial approvals.
- c) Provide replacement of lost oak woodlands or preservation of like habitat at a 2:1 ratio when retention of existing vegetation is found to be infeasible. Removal of oak species limited in distribution shall be avoided to the maximum extent feasible.
- e) Maintain, to the extent feasible, a mixture of oak species which is needed to ensure acorn production. Black, canyon, live, and brewer oaks as well as blue, white, scrub, and live oaks are common associations.

Policy CON-41: The County will work to protect Napa County's watersheds and public and private water reservoirs to provide (a) clean drinking water for public health and safety; and (b) municipal uses, including commercial, industrial and domestic uses.

Policy CON-42: The County shall work to improve and maintain the vitality and health of its watersheds.

Goal CON-1: The County will conserve resources by determining the most appropriate use of land, matching land uses and activities to the land's natural suitability, and minimizing conflicts with the natural environment and the agriculture it supports.

Policy AG/LU-64: To maintain the rural atmosphere of Angwin community, the County will not promote policies that encourage land uses that are incompatible with or out of character

with the area, recognizing that a large part of the community character is derived from its wooded setting.

16) The Modified Project would create an approximately 27-acre hole in an important ecosystem and would potentially impede wildlife movement between high quality habitats. This would contribute to habitat fragmentation, a fragmented natural landscape and a threat to biodiversity. The Modified Project would not promote wildlife habitat renewal, diversification, and protection, and would not improve and maintain a healthy watershed. The Modified Project also does not adequately recognize the community character of Angwin and does not minimize conflicts with the natural environment. Therefore, the Board finds the Modified Project inconsistent with the policies and goals described above.

17) The EIR's General Plan consistency analysis failed to identify and discuss any inconsistencies between the Modified Project and the County's General Plan (DEIR, pgs. 4.10-6 through 4.10-12 and Table 4.10-1; FEIR Vol. II page 4.10-7 and Table 4.10-1). "While there is no requirement that an EIR itself be consistent with the relevant general plan, it must identify and discuss any inconsistencies between a proposed project and the governing general plan (CEQA Guidelines, § 15125, subd. (d.); *City of Long Beach v. Los Angeles Unified School Dist.*, *supra*, 176 Cal.App.4th at pp. 918–919). The failure to provide enough information to permit informed decision-making is fatal. "When the informational requirements of CEQA are not complied with, an agency has failed to proceed in 'a manner required by law' and has therefore abused its discretion[Citations.]" (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118).

### **Conclusions:**

For the foregoing reasons, the Board finds that substantial evidence exists in the record to grant the First Ground of Appeal and reverse the Director's decisions to certify the EIR and approve ECPA P14-00410 for the Modified Project.

### **B. Second Ground of Appeal.**

**Appellant's Position:** Appellant asserts that the EIR fails to analyze wildfire impact or disclose the site's fire history, despite the fact that the Modified Project is in a very high fire hazard severity zone.

**Findings and Decision:** The Board finds and determines as follows:

1) Appellant mischaracterizes the rationale regarding the Modified Project's reduced wildfire risk. It is not the vineyard in and of itself that reduces the wildfire risk but rather the removal of natural vegetation that is susceptible to fire and the resulting reduction in fuel loads that would reduce the risk or spread of fire.

2) CEQA requires an EIR to analyze "any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area

affected (CEQA Guidelines, Section 15126.2 (a)). CEQA does not require that an EIR incorporate traditional ecological knowledge and indigenous science into its wildfire analysis. Because of the low traffic volumes that would be generated by the Modified Project, the removal of non-irrigated flammable vegetation and with implementation of the Modified Project's Emergency Action Plan, substantial evidence in the record supports the conclusion that the Proposed Project would not increase wildfire risk or substantially impair evacuation routes.

