

**HYPERION VINEYARD HOLDINGS LLC (A.K.A. KJS INVESTMENT PROPERTIES LLC
AND SORRENTO INC.) VINEYARD CONVERSION EROSION CONTROL PLAN
APPLICATION PROJECT (#P17-00432-ECPA)**

**FINDINGS PURSUANT TO THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

**(1) ADOPTING FINDINGS AND REJECTING THE PROPOSED PROJECT, THE NO
PROJECT ALTERNATIVE, AND THE REDUCED INTENSITY AND INCREASED
STREAM AND WETLAND (AQUATIC RESOURCE) SETBACKS ALTERNATIVE
PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA); (2)
CERTIFYING THE ENVIRONMENTAL IMPACT REPORT; (3) FINDING THE REDUCED
VEGETATION REMOVAL/GRADING AND ROAD USE ALTERNATIVE AS REVISED
(THE MODIFIED PROJECT), CONSISTENT WITH THE NAPA COUNTY GENERAL
PLAN;(4) ADOPTING THE MITIGATION MONITORING AND REPORTING
PROGRAM; (5) ADOPTING THE REDUCED VEGETATION REMOVAL/GRADING
AND ROAD USE ALTERNATIVE, AS REVISED; AND (6) APPROVING ECPA NO. P17-
00432-ECPA**

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WHEREAS, on or about December 13, 2017, Craig Becker, on behalf of Sorrento Inc and KJS Investment Properties LLC (Applicant) submitted an application (Application) for the Hyperion Vineyard Holdings LLC (a.k.a. KJS Investment Properties LLC and Sorrento Inc.) Vineyard Conversion Erosion Control Plan (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 156.8 gross acre (±111.5 net acre) vineyard;

WHEREAS, the proposed Project is located at 3370 and 3380 Sage Canyon Road, approximately 10 miles east of the city of St. Helena in unincorporated Napa County, California. The property lies within Sections 22, 26, 27, 34 and 35 of Township 8 North (T8N), Range 4 West (R4W), Mount Diablo Base and Meridian (MDB&M), of the Chiles Valley U.S. Geological Survey 7.5-minute topographic quadrangle. The property includes Assessor's Parcel Numbers 025-270-022 and 025-270-025 (approximately 705.1 and 245.8 acres, respectively);

WHEREAS, on September 18, 2018, a Notice of Preparation (NOP) of an Environmental Impact Report (EIR) and Initial Study (IS) were circulated to property owners with 1,000' of the project site, and interested parties pursuant to Government Code §65092 and Public Resources Code §21092.2. 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 October 18, 2018. A newspaper notice was published on September 18, 2018, 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;

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 "Hyperion Vineyard Holdings LLC (a.k.a. KJS Investment Properties LLC and Sorrento Inc.) Vineyard Conversion Erosion Control Plan Application Project (#P17-00432-ECPA);

WHEREAS, in accordance with CEQA, the DEIR was released for public and agency review on April 26, 2021. The initial public comment period ran from April 26, 2021, through June 9, 2021;

WHEREAS, the County received 12 comment letters during the public comment period;

WHEREAS, in accordance with CEQA, all comments received on the DEIR during the comment period were responded to and included in a FEIR released on March 17, 2023 (FEIR). The FEIR included comments and responses to comments on the DEIR in Chapter 3 and revisions to the DEIR in Chapter 2;

WHEREAS, in accordance with CEQA and in response to the comments received, the Reduced Vegetation Removal/Grading and Road Use Alternative presented in the DEIR (Proposed Project), was revised and included in the FEIR Chapter 2 (as revised, the Modified Project);

WHEREAS, on March 17, 2023, 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;

WHEREAS, prior to taking action, the Director of PBES's (Director), considered the Project, the Alternatives and the FEIR, with respect to the ECP;

WHEREAS, on October 25, 2023, notice was given to all property owners within 1,000 feet of the Project and posted on the County's Planning, Building and Environmental Services' (PBES) Current Projects

Explorer page at <https://www.countyofnapa.org/2876/Current-Projects-Explorer> of the following tentative actions taken by the Director to: (1) certify the EIR prepared for the Hyperion Vineyard Holdings LLC (a.k.a. KJS Investment Properties LLC and Sorrento Inc) ECPA (P17-00432-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 Reduced Vegetation Removal/Grading and Road Use 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. P17-00432-ECPA as revised to reflect the Modified Project, which generally consists of reducing gross acreage development by 41.83 acres, avoiding biological resources, and reducing the number of vineyard blocks to limit vegetation removal/grading and road use.

