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Recommended Erosion Control Plan Findings and Conditions of Approval

Harcross Winery and Vineyard, Use Permit #P23-00105-UP, Viewshed
Protection Program #P25-000314-VIEW, and Agricultural Erosion
Control Plan #P23-00325-ECPA
Planning Commission Hearing Date May 7, 2025

**RECOMMENDED FINDINGS
AND CONDITIONS OF APPROVAL
PLANNING COMMISSION HEARING – MAY 7, 2025**

**Harcross Winery Agricultural Erosion Control Plan P23-00325-ECPA
6476 Dry Creek Road, Napa
APN 027-530-006-000**

Notice is hereby given by the Planning Commission (Commission) of Napa County (the “County”) that:

1. Basil and Robin Enan, Trustees of the Enan Family Trust, have requested approval of Agricultural Erosion Control Plan (ECPA) Application #P23-00325-ECPA for the Harcross Winery Vineyard Conversion (the “Project”);
 2. An Initial Study and Mitigated Negative Declaration (State Clearinghouse #2025040340) were prepared for the Project and duly circulated for public review and comment;
 3. The Initial Study, Mitigated Negative Declaration, and all written comments received during the public review process have been considered;
 4. The Commission, as the decision-making body, finds on the basis of the whole record that there is no substantial evidence that the Vineyard Conversion/ECPA Project will have a significant effect on the environment so long as the mitigation measures identified in the Mitigated Negative Declaration are implemented;
 5. The Commission further finds that these mitigation measures have been incorporated into the project as conditions of approval and through the project revision statement will be implemented as delineated in the Mitigation Monitoring and Reporting Program for the Project dated and hereby adopted. The Vineyard Conversion/ECPA Project, as mitigated, therefore has no potential to have a significant effect on the environment;
 6. The Mitigated Negative Declaration for the Harcross Winery (Harcross Winery, Use Permit P23-00105-UP, P23-00325-ECPA, and P25-00031-VIEW, Napa County,) reflects the independent judgment and analysis of the Commission and is hereby adopted;
 7. The Commission has read and considered the information contained in the adopted Mitigated Negative Declaration prior to taking action on the Project;
 8. The Commission hereby approves the Vineyard Conversion/ECPA Project subject to the terms and conditions contained in the project’s conditions of approval attached as Exhibit A and dated May 7, 2025;
AND
 9. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. Records are located at the Napa County Planning, Building, and Environmental Services Department, 1195 Third Street, Suite 210, Napa, California, 94559
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EXHIBIT A

RECOMMENDED CONDITIONS OF APPROVAL

Harcross Winery Agricultural Erosion Control Plan P23-00325-ECPA

6476 Dry Creek Road, Napa

APN 027-530-006-000

This permit encompasses and shall be limited to the project commonly known as the **Harcross Winery Vineyard**, located at 6476 Dry Creek Road. It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, lessees, and successors in interest of the vineyard to ensure compliance is achieved.

1. Strictly conform to all provisions of approved Agricultural Erosion Control Plan #P23-00325-ECPA, including but not limited to the provisions listed below. Any changes or modifications to the approved plan may necessitate that you file a plan revision with the Conservation Division prior to implementing the desired changes. In that case, further environmental review may need to be undertaken.
 - a. Temporary erosion control measures/materials, such as but not limited to straw wattles, shall be composed of biodegradable materials so that animals do not become entangled within them.
 - b. Refrain from disposing of debris, storage of materials, or constructing/operating the vineyard, including vineyard avenues, outside the boundaries of the approved plan, or within required setbacks Pursuant to Napa County Code Section 18.108.025 (General Provisions – Intermittent/perennial streams). Furthermore, consistent with Condition of Approval #7(f) below, all operational activities that include the use or handling of hazardous materials, such as but not limited to agricultural chemical storage and washing, portable restrooms, vehicular and equipment refueling/maintenance and storage areas, soil amendment storage and the like, shall occur at least 100 feet from groundwater wells, water courses, streams and any other water resource to avoid the potential risk of surface and groundwater contamination, whether or not such activities have occurred within these areas prior to this ECPA approval.
 - c. Obtaining prior to commencement of work any/all other required Local, State and Federal permits necessary to implement this project
2. The Permittee shall fully comply with **Mitigation Measures BIO-1** through **BIO-2** in the attested Project Revision Statement (dated restated below):
 - a. **MM BIO-1** Minimize potential indirect impacts to Norther Spotted Owls
 1. Prior to the commencement of vegetation removal and earth-moving activities associated with the project the owner/permittee shall conduct a pre-construction survey for Norther Spotted Owls. The survey shall be prepared by a qualified biologist (defined as knowledgeable and experienced in the biology and natural history of local avian resources with the potential to occur in the vicinity of the project site) within suitable habitat located within 0.25-miles of project activities. The preconstruction survey shall follow the U.S. Fish and Wildlife Service (USFWS) Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls, dated (revised) January 9, 2012, in accordance with Section 9 (Surveys for Disturbance-Only Projects) of

