

Attachment 20
BOS Resolution 2020-98
Rescinding Findings re: GHG Emissions

NAPA COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 2020-98

RESOLUTION VACATING AND SETTING ASIDE THE NAPA COUNTY BOARD OF SUPERVISORS' FINDING FOR IMPACT 6-1 IN RESOLUTION NO. 2016-184 CONCERNING GREENHOUSE GAS EMISSIONS FROM THE WALT RANCH VINEYARD AGRICULTURAL EROSION CONTROL PLAN NO. P11-00205-ECPA PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, on December 20, 2016, the Napa County Board of Supervisors (the "Board") adopted findings pursuant to the California Environmental Quality Act regarding the Walt Ranch Vineyards Agricultural Erosion Control Plan No. P11-00205-ECPA (the "Project") in Resolution No. 2016-184; and

WHEREAS, Attachment A to Resolution No. 2016-184 is a Table of Impacts, Mitigation Measures and CEQA Findings; and

WHEREAS, Impact 6-1 in Attachment A to Resolution No. 2016-184 concluded:

Construction of the Project would emit GHGs and would have the potential to exacerbate global climate change. Project sources of GHG emissions during construction would include the transport and delivery of construction equipment to the project site; operation of construction equipment, including equipment used for planting and irrigation system installation; worker trips, fuel use, and material transport, loss of sequestration due to removal of oak woodlands, tree removal, tillage of soil, etc. This is a potentially significant impact; and

WHEREAS, Mitigation Measure 6-1 in Attachment A to Resolution No. 2016-184 required:

In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 248 acres of woodland habitat. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. 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, or 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.

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.

WHEREAS, with respect to Impact 6-1 and Mitigation Measure 6-1, the Board adopted the following finding in Attachment A to Resolution No. 2016-184:

Compliance with MM 6-1, which has been required or incorporated into the Project, will reduce impacts from GHG emissions through preservation of woodland on the property. The Board hereby directs that this mitigation measure be adopted. Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Board hereby finds that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen this impact to a less-than-significant level.

WHEREAS, on January 19, 2017, a Petition for Writ of Mandate was filed challenging the approval in Napa Superior Court. On April 5, 2018, the Superior Court denied the Petition and upheld the County's decision to certify the EIR and approve the Project.

WHEREAS, 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 would have reasonably remained without the conservation easement.

WHEREAS, 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.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Napa as follows:

1. The foregoing recitals are true and correct and are included herein by reference as findings.
2. The Board vacates and sets aside the finding in Attachment A to Resolution No. 2016-184 regarding Impact 6-1.

3. The Board directs County staff to file a return to the peremptory writ of mandate in *Center for Biological Diversity v. Napa County* (Napa County Sup. Court, Case No. 17CV000060) informing the Court that the Board has adopted this resolution.

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 on the 14th day of July, 2020, by the following vote:

AYES: SUPERVISORS WAGENKNECHT, PEDROZA, GREGORY,
RAMOS and DILLON

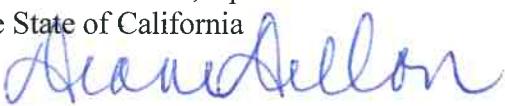
NOES: SUPERVISORS NONE

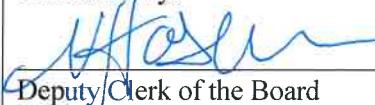
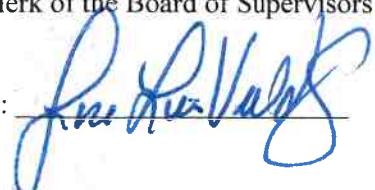
ABSTAIN: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

NAPA COUNTY, a political subdivision of
the State of California

By:


DIANE DILLON, Chair of the
Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: <i>Jason M. Dooley</i> Deputy County Counsel Date: July 13, 2020	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: July 14, 2020 Processed By:  Diane Dillon Deputy Clerk of the Board	ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors 
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