NOW, THEREFORE, THE DIRECTOR FINDS as follows:

SECTION 1. **Recitals.**

The Director hereby finds that the foregoing recitals are true and correct and incorporates the Recitals herein.

SECTION 2. **Purpose of the Findings.**

The purpose of these Findings is to satisfy the requirements of Public Resources Code Section 21000, *et seq.*, and CEQA Guidelines, 14 Cal. Code Regs. Sections 15000, *et seq.*, and in particular Sections 15090-15092, and 15097 thereof, and Napa County Code (NCC) Sections 18.108.010 *et seq.*, and in particular Section 18.108.080 thereof, associated with consideration of the ECP element of the Project and adoption of the Modified Project. These Findings provide the written analysis and conclusions of the Director regarding the Project and the Modified Project. They are divided into general sections. Each of these sections is further divided into subsections, each of which addresses a particular impact topic and/or requirement of law. At times, these Findings refer to materials in the administrative record, which are readily available for review in the Department. Where reference is made herein to the DEIR or FEIR, such references include the Appendices thereto.

SECTION 3. **Certification of EIR.**

Pursuant to Section 15090 of the State CEQA Guidelines, the Director has reviewed and considered the Final EIR and makes the following findings prior to certifying the Final EIR:

- A) The above recitals are true and correct, reflect the independent judgment of the Director, and are hereby incorporated by this reference.
- B) All individuals, groups, and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the Draft EIR and to submit written comments on the adequacy of the Final EIR for certification. These opportunities for comment meet or exceed the requirements of CEQA, CEQA Guidelines, and the Napa County Local Procedures for Implementing the California Environmental Quality Act.
- C) All comments submitted during the public review and comment period on the Draft EIR have been considered and responded to in the Final EIR or included in the public record.

D) No new comments or information has been submitted during the comment period that would change the analysis or conclusions of the Final EIR.

E) The Director has been presented with all the information in the administrative record, testimony, and EIR documents for the Final EIR, and has reviewed and considered this information and the Final EIR prior to approving the project.

F) The Final EIR has been completed in compliance with the intent and requirements of CEQA, CEQA Guidelines, the Napa County Local Procedures for Implementing the California Environmental Quality Act and reflects the independent judgment of the County and is hereby certified by the Director.

SECTION 4. **Project Objectives.**

As noted in the DEIR (pp. ES-1 to ES-2) Applicant declared the following as the objectives of the Project:

- Develop up to 111.5 net planted acres of vineyards within approximately a 156.8-acre conversion area on those portions of the project site that are suitable for the cultivation of high-quality wine grapes, while ensuring the economic viability of the project.
- Expand vineyard production on an actively farmed property while ensuring the sustainability of farming operations.
- Maximize the beneficial use of surface water that has already been authorized by the State Water Resources Control Board, Division of Water Rights (State Water Board) via Water Right License 9125 (Application 13943) and Permit 18459 (Application 26165).
- Minimize impacts on riparian and aquatic resources and other environmental impacts by modifying Permit 18459 to allow construction of the storage reservoir at an off stream location rather than onstream.
- Develop new vineyards configured in such a way to maximize the use of existing infrastructure such as roads, pipelines, pump stations, and buildings that serve the existing vineyard and thereby minimize the need for additional infrastructure.
- Maximize the use of current vineyard employees' skills and create efficiencies.
- Provide opportunities for additional vineyard employment and economic development in Napa County.
- Farm vineyards in a sustainable manner that includes the use of integrated pest management practices, participation in the Napa Green Program, and animal grazing to control weeds within the proposed vineyard blocks and to minimize fire hazards outside of the vineyard.
- Use water from the existing and proposed reservoirs efficiently.
- Preserve approximately 70 percent of the property as grasslands, oak woodlands, and other open space that has the greatest value as wildlife habitat.
- Minimize soil erosion from vineyard development and operation through vineyard design that avoids erosion-prone areas and controls erosion within the vineyard rather than capturing soil after it has been displaced.
- Design the vineyard to minimize the reduction of wildlife movement to the maximum extent feasible, in accordance with General Plan Policy CON-18(e).
- Protect water quality by protecting wetlands, seeps, springs, and streams to the maximum extent feasible through avoidance, incorporation of appropriate setbacks, and implementation of various erosion control features.