3) The purpose of the Modified Project is to develop approximately 20.55 acres of new vineyard. As part of that development, approximately 26.97 acres of forest, oak woodland and shrubland would be removed to accommodate the vineyard and related infrastructure. While the primary intent of the project is not necessarily to reduce existing fuel loads, it will in fact do just that by virtue of the removal of natural vegetation to accommodate the vineyard and related infrastructure. The FEIR notes that the “[m]uch of the forested areas of Angwin contain flammable dead and dying understory and/or large stands of pyrophytic species that increase ignitability of the forest canopy” (FEIR Vol.1, pg. 4-3). As stated in the FEIR, the Modified Project would reduce overall fire susceptibility onsite through the reduction and separation of biomass fuels in the existing forest canopy and understory, resulting from a less fire-sensitive irrigated agricultural crop. That reduction in the continuity of wildland fire biomass fuel would reduce the risk or spread of fire.

4) The FEIR described fire history in the area, and also disclosed that because the Property abuts residential neighborhoods and is bordered by Conn Creek, it is essentially an island of undeveloped potential fire fuel (FEIR Vol. 1 pgs. 4-2 and 4-3). The development of new agricultural roads and avenues in proximity to the proposed vineyard blocks would improve access to wildland areas which in turn would likely improve fire response and would not increase wildfire risk or impair evacuation routes. Furthermore, Condition of Approval No. 8, requires the Applicant to submit to the Director of PBES for review and approval a Fire Risk Reduction and Emergency Action Plan (the Emergency Action Plan or Plan), which is intended to minimize fire risk during both construction and operation of the vineyard.

5) The Board considered verbal and written concerns from residents of Angwin and others regarding wildfire risk and evacuation but determined that because of low traffic volumes and fire reduction measures, the Modified Project would not exacerbate the risk of wildfire.

6) The Emergency Action Plan would impose fire reduction measures that would reduce the risk of fire or the spread of fire by prohibiting certain equipment from being used on Red Flag warning days, requiring maintenance of firebreaks, establishing communication protocols, educating employees and operators on fire preventative practices and addressing site-specific hazards. Furthermore, the small number of additional trips that would be generated by the Proposed Project would not substantially impair emergency access or evacuation. As disclosed in the EIR, there would be approximately 22 new daily trips associated with construction and operation of the project. The peak daily volume on Cold Springs Road is conservatively estimated at 259 trips, and even with the additional 22 new project trips (the

equivalent of two single-family residences) traffic volumes would still be well below the County's maximum capacity of 1,000 vehicles per day on Cold Springs Road.

7) Because of the low traffic volumes that would be generated by the Modified Project along with removal of approximately 27 acres of natural vegetation and implementation of an Emergency Action Plan, substantial evidence in the record supports the conclusion that the Modified Project would not increase wildfire risk or substantially impair evacuation routes.

**Conclusions:**

For all of these reasons, the Board finds that the Director reasonably determined that the EIR adequately analyzed wildfire impact and appropriately found that the Modified Project would not increase wildfire risk or substantially impair evacuation routes. Therefore, the Board upholds the Director's determination and denies the Second Ground of Appeal.

**C. Third Ground of Appeal.**

**Appellant's Position:** Appellant asserts that the EIR underestimates the GHG impacts of the Modified Project and creates a significant information gap in the EIR.

**Findings and Decision:** The Board finds and determines as follows:

1) Lead agencies performing environmental review under CEQA must thoroughly evaluate a project's impacts on climate change (*Communities for a Better Env't v. City of Richmond* (2010) 184 Cal. App.4th 70, 89-91). The CEQA Guidelines require lead agencies to determine the significance of a proposed project's greenhouse gas (GHG) emissions (CEQA Guidelines §15064.4).