the survey protocol.

2. The preconstruction survey shall be conducted no earlier than 14 days prior to when vegetation removal and ground disturbing activities are to commence and shall be provided to the Napa County PBES Planning Division and the CDFW for review prior to commencement of work. Any recommendations provided by CDFW, including but not limited to establishment of no disturbance buffers, seasonal restrictions on heavy equipment use and operations, or subsequent surveys shall be implemented in accordance with CDFW recommendations.

Monitoring: The above measures shall be incorporated as conditions of approval of the project (if approved) and apply to associated building and grading permits and the ECPA with survey recommendations be implemented in conjunction with all construction activities.

Responsible Agency: California Department of Fish and Wildlife

- b. **MM BIO-2:** The owner/permittee shall implement the following measures to minimize impacts associated with the potential loss and disturbance of special-status and nesting birds and raptors consistent with and pursuant to California Fish and Game Code Sections 3503 and 3503.5:
1. For earth-disturbing activities occurring between February 1 and August 31 (which coincides with the grading season of April 1 through October 15 – NCC Section 18.108.070.L, and bird breeding and nesting seasons), a qualified biologist (defined as knowledgeable and experienced in the biology and natural history of local avian resources with the potential to occur at the project site) shall conduct a preconstruction surveys for nesting birds within all suitable habitat on the project site, and where there is potential for impacts adjacent to the project areas (typically within 500 feet of project activities). The preconstruction survey shall be conducted no earlier than seven (7) days prior to when vegetation removal and ground disturbing activities are to commence. Should ground disturbance commence later than seven (7) days from the survey date, surveys shall be repeated. A copy of the survey shall be provided to the Napa County Conservation Division and the CDFW prior to commencement of work.
 2. After commencement of work if there is a period of no work activity of seven (7) days or longer during the bird breeding season, surveys shall be repeated to ensure birds have not established nests during inactivity.
 3. In the event that nesting birds are found, the owner/permittee shall identify appropriate avoidance methods and exclusion buffers in consultation with the County Conservation Division and the USFWS and/or CDFW prior to initiation of project activities. Exclusion buffers may vary in size, depending on habitat characteristics, project activities/disturbance levels, and species as determined by a qualified biologist in consultation with the County's Conservation Division and/or the USFWS or CDFW.
 4. Exclusion buffers shall be fenced with temporary construction fencing (or the like), the installation of which shall be verified by Napa County prior to the commencement of any earthmoving and/or development activities. Exclusion buffers shall remain in effect until the young have fledged or nest(s) are otherwise determined inactive by a qualified biologist.

Monitoring: The above measures shall be incorporated as conditions of approval of the project (if approved) and apply to associated building and grading permits and the ECPA with survey recommendations be implemented in conjunction with all construction activities.