- Minimize impacts on rare, endangered, and candidate plant and animal species to the extent feasible, while providing for avoidance, preservation, and replacement in accordance with accepted protocols, including but not limited to the Napa County General Plan.

SECTION 5. Project Location and Description.

As set forth in the DEIR (p. 2-1), as originally proposed, the Project is located and described as follows:

A. PROJECT LOCATION

The 950.9-acre KJS Investment Properties and Sorrento Inc. Ranch is located at 3370 and 3380 Sage Canyon Road, approximately 10 miles east of the city of St. Helena in unincorporated Napa County, California. The property lies within Sections 22, 26, 27, 34 and 35 of Township 8 North (T8N), Range 4 West (R4W), Mount Diablo Base and Meridian (MDB&M), of the Chiles Valley U.S. Geological Survey 7.5-minute topographic quadrangle. The property includes Assessor's Parcel Numbers 025-270-022 and 025-270-025 (approximately 705.1 and 245.8 acres, respectively¹). Figure 2-1 shows the regional location of the project site. Figure 2-2 identifies the project site and vicinity. Figure 2-3 is an aerial photograph of the project site.

B. PROJECT DESCRIPTION

KJS Investment Properties and Sorrento Inc. (Applicant) filed an erosion control plan (ECP) application (ECPA #P17-00432) with the County's Planning, Building and Environmental Services Department on December 14, 2017, for proposed vegetation removal and earthmoving activities on slopes greater than 5 percent in connection with the development of up to 111.5 net planted acres of vineyard within 156.8 gross acres on the project site (Figure 2-2). The project proposes vegetation removal and earthmoving activities on slopes greater than 5 percent in connection with the development of up to 111.5 net planted acres of vineyard within 156.8 gross acres on a 950.9-acre project site.

Proposed activities associated with vineyard development include removing vegetation within the proposed clearing limits, ripping, rock removal, soil cultivation, seeding a cover crop, mulching, trenching for irrigation pipelines, installing a trellis system and wildlife exclusion fence (i.e., deer fence), laying out vine rows, and installing temporary and permanent erosion control measures. No blasting is proposed and will not occur.

Vineyard development would take place between April 1 and September 15 over three years or phases. The project area would be winterized by September 15. Temporary erosion control measures could include installing water bars, straw wattles, straw bale dikes, and other practices as needed.

Permanent erosion control measures include:

- Seeding of a permanent cover crop with vegetative cover maintained according to the erosion control plan.
- Drainage pipelines installed to collect surface runoff at low points throughout the development area and transport it to protected outlets.
- Cutoff collars installed on all solid pipelines with slopes greater than 5 percent.