2) During the Appeal hearing, the Applicant's representative acknowledged that burning of cleared vegetation could occur with development of the vineyard project. When asked directly by Supervisor Gallagher if the GHG's associated with burning had been evaluated, Environmental Science Associates Air Quality specialist Jyothi Iyer informed the Board that the burning of vegetation was not included in the GHG emissions calculations, or the analysis prepared for the EIR. The Board finds that the EIR underestimates the GHG impacts resulting from the Project because it failed to consider, disclose, and analyze GHG emissions from burning of up to approximately 27-acres of vegetation. This omission results in the EIR lacking sufficient information because it failed to adequately explain how burning would impact GHG emissions and is thus not sufficient to allow informed decision making (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 444, see also *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 522).

3) Local biologist Jake Rugyt opined on the importance of protecting forests to reduce climate change impacts. According to Biologist Rugyt, forests comprise less than 20% of County land area and forests are particularly important for reducing climate change impacts because of their three layers (tree canopy, shrub layer, and herbaceous layer), all of which

capture heat and greenhouse gases. Biologist Rugyt further testified that the loss of forest canopy significantly reduces carbon sequestration and adds ambient heat.

4) The Board finds that the failure to adequately disclose and assess GHG impacts related to burning vegetation and the removal of 27-acres of forested canopy is potentially inconsistent with the following climate protection and sustainable practices for environmental health goals and policies of the General Plan and these potential inconsistencies were not disclosed in the EIR:

Goal CON-15: Reduce emissions of local greenhouse gases that contribute to climate change.

Policy CON-65: The County shall support efforts to reduce and offset GHG emissions and strive to maintain and enhance the County's current level of carbon sequestration functions through the following measures: (e) Consider GHG emissions in the review of discretionary projects.

Policy CON-73: The County shall monitor the ecological effects of climate change in Napa County over time, including sea level rise, effects on water resources, local microclimates, native vegetation, agriculture, and the economy. Consistent with the principle of adaptive management, the County shall adapt policies and operations to address identified effects as feasible.

### **Conclusions:**

For the foregoing reasons, the Board finds that substantial evidence exists in the record to grant the Third Ground of Appeal, and reverse the Director's decisions to certify the EIR and approve ECPA P14-00410 for the Modified Project

### **D. Fourth Ground of Appeal.**

**Appellant's Position:** Appellant claims that the EIR fails to use the best available science to estimate emissions, for example, by using an outdated version of CalEEMod. The incomplete accounting of GHG emissions means that the significance analysis is inaccurate. Further, it raises doubts about the adequacy of the Modified Project's GHG mitigation measures.

**Findings and Decision:** The Board finds and determines as follows:

1) The GHG emissions presented in the DEIR were estimated using CalEEMod2013 using construction schedule, phasing and equipment data available at that time. In response to CBD's claims, the estimates of GHG emissions from project construction activities were updated using CalEEMod2016, the most recent version of CalEEMod at the time of publication of the

DEIR (2019) (ESA Jyothi Iyer, Air Quality Specialist, Peer Review GHG Memorandum, August 1, 2023). The updated GHG information was included in the Errata considered by the Board.

2) While the updated GHG emissions in the Errata relies on the best available science, the emissions inventory is incomplete because it did not include GHG emissions resulting from burning up to 27-acres of vegetation. Absent this analysis, the Board finds the EIR lacks sufficient information for the Board to make an informed decision about potential GHG impacts resulting from the Modified Project.

**Conclusions:**

For the foregoing reasons, the Board finds that substantial evidence exists in the record to grant the Fourth Ground of Appeal and reverse the Director's decisions to certify the EIR and approve ECPA P14-00410 for the Modified Project.

**E. Fifth Ground of Appeal.**

**Appellant's Position:** Appellant contends that EIR's alternative analysis is inadequate.

**Findings and Decision:** The Board finds and determines that:

1) An EIR does not need to consider every possible alternative but must consider alternatives that would foster informed decision-making and public participation. The scope of alternatives reviewed must be considered in light of the nature of the project, the project's impacts, relevant agency policies, and other material facts (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 487).