Responsible Agency: California Department of Fish and Wildlife

3. Pre-construction meeting: No more than two weeks prior to the commencement of any vegetation removal, earth-disturbing activities, or other development activities associated with this ECPA, the owner shall schedule an on-site pre-construction meeting that shall include the project planner, Permittee or owner's agent, plan preparer, vineyard manager, contractor(s), and any other parties deemed necessary by Engineering and Conservation Division staff, such as but is not limited to: County Engineering and Conservation Division staff, the project biologist, or representatives of any affected responsible or trustee agency. The purpose of this meeting will be to review the development requirements of #P23-00325-ECPA including but not limited to: implementation and compliance with project specific conditions of approval, timing of development activities and winterization of the site, the details of the approved plan, and ECPA modification process. All required protective buffers, including buffer fencing/delineation, shall be installed prior to the pre-construction meeting for inspection by Engineering and Conservation Division staff. Development activities associated with #P23-00325-ECPA shall not commence until the owner/Permittee has received written clearance from the Engineering and Conservation Division indicating that all pre-construction conditions have been satisfied.
4. Erosion and Runoff Control (i.e. Hydromodification) Installation and Operation: The following conditions shall be incorporated by referenced into #P23-00325-ECPA pursuant to NCC Chapter 18.108 (Conservation Regulations):
 - a. Permanent Erosion and Runoff Control Measures: Pursuant to NCC Section 18.108.070(L) installation of runoff and sediment attenuation devices and hydromodification facilities including, but not limited to straw wattles and cover crop. Additionally, pursuant to NCC Section 18.108.135 "Oversight and Operation" the qualified professional that has prepared this erosion control plan (#P23-00325-ECPA) shall oversee its implementation throughout the duration of the project, and that installation of erosion control measures specified for the vineyard have be installed and are function correctly. Prior to the first winter rains after construction begins, and each year thereafter until the project has received a final inspection from the county or its agent and been found complete, the qualified professional shall inspect the site and certify in writing to the planning director, through an inspection report or formal letter of completion verifying that all of the erosion control measures, required at that stage of development have been installed in conformance with the plan and related specifications, and are functioning correctly.
 - b. Cover Crop Management/Practice: The permanent vineyard cover crop shall not be tilled (i.e. shall be managed as a no till cover crop) for the life of the vineyard and the owner/Permittee shall maintain a plant residue density of 80% within the vineyard and vineyard avenues. The cover crop may be spot sprayed, no greater than 12 inches wide at the base of vines, with post-emergent herbicides from April 1st to September 1st. Should the permanent no till cover crop need to be replanted/renewed during the life of the vineyard, cover crop renewal efforts shall follow the County "Protocol for Replanting/Renewal of Approved Non-Tilled Vineyard Cover Crops" July 19, 2004, or as amended.
5. Discovery of historical, archaeological, paleontological resources, or human remains during construction, grading, or other earth moving activities.
 - a. In accordance with CEQA Subsection 15064.5(f), should any previously unknown historic or prehistoric resources, including but not limited to charcoal, obsidian or chert flakes, grinding bowls, shell fragments, bone, pockets of dark, friable solids, glass, metal, ceramics, wood or similar debris, be discovered during

grading, trenching or other on-site excavation(s), earth work within 100-feet of these materials shall be stopped until a professional archaeologist certified by the Registry of Professional Archaeologists (RPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), as determined necessary.

- b. If human remains are encountered the Napa County Coroner shall be informed to determine if an investigation of the cause of death is required and/or if the remains are of Native American origin. Pursuant to Public Resources Code Section 5097.98, if such remains are of Native American origin the nearest tribal relatives as determined by the State Native American Heritage Commission will be contacted to obtain recommendations for treating or removal of such remains, including grave goods, with appropriate dignity.
 - c. In the event that a discovery of a breas, true, and/or trace fossils are discovered during ground disturbing activities, all work within 100 feet of the fined shall be temporarily halted of diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the appropriate agencies to determine procedures that should be followed before ground disturbing activities are allowed to resume at the location of the find.
 - d. All persons working on-site shall be bound by contract and instructed in the field to adhere to these provisions and restrictions.
6. Implementation of the following Air Quality Best Management Practices during construction activities, and vineyard maintenance and operations:
- a. All exposed surfaces (graded areas, staging areas, stockpiles, and unpaved roads) shall be covered or water twice per day.
 - b. All trucks hauling soil, sand and other loose materials shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.
 - c. The site access road and adjacent public roads shall be swept daily with wet power vacuum street sweepers, if visible soil material is carried/tracked out onto roadways.
 - d. Traffic on unpaved areas and roads shall be limited to 15 mph.
 - e. Grading and earthmoving activities shall be suspended when winds exceed 25 mph.
 - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes, as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations (CCR). Signs clearly indicating this provision shall be installed at all access points.
 - g. All construction equipment shall be maintained and properly tuned in accordance in manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - h. A sign with the telephone number and person to contact at the Lead Agency regarding dust complaints shall be visibly posted at the site. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