- Standard drop inlets, non-standard drop inlets, and infield drop inlets installed at designated locations within the development area.
- Standard and non-standard diversion ditches to convey surface water through and/or around proposed vineyard areas and direct it to a stable outlet or other stormwater conveyance infrastructure.
- Infield ditches and insloped avenues constructed in designated blocks to reduce the slope run length and intercept surface runoff.
- Grading in designated locations to form outsloped roads to provide a safe and stable road for travel by vehicles and equipment.
- Culverts, rolling dips, and two rocked water crossings installed in designated locations in Block 33.
- Pipe level spreaders installed in designated locations at the outfall of conveyance infrastructure to return concentrated flows within the pipe to sheet flow.
- Rock level spreaders installed in designated locations at the outfall of conveyance infrastructure to uniformly spread water onto the ground surface.
- Rock aprons installed at the outlets of pipes and ditches to help disperse concentrated flow and to minimize erosion downstream of the outlet.
- Rock energy dissipaters installed to dissipate and reduce flow velocities at the outlet of diversion ditches.
- Junction boxes installed on the west side of proposed vineyard Block 8 and the west side of proposed Block 33E to transfer water from proposed drainage pipelines to proposed pipe level spreaders, and a junction box installed on the east side of proposed Block 8 to transfer water from a proposed drainage pipeline to an existing culvert.
- Outsloped benches constructed in designated locations to allow safe access for equipment.
- Repair of existing headcutting in proposed vineyard Blocks 23A, 23B, 24A, 24E, and 33A.
- Riprap berms constructed on the downhill sides of proposed drainage line outlets into existing swales in proposed Blocks 24A and 24E, and repair of erosion in the swale in proposed Block 24E.
- Riprap berm constructed on the downhill side of a proposed drainage line outlet into an existing natural basin in proposed Block 24E.
- Spillway berm and overflow structure constructed in an existing pond near proposed Block 29.

The proposed project also includes Petitions for Change on Water Right License 9125 (Application 13943) and Permit 18459 (Application 26165), which are pending review and processing with the State Water Board. The petitions request an expansion of the place of use to 280 acres (which includes the existing vineyards on the project site as well as the proposed vineyards). The existing off stream PITA Pond, located just south of Matheson Reservoir, would be added as a point of redirection to License 9125. Approval by the State Water Board of the petition on License 9125 would allow the Licensee/Petitioner to release water diverted and stored at Matheson Reservoir to the PITA Pond, where it could store the water principally for frost protection operations. Approval of the petition on Permit 18459 would allow for development of a 48-acre-foot capacity off stream reservoir instead of construction of the permitted 48-acre-foot capacity onstream reservoir authorized by Permit 18459 and the construction of a diversion structure at Point of Diversion 1 in Elder Creek. The petition also identifies Matheson Dam as a point of diversion to off stream storage at the proposed off stream reservoir.

Water diverted under Permit 18459 would be limited to the quantity that could be beneficially used and would not exceed 48 acre-feet per year by storage collected from December 15 of each year to March 31 of the succeeding year. The Licensee/Petitioner (Applicant) has agreed to a shortened diversion season of December 15 to March 31 to lessen the potential for adverse effects to fish and aquatic resources. Diversions under Permit 18459 would not occur unless the February median bypass flows of 0.6 cubic feet per second (cfs) at Point of Diversion 1 on Elder Creek and 0.9 cfs at Point of Diversion 2 at Matheson

Reservoir were met, and the maximum rate of diversion to off stream storage would not exceed 0.29 cfs at Point of Diversion 1 or 0.41 cfs at Point of Diversion 2 (Wagner & Bonsignore 2020; **Appendix J**, discussed in **Section 3.7, Hydrology and Water Quality**). These proposed State Water Board permit provisions are included in the proposed project that is disclosed and assessed in this EIR.

The Petition for the Extension of Time filed in 2005 and amended on June 20, 2018, and pending with the State Water Board on Permit 18459, requests that the full beneficial use date for the permit be extended to the year 2025.

The project also includes the ongoing maintenance of erosion control measures and operation of approximately 4.3 acres of existing vineyard that were converted from grassland/hay pasture in 2015 without an approved agricultural ECPA. This area has been historically and was actively cultivated for hay and straw production before being converted to vineyard. These vineyard areas are located within two larger vineyard blocks totaling 17.4 acres. The slope on these lands within the 17.4 acres of existing vineyard is 5 percent or less (except for the 4.3 acres located on slopes steeper than 5 percent). Therefore, the portions of this existing vineyard area occurring on slopes less than or equal to 5 percent are not subject to an ECPA pursuant to Napa County Code Section 18.108.070(B). As such, the project includes the vineyard development area that requires coverage by an ECPA under Section 18.108.070(B) will be included in this project.

SECTION 6. Findings are Determinative.

The Director recognizes that there may be differences in and among the different sources of information and opinions offered in the documents and testimony that make up the FEIR (March 2023) and the administrative record; that experts disagree; and that the Director must base its decision and these Findings on the substantial evidence in the record that it finds most compelling. Therefore, by these Findings, the Director ratifies the FEIR (March 2023) and resolves that these Findings shall control and are determinative of the potentially significant impacts of the Modified Project.