2) Three Alternatives were evaluated in the EIR to further reduce impacts beyond those already necessary to address significant environmental impacts. The EIR contains approximately 12 pages devoted to the Alternatives analysis including, but not limited to, a full and adequate discussion of the No Project Alternative, the Reduced Intensity Alternative and the Water and Habitat Alternative along with the comparative merits of each of the Alternatives in text and table format, the ability of each Alternative to attain the Project objectives and the approximate vineyard blacks and acreage of each Alternative as compared to the Proposed Project. The Alternatives analysis provided sufficient information about each alternative to allow evaluation, analysis and comparison to the proposed project and therefore meets the requirements of CEQA.

3) Because the focus of an EIR is on environmental impacts, the evidence of economic infeasibility does not need to be presented in the EIR itself but can be in the supporting administrative record (*Flanders Found. v. City of Carmel-by-the-Sea* (2012) 202 CA4th 603, 618). Here, although not required, the EIR did include evidence of economic infeasibility. Among the comments on the DEIR, is a letter from Applicant's counsel and an Economic Viability Analysis from the Applicant (DEIR, Comment Letter #88) showing that because of startup, overhead and ongoing maintenance costs, the development of 15 net acres of vineyard



would not be profitable and would generate at an approximately \$82,000 loss each year during the expected 25-year lifetime of the vineyard.

4) Ultimately, “the question is ... whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a reasonably prudent [person] would not proceed with the [altered project]” (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App.4th 587, 600)(“Woodside”). The Woodside case does not require any particular economic analysis or any particular kind of economic data but requires generally “some context” that allows for economic comparison. The court declined to limit the ways in which economic infeasibility could be shown, noting they could be numerous and vary depending on the circumstances. (“It is not necessary to identify every conceivable means of establishing the lack of feasibility....”) (*Woodside* at pp. 600-601). Contrary to Appellant’s assertion, the record includes evidence of economic infeasibility from which it can be determined that a reasonable prudent property owner would not proceed with a vineyard project consisting of 15 net acres or less.

### **Conclusions:**

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Director’s determination regarding the adequacy of the EIR’s alternatives analysis and therefore the Board denies the Fifth Ground of Appeal.

### **F. Sixth Ground of Appeal.**

**Appellant’s Position:** Appellant asserts that the EIR does not properly analyze or mitigate the Proposed Project’s significant aesthetic or recreational impacts to Linda Falls Preserve, a beautiful and beloved local attraction. The aesthetic and recreational value of the area is high, and the Modified Project will impair the views from the Preserve and recreational opportunities around Conn Creek without appropriate mitigation.

### **Findings and Decision:** The Board finds and determines that:

1) CBD’s claims that the Modified Project will “impair the views from the [Land Trust property] and recreational opportunities around Conn Creek without appropriate mitigation” is unsupported.

2) The Modified Project includes an average of 335-foot setbacks from Conn Creek and much further from the Linda Falls Trail located primarily on the adjacent Land Trust property. In addition, the vineyards are higher in elevation than Linda Falls Trail and Conn Creek which when considered in conjunction with the distance and dense forest cover supports the fact that the vineyards cannot be seen from the Linda Falls Trail. Also, there are two existing vineyards that are larger and closer in proximity than the Modified Project vineyards that have not generated any issues to date in comments on the DEIR. Substantial evidence in the record supports the EIR’s finding that the Modified Project will not impact recreational opportunities or

views at Linda Falls or for its visitors.

**Conclusions:**

For the foregoing reasons, the Board finds that substantial evidence exists in the record to uphold the Director's determination that the EIR properly analyzes the Modified Project's significant aesthetic or recreational impacts to Linda Falls Preserve. Therefore, the Board denies the Sixth Ground of Appeal.

**G. Seventh Ground of Appeal.**

**Appellant's Position:** Appellant contends that the EIR fails to properly analyze existing erosion and runoff conditions at site and cannot support conclusion that Modified Project would result in a decrease in sediment.