7. Implementation of the following Hazardous Materials Best Management Practices during vineyard maintenance and operations:
- a. Workers shall follow manufacturer's recommendations on use, storage and disposal of chemical products;
 - b. Workers shall avoid overtopping fuel gas tanks and use automatic shutoff nozzles where available;
 - c. During routine maintenance of equipment, properly contain and remove grease and oils;
 - d. Discarded containers of fuel and other chemicals shall be properly disposed of;
 - e. Spill containment features shall be installed at the project site wherever chemicals are stored overnight
 - f. All refueling, maintenance of vehicles and other equipment, handling of hazardous materials, and staging areas shall occur at least 100 feet from water courses, the existing groundwater well, and any other water resource to avoid the potential for risk of surface and groundwater contamination; and,

To prevent the accidental discharge of fuel or other fluids associated with vehicles and other equipment, all workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.

8. Groundwater management – Wells.

This condition is implemented by the Planning, Building, and Environmental Services Department:

The permittee shall be required (at the permittee's expense) to record well monitoring data (specifically, static water level no less than quarterly, and the volume of water no less than monthly). Such data will be provided to the County, if the PBES Director determines that substantial evidence¹ indicates that water usage at the winery is affecting, or would potentially affect, groundwater supplies or nearby wells. If data indicates the need for additional monitoring, and if the applicant is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gauge potential impacts on the groundwater resource utilized for the project. Water usage shall be minimized by use of best available control technology and best water management conservation practices.

In order to support the County's groundwater monitoring program, well monitoring data as discussed above will be provided to the County if the Director of PBES determines that such data could be useful in supporting the County's groundwater monitoring program. The project well will be made available for inclusion in the groundwater monitoring network if the Director of PBES determines that the well could be useful in supporting the program.

In the event that changed circumstances or significant new information provide substantial evidence¹ that

¹ Substantial evidence is defined by case law as evidence that is of ponderable legal significance, reasonable in nature, credible and of solid value. The following constitute substantial evidence: facts, reasonable assumptions predicated on facts; and expert opinions supported by facts. Argument, speculation, unsubstantiated opinion or narrative, or clearly inaccurate or erroneous information do not constitute substantial evidence.

the groundwater system referenced in the Use Permit would significantly affect the groundwater basin, the PBES Director shall be authorized to recommend additional reasonable conditions on the permittee, or revocation of this permit, as necessary to meet the requirements of the County Code and to protect public health, safety, and welfare.

9. Prior to obtaining final occupancy on the proposed winery structure or prior to the vegetation removal associated with P23-00325 (or whichever comes first), the applicant shall install a flow restrictor on the project well that restricts the flow of the project well to 10 gallons per minute or less.
10. Installation of wildlife exclusion fencing:
 - a. New fencing shall use a design that has 6-inch square gaps at the base (instead of the typical 3-inch by 6-inch rectangular openings) to allow small mammals to move through the fence.
 - b. Exit gates shall be installed at the corners of wildlife exclusion fencing to allow trapped wildlife to escape. Smooth wire instead of barbed wire shall be utilized to top wildlife exclusion fencing to prevent entanglement.
 - c. Any modifications to the location of wildlife exclusion fencing as specified in Erosion Control Plan #P23-00325-ECPA shall be strictly prohibited, and would require County review and approval to ensure the modified wildlife exclusion fencing location or design would not result in potential impacts to wildlife movement.
11. All persons working on-site shall be bound by contract and instructed in the field to adhere to all provisions and restrictions specified above.
12. Monitoring Costs: All staff costs associated with monitoring compliance with the above conditions shall be borne by the Permittee and/or property owner. The Permittee shall make an initial deposit of \$5,000 within 30 days of the effective date of this approval to fund staff monitoring. Costs associated with conditions and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged at the rate in effect at the time monitoring occurs. Violations of conditions of approval or mitigations