SECTION 7. Findings Associated With Less Than Significant Impacts Without Need for Imposition of Mitigation.

A) The Director has reviewed and considered the information in the DEIR and the FEIR, including the Appendices thereto and supplemental information provided by ESA, addressing environmental effects, mitigation measures, and alternatives. The Director, relying on the facts and analysis in the DEIR and FEIR, which were presented to the Director and reviewed and considered prior to any approvals, concurs with the conclusions of the DEIR and FEIR regarding the less than significant environmental effects.

B) As discussed in Section 1.4 of the DEIR and FEIR, the Project is not anticipated to, and the Director finds it will not, have significant impacts in the following areas, and therefore these areas were not further discussed in the DEIR or FEIR: Aesthetics; Agriculture and Forestry Resources; Energy; Mineral Resources; Population/Housing; Public Services; Recreation; and Utilities/Service Systems.

C) The following potential impacts from implementation of the Project are either less than significant or have no impact: Air Quality and Greenhouse Gas Emissions (Impacts 3.2-3, 3.2-4, 3.2-5); Geology and Soils (Impacts 3.5-1, 3.5-3); Hazards and Hazardous Materials (Impact 3.6-1); Hydrology and Water Quality (Impacts 3.7-1, 3.7-2, 3.7-3, 3.7-4); Noise (Impacts 3.9-1, 3.9-2, 3.9-3); and Transportation (Impacts 3.10-1, 3.10-2, 3.10-3, 3.10-4). (See DEIR, Table ES-2, pgs. ES-9 through ES-22).

D) Because the Modified Project would include the development of a smaller vineyard and clearing limits; reduces vineyard blocks and block configurations; and reduces the acreage of the vineyard development, the Modified Project has a reduced footprint and fewer impacts than the Project as originally proposed, these less than significant impacts would remain less than significant under the revised Reduced Vegetation Removal/Grading and Road Use Alternative.

SECTION 8. Findings Associated with Impacts and Mitigation Measures.

According to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- 1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
- 2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- 3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

CEQA does not require that a lead agency adopt every mitigation measure recommended in an EIR. However, when an agency rejects any of the mitigation measures identified in the EIR for a significant impact, it must make specific findings that the rejected measures are infeasible. These findings must show the agency's reasons for rejecting the mitigation measures that the EIR recommends. An agency may reject a mitigation measure recommended in an EIR if it finds that it would be infeasible to implement the measure because of "specific legal, economic, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers." (Public Resources Code Section 21081(a)(3); 14 CCR Section 15091 (a)(3).) None of the mitigation measures in the FEIR have been rejected as infeasible or are within the jurisdiction and responsibility of another public agency.

A) Air Quality and Greenhouse Gas Emissions

1) Impact 3.2-1: Construction and operation of the proposed project could conflict with or obstruct implementation of BAAQMD's 2017 Clean Air Plan.

All project construction emissions of NO_x would be below at the BAAQMD significance threshold (**Table 3.2-5**) Without implementation of the BAAQMD-required measures, fugitive dust (PM) emissions during project construction would be considered significant. Operational impacts would be less than significant because estimates of all operational emissions would be below BAAQMD significance thresholds for operation (**Table 3.2-6**). Because project construction emissions would not be significant without mitigation, the project would be consistent with the 2017 Clean Air Plan. This impact would be **significant**, however, due to impacts from fugitive dust.