**Findings and Decision:** The Board finds and determines that:

1) The Modified Project has been designed and engineered in a manner that would result in no net increase in runoff and erosion, as required by the County's Conservation Regulations (Napa County Code Chapter 18.108) and General Plan Policy CON-48.

2) The record includes multiple verbal and written comments about climate change, more frequent and intensive extreme events. Thirty-one atmospheric rivers hit California between October 2022 and March 2023. Marty Ralph, the director of the Scripps Institutions' Center for Western Weather and Water Extremes, has publicly stated that this trend is likely to continue. "With climate change, we see in the models larger [atmospheric rivers] because there's more water vapor, and some stronger ones. And also in California, particularly, we see that we're likely to get more of our annual precipitation [from] a few even stronger [atmospheric river] days, and longer dry periods in between" (See e.g., Letters from CBD, Napa Climate NOW! and others). Locally, Napa County has experienced drought, warmer temperatures, greater wildland fires and associated rainy season erosion and mud flows brought on by accelerating climate change happening worldwide (See e.g., DEIR Comment Letters A-7 (Napa Sierra Club) and I-61 (Elaine deMan); Comments from Chris Marks, Yvonne Baginski, Beth Huning, Sierra Club Redwood Chapter; and testimony from Dr. Yapp, Patricia Damery, Jake Rugyt and others).

3) The Board recognizes the need to protect the Lake Hennessy watershed, and the critical role that natural vegetation, particularly forested areas play in stabilizing steep slopes, and naturally filtering water. The Board further acknowledges the importance of conserving forested ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, supporting biological diversity and providing wildlife habitat and movement areas. The Board considered testimony that artificial erosion control measures including drainage ditches, attenuation basins, drainage infrastructure and vineyard cover crops require monitoring, maintenance and oversight to remain effective. These best management practices, if not

maintained, may contribute to an increase in erosion and sedimentation. These artificial measures also do not always have the same benefits provided by healthy ecosystems and especially from old growth trees that are 15” in diameter like those existing on the Project site (See e.g., Comment Letters from California Wildlife Foundation, Beth Huning and others). Reduced forest cover has been shown to result in increased runoff, erosion, sedimentation, and water temperature; changes in channel morphology; decreased soil retention; and decreased terrestrial and aquatic biodiversity (See e.g., DEIR Comment Letters A- 5 (California Wildlife Foundation); testimony from Dr. Yapp; Chris Marks; Chris Malan on behalf of ICARE and written comments from Beth Huning, Sierra Club Redwood Chapter and others).

4) The Property has highly erodible soils with 15 watercourses flowing through it. The Modified Project would remove approximately 27 acres of forested canopy, shrubland, natural vegetation, and natural soil cover and rip soils down to three feet to accommodate vineyard blocks with the closest block located approximately 200 feet from Conn Creek which is one of the primary tributaries into the Lake Hennessy municipal reservoir. For these site-specific reasons, the potential catastrophic effects resulting from a failure of erosion control measures is disproportionately higher at the Property than elsewhere in the County. Because of climate change and the increased intensity/severity of storms coupled with the Modified Project’s location and the large number of water courses on-site, a failure of the erosion control measures could contribute to an increase in sediment to wash into Lake Hennessey. The result could severely affect the 80,000 residents in the City of Napa who rely on Lake Hennessey as their drinking water source. Concerns regarding the potentially devastating effects from a potential failure of the erosion control measures were expressed in numerous comments from members of the public, including residents of Napa (See e.g., written and verbal comments from Roger Lutz, Connie Wilson, Beth Brown, Tessa Molinari, Beth Huning, Lauren Coodley, Elizabeth Novak, the Redwood Chapter of the Sierra Club, Jim Wilson and others). Failure of the measures and the resulting erosion into watercourses could also adversely impact aquatic resources and species and potentially harm Linda Falls.

