

Attachment 9
Notice of Decision



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Planning, Building & Environmental Services

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David Morrison
Director

NOTICE OF DECISION

DATE OF MAILING: October 5, 2021

TO: Neighbors, Interested Parties and Petitioners of Walt Ranch

SUBJECT: Walt Ranch Vineyards Agricultural Erosion Control
Plan No. P11-00205-ECPA

PROJECT DESCRIPTION AND LOCATION: In December of 2016, the Napa County Board of Supervisors certified an Environmental Impact Report ("EIR") (SCH #2012102046) for the Hall Brambletree Associates, LP - Walt Ranch Vineyard Conversion - File No. P11-00205-ECPA, which consisted of an erosion control plan for the earthmoving associated with the development of approximately 209 net acres of vineyard ($\pm$ 316 gross acres).

On January 19, 2017, three Petitions for Writ of Mandate were filed challenging the approval in Napa Superior Court. On April 5, 2018, the Superior Court denied the Petitions and upheld the County's decision to certify the EIR and approve the Project. The petitioners appealed the Superior Court's decision and on September 30, 2019, the Court of Appeal upheld the Superior Court's decision on all grounds except one. The Court of Appeal determined that the record before the County lacked substantial evidence to support the finding that the Project would have a less-than significant GHG emission impact, because the record evidence did not show that the trees being preserved by Mitigation Measure 6-1 would have reasonably remained intact without the proposed conservation easement.

On May 6, 2020, the Superior Court issued a judgment consistent with the Court of Appeal's decision. The judgment ordered the issuance of a writ directing the County to set aside its findings "concerning whether the Project, as mitigated, will have a less-than-significant impact with respect to GHG emissions." The judgment provided that no Project activity that may result in GHG emissions may proceed unless and until such findings are reconsidered and supported by substantial evidence on the record.

On July 14, 2020, the Napa County Board of Supervisors adopted Resolution No. 2020-98, which vacated and set aside the finding in Attachment A to Resolution No. 2016-184 regarding Impact 6-1, and directed staff to file a return to the peremptory writ of mandate informing the Court that the Board had adopted this resolution.

This proposed project includes an amendment to Mitigation Measure 6.1, which, as previously approved, required 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). The proposed project would amend Mitigation Measure 6-1 to require permanent protection of no less than 124 acres of oak woodland

habitat, which must be located on slopes less than 30%, and planting of up to 33,580 native oak trees, as further described in project documents. An Addendum to the EIR in accordance with the CEQA Guidelines, Section 15164, has been prepared, which analyzes the amendment to Mitigation Measure 6.1 and provides further details.

The project site is located on the west side of Monticello Road, approximately one mile southwest of its intersection with Highway 128, and approximately one-half mile north of its intersection with Waters Road, approximately 6.25 miles east of the City of Yountville in Napa County located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. The project is in an AW (Agricultural Watershed) zoning district and has an AWOS (Agriculture, Watershed and Open Space) General Plan designation. (Assessor parcel #'s: 032-120-028, 032-480-007, -008, -011 through -024, -027, -028, 032-490-004, -005, -006, -008 through 020).

NOTICE OF DECISION: On September 21, 2021, a Notice of Tentative Decision was issued for the subject project providing notification that the PBES Director has tentatively approved the amendment to Mitigation Measure 6.1 as described above.

The County has received over 58 comments from the public regarding the Tentative Decision, which we have reviewed in detail. Several comments identified issues relating to groundwater. The EIR certified by the County addressed these issues and the EIR's analysis of the impacts of the Project on groundwater, as well as the effectiveness of mitigation of those impacts, was upheld by the Court of Appeal. The EIR remains certified. Groundwater is not the subject of this decision.

Several other comments addressed the sufficiency of the proposed mitigation measure to offset the Greenhouse Gas (GHG) emissions from the Project. The County has reviewed these comments in detail and has determined that substantial evidence exists to support the decision to approve the revision to Mitigation Measure 6-1.

First, though nearly the entire Property was burned during both the 2017 and 2020 wildfires, which resulted in the loss of a significant number of trees, the County is applying the baseline established before the fires. This requires the Applicant to mitigate for the GHG emissions of the Project as if all of the trees identified for removal still existed. There is no reduction in the Applicant's mitigation obligation because of the fire damage.

Second, based on the analysis by Ascent Environmental, the proposed tree-planting program required by Mitigation Measure 6-1 would mitigate more than double the amount of carbon dioxide equivalent required to be mitigated. This alone would be enough to address the concerns raised by the Court of Appeal. Nevertheless, the County is requiring that the Applicant place 124 acres of identified oak woodland in a conservation easement, providing for additional mitigation. The size of the easement reflects the substantially reduced footprint of the approved project, compared to the proposal analyzed in the certified EIR. Furthermore, the conservation easement required by Mitigation Measure 6-1 would be in addition to the easements required to mitigate other impacts of the Project. The incidental benefits of those easements are not factored into the mitigation.

Lastly, the County has determined that substantial evidence establishes that the tree-planting program will effectively mitigate the 27,528 MTCO₂e calculated in the Final EIR. Ascent Environmental used established protocols to determine that planting 16,790 trees, with an 80% survival rate after five years, will, over the

Project horizon of 30 years, achieve the required GHG offset to reduce the impact of the Project to a less-than-significant level. Ascent also identified specific locations of tree-planting based on the pre-fire distribution of various oak tree species and recommended specific planting protocols, including the use of established replanting techniques and guidelines established by forestry experts and the participation of professional foresters and community organizations with expertise in developing replanting plans. Tree-planting is a well-established method of mitigating GHG impacts and the report by Ascent Environmental sets forth an effective replanting plan that will demonstrably improve the environment.

Based on the analysis and conclusions in the Addendum, the Director has determined that the revised Mitigation Measure 6-1 will reduce the impact of the Project on Greenhouse Gas emissions to a less than significant level, in accordance with the Superior Court judgment. Therefore, the Director adopts the revised Mitigation Measure 6-1 and incorporates it into the Mitigation Monitoring and Reporting Plan. This constitutes the Decision pursuant to County Code Section 2.88.040 (A)(1) for purposes of filing an appeal. Any appeal to this decision shall be filed in accordance with County Code Chapter 2.88.

Sincerely,
David Morrison
PBES Director