Mitigation Measure 3.2-1a

Construction contractors shall be required to implement the following measures consistent with the BAAQMD-recommended basic control measures during construction:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material offsite shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or by reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, 13 CCR Section 2485). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.
8. A publicly visible sign shall be posted with the telephone number and person to contact at Napa County regarding dust complaints. This person shall respond and take corrective action within 48 hours. To ensure compliance with applicable regulations, BAAQMD's phone number shall also be visible.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to Air Quality/Greenhouse Gas Emissions to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential air quality impact is mitigated by adoption of Mitigation Measure 3.2-1a (DEIR pg 3.2-30) as incorporated into the Project as COA No. 2. This mitigation measure will reduce the potential impacts from project construction because BAAQMD's required basic control measures would be implemented during construction to minimize fugitive dust emissions. Based on BAAQMD guidance, if a project does not result in significant and unavoidable air quality impacts after the application of feasible mitigation, the project may be considered consistent with the 2017 Clean Air Plan. Therefore, the proposed project would be consistent with the goals of the 2017 Clean Air Plan and would not conflict with or obstruct its implementation. Furthermore, because the revised Reduced Vegetation Removal/Grading and Road Use Alternative would reduce the amount of acreage disturbed for vineyard development, the amount of equipment usage will be reduced, resulting in reduced fugitive dust generation.

2) Impact 3.2-2: Construction and operation of the proposed project could result in a cumulatively considerable net increase of a criteria air pollutant for which the Bay Area is in nonattainment under an applicable federal or state air quality standard.

As shown in **Table 3.2-6**, the proposed project's operational emissions would be below the BAAQMD significance thresholds. Project construction emissions would also be below the thresholds (**Table 3.2-5**). Without implementation of BAAQMD's Basic Construction Mitigation Measures to address fugitive dust control, impacts from fugitive dust emissions would be significant. Therefore, without mitigation, the

proposed project's contribution to a significant cumulative air quality impact would be considered **significant**.

Mitigation Measure 3.2-1a

Construction contractors shall be required to implement the following measures consistent with the BAAQMD-recommended basic control measures during construction:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material offsite shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or by reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, 13 CCR Section 2485). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.
8. A publicly visible sign shall be posted with the telephone number and person to contact at Napa County regarding dust complaints. This person shall respond and take corrective action within 48 hours. To ensure compliance with applicable regulations, BAAQMD's phone number shall also be visible.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to Air Quality/Greenhouse Gas Emissions to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential air quality impact is mitigated by adoption of Mitigation Measure 3.2-1b (DEIR pg 3.2-30) as incorporated into the Project as COA No. 2. Implementing Mitigation Measures 3.2-1a would reduce this impact to a less-than-significant level. Implementation of BAAQMD's required basic control measures during construction, included as part of Mitigation Measure 3.2-1a would reduce fugitive dust emissions to less-than-significant levels. Therefore, with implementation of Mitigation Measures 3.2-1a the proposed project would not result in a cumulatively considerable contribution to a regional air quality impact during construction or operation. Furthermore, because the revised Reduced Vegetation Removal/Grading and Road Use Alternative would reduce the amount of acreage disturbed for vineyard development, the amount of equipment usage will be reduced, resulting in reduced fugitive dust generation.

B) 3.3 Biological Resources

1) Impact 3.3-1: Construction and operation of the proposed project could have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.

Special-Status Amphibians and Reptiles: The proposed project could affect western pond turtles and California red-legged frogs, and foothill yellow-legged frogs during various phases of construction. The permanent loss of upland nesting habitat within 100 feet from either side/bank of Elder Creek and the unnamed pond is considered significant. Impacts on California red-legged frogs that are known to use similar upland habitat for overland movement and refuge would be considered significant. The potential impacts on foothill yellow-legged frogs are limited to the work immediately within or adjacent to Elder Creek associated with installation of the water diversion structure. Because the proposed project has the potential to affect western pond turtles, foothill yellow-legged frogs, California red-legged frogs, and their habitats, this impact would be **potentially significant**.

Mitigation Measure 3.3-1a

Erosion Control Plan #P17-00432-ECPA shall be revised before approval to reduce the footprint of the proposed vineyard blocks surrounding Elder Creek and the unnamed pond by increasing the upland nesting and overland movement buffer from 50 feet to 100 feet in portions of proposed vineyard Blocks 6, 17, 23A, 23B, 23E, 23G, 24B, 24C, 24E, 24G, 29B, 33A, and 33E. The blue dotted lines in **Figure 3.3-5** show where the buffer shall be a minimum of 100 feet and **Figure 3.3-6** shows the mitigated proposed project.