5) An August 7, 2023, letter to the Board of Supervisors signed by three members of the five-member Napa City Council (Sedgley, Luros and Alessio) also echoed the concerns that the Modified Project could have a negative impact on the Lake Hennessy watershed and Lake Hennessey municipal water reservoir managed by the City of Napa (the August 7, 2023 Statement).

6) The August 7, 2023 Statement was as one of many factors listed as Supervisor Cottrell’s rationale/justification for her decision to deny the Modified Project, but it was not the sole basis. As described above, even without the August 7, 2023 Statement, the record includes substantial evidence in the form of numerous written and verbal comments that raised substantially the same concerns about agricultural runoff as a source of water pollution, potential contamination of watersheds, and the importance of protecting the Lake Hennessy reservoir. In fact, during deliberations Supervisor Cottrell stated that her main concern was the location of the project as “it is situated at the headwaters of Conn Creek with many Class II and Class III streams that feed into the creek actually on that property.” Supervisor Gallagher likewise focused her concerns about the location of the proposed project stating, “the soils on the property

are for the most part classified as highly erodible. Should the erosion control program fail at any time, consequences to Conn Creek and therefore Lake Hennessy would be catastrophic and irreparable” and Chair Ramos further emphasized the concern of the project location “at the headwaters of Conn Creek, and most specifically the impact to Lake Hennessy, which is noted in our conservation regulations as a sensitive domestic water supply.”

7) Subsequent to the Board’s tentative action on August 15, 2023, to uphold various grounds of the appeal and deny the Proposed Project, on August 28, 2023, the Napa County Farm Bureau (the Farm Bureau) forwarded a letter to the City of Napa asserting that it was a violation of the Brown Act for three members of the City Council to sign the August 7, 2023 Statement and demanded that the City cure or correct the alleged illegal action. On September 19, 2023, the Napa City Council adopted Resolution R2023-094 curing and correcting the alleged violation of the Brown Act by retracting the August 7, 2023 Statement.

8) The Board acknowledges the City’s retraction of the August 7, 2023 Statement and the Farm Bureau’s request for a thorough review of the matter and the implications of the retraction. After conducting a thorough review of the record of proceedings and of Supervisors Cottrell’s and Gallagher’s and Chair Ramos’s comments and deliberations, the Board finds that retraction of the August 7, 2023 Statement does not materially or substantially affect the validity of the Board’s decision-making process. While the August 7, 2023 Statement was referenced as one of the many reasons for the decision, it was not the only or even primary basis of the Board’s decision. Multiple other commenters expressed substantially the same concerns as those expressed in the August 7, 2023 Statement. The Board finds that even without the August 7, 2023 Statement, there is substantial and independent evidence in the record to support the Board’s finding that due to unique attributes of the site and its surroundings including, but not limited to, the high biological diversity, wildlife movement, Linda Falls Preserve, Lake Hennessy municipal water supply, and because of the increase intensity and severity of weather events related to climate change, the possible risk of negatively impacting those attributes/resources that could occur in the event of a failure, outweigh the benefits of the Modified Project.

### **Conclusions:**

For the foregoing reasons, the Board finds that substantial evidence exists in the record to grant the Seventh Ground of Appeal and reverse the Director’s decisions to certify the EIR and approve ECPA P14-00410 for the Modified Project.

## **H. Eighth Ground of Appeal.**

**Appellant’s Position:** Appellant asserts that the 2:1 mitigation ratio does not mitigate for Proposed Project’s impacts to biological resources and GHG impacts.

**Findings and Decision:** The Board incorporates the Findings and Determinations set forth above as to the First, Third and Fourth Grounds of Appeal here by reference. For the reasons articulated herein, the Board finds and determines that the EIR does not adequately

portray the Proposed Project's unique setting, and as a result impacts to wildlife movement, connectivity and biodiversity are understated and inadequate. The EIR also fails to analyze potential GHG emissions resulting from burning of vegetation and potential inconsistencies with the General Plan.

**Conclusions:**

For the foregoing reasons, the Board finds that substantial evidence exists in the record to grant the Eighth Ground of Appeal and reverse the Director's decisions to certify the EIR and approve ECPA P14-00410 for the Modified Project.

**I. Ninth Ground of Appeal.**

**Appellant's Position:** Appellant asserts that the EIR fails to mitigate for 9.29 acres of mixed manzanita (interior live oak - CA bay-chamise) and should be mitigated on a 2:1 ratio.

**Findings and Decision:** The Board finds and determines as follows:

1) The Errata to the Final EIR provided clarifications related to the analysis of impacts to biological resources. In terms of the Mixed Manzanita (Interior Live Oak - California Bay - Chamise) Alliance, the DEIR and Final EIR broadly identifies all chaparral habitats on the Property as principally within the Chamise Alliance, which totals 20.62 acres. The Modified Project was approved to remove approximately 9.29 acres of this Alliance. However, it is likely that large portions of the 9.29-acre chaparral area may support non-manzanita scrub habitat (e.g., pure Chamise Alliance or similar), which are not protected; however, all 9.29-acres were assumed to be sensitive and protected on a 2:1 basis unless detailed mapping is provided to identify the distribution of chamise-manzanita in a more detailed manner. Ultimately, as detailed in the Errata, the Modified Project would either result in the reduction of approximately 2.4 acres of the Chamise Alliance, or through more detailed mapping show a reduction in the extent of the protected chamise-manzanita areas.

2) While the Modified Project would achieve a minimum 2:1 ratio, the Board finds that the ratio is a minimum floor. Because of the unique features of the Property from a biological diversity and value perspective including ponderosa pine, the presence of sensitive species, the important wildlife corridors which include Mixed Manzanita Alliance, the Board finds that the loss of this sensitive resource directly and the role it plays in the overall biological value in this case a mitigation ratio of 2:1 is insufficient.

**Conclusions:**

For the foregoing reasons, the Board finds that substantial evidence exists in the record to grant the Ninth Ground of Appeal and reverse the Director's decisions to certify the EIR and approve ECPA P14-00410 for the Modified Project.

**Section 4. CEQA Determination.**

The Board finds that denial of the Modified Project is exempt from CEQA pursuant to State CEQA Guidelines Section 15270 (a) which exempts disapproval of projects from CEQA review.

**Section 5. Substantial Evidence.**

Substantial evidence supporting each and every finding made herein is contained in the record of proceedings. All of the files and records that comprise the administrative record for the Modified Project are incorporated herein by reference.

**Section 6. Summary of Decision.**

Based on the foregoing facts, findings, rationales, determinations and conclusions, the Board of Supervisors hereby:

- 1) Finds denial of the Modified Project exempt from CEQA (14 CCR 15270 (a));
- 2) Adopts the findings of facts and rationales as set forth in this Resolution;
- 3) Upholds the first, third, fourth, eighth and ninth grounds of appeal and denies the second, fifth, sixth and seventh;
- 4) Reverses the Director’s decision to certify the EIR and approve the Modified Project; and
- 5) Denies the Modified Project described in the FEIR.

**Section 7. Effective Date.**

This resolution shall take effect in accordance with the provisions of Napa County Code Section 2.88.090.

**Section 8. Judicial Challenge.**

Unless a shorter period applies, any judicial challenge to this decision is governed by California Code of Civil Procedure Section 1094.6.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of said Board held on the 7<sup>th</sup> day of November, by the following vote:

AYES:	SUPERVISORS	_____
NOES:	SUPERVISORS	_____
ABSENT:	SUPERVISORS	_____

ABSTAIN: SUPERVISORS

\_\_\_\_\_  
NAPA COUNTY, a political subdivision of  
the State of California

\_\_\_\_\_  
BELIA RAMOS, Chair of the  
Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Laura J. Anderson</u> Deputy County Counsel</p> <p>Date: October 31, 2023</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____ Processed By:  _____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>Date:  By:</p>
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