The location of wildlife exclusion fencing in these areas shall also be revised in the ECPA according to this mitigation measure and Mitigation Measure 3.3-4 before approval and shall generally be limited to the outside edge of the vineyard avenues. No barbed wire shall be permitted.

Mitigation Measure 3.3-1b

A qualified biologist shall provide a worker education and awareness program to all on-site personnel before the start of materials staging or ground-disturbing activities within 492 feet of Elder Creek or the unnamed pond. (The term “qualified” refers to a biologist or biological monitor who is knowledgeable and experienced in the biology and natural history of local herpetology, mammalian, and avian resources with potential to occur at the project site.) The qualified biologist shall explain to construction workers how best to avoid impacts on western pond turtle, foothill yellow-legged frog, and California red-legged frog. This education program shall include topics related to species identification, life history descriptions, and habitat requirements during various life stages. The program should include handouts, illustrations, photographs, and project maps showing areas where minimization and avoidance measures are in place, and where these species would most likely occur if present. Crew members shall sign a sign-in sheet documenting that they received the training. Documentation that the worker education and awareness program has occurred, including any education program handouts, illustrations, photographs, or project maps shall be submitted to Napa County before Project vegetation removal or earth-disturbing activities begin.

Mitigation Measure 3.3-1c

i. A qualified biologist shall conduct a preconstruction survey within 24 hours before the removal of vegetation and initial Project grading within 492 feet of suitable aquatic habitat for western pond turtle and California red-legged frog. A preconstruction survey for foothill yellow-legged frog shall also occur and shall be focused on carefully examining the bank no less than 50 feet of the Elder Creek streambed where the water diversion structure will be installed, where appropriate, and at least 500 feet upstream and downstream of the water diversion structure site. During the preconstruction survey, the qualified biologist shall relocate any western pond turtles found within the proposed development area to suitable habitat away from the construction zone,

but outside the development area. Should any active western pond turtle nests be observed within the development area, a minimum 50-foot avoidance buffer shall be established. No work shall occur within the buffer.

ii. Should any California red-legged frogs be present within the development area during the preconstruction survey, no work shall begin. The qualified biologist shall contact Napa County, USFWS, and CDFW within 24 hours of the observation. Work shall not begin until USFWS has provided authorization and the frog has left on its own accord. If foothill yellow-legged frogs are discovered during the preconstruction survey, the qualified biologist shall contact Napa County and CDFW within 24 hours and project construction shall not begin until CDFW provides written permission to do so. If foothill yellow-legged frogs are discovered during project construction, all work in the immediate area shall cease until the individual moves out of harm's way, as determined by the on-site biological monitor.

iii. A copy of the preconstruction survey results, that includes any find and relocation efforts shall be provided to Napa County and CDFW before Project vegetation removal or earth-disturbing activities begin.

Mitigation Measure 3.3-1d

i. A qualified biological monitor shall directly supervise all vegetation clearing, earth-disturbing activities, and infrastructure installation occurring within 492 feet of suitable aquatic habitat for western pond turtle, California red-legged frog, and foothill yellow-legged frog. Before Project vegetation removal or earth-disturbing activities begin, the owner/permittee shall provide documentation to Napa County that a qualified biologist (or biological monitor) is under contract to conduct the supervision, monitoring and reporting specified by this measure.

ii. Should any western pond turtles be detected near the development area during construction, the biological monitor shall relocate any western pond turtles found within the development area to suitable habitat outside the development area, but within the project site.

iii. Should any California red-legged frog be present within the development area during construction, work shall halt. The biological monitor shall contact Napa County, USFWS, and CDFW within 24 hours of the observation. Work shall not resume until the County and USFWS have provided authorization and the frog has left on its own accord. Within 14 days after the final monitoring event, the qualified biological monitor shall submit a letter report to the County summarizing the results of the biological monitoring.

iv. If foothill yellow-legged frogs are discovered during project construction, all work in the immediate area shall cease until the individual moves out of harm's way, as determined by the on-site biological monitor.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to western pond turtles and California red-legged frogs, and foothill yellow-legged frogs to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential biological resource impact to western pond turtles and California red-legged frogs, and foothill yellow-legged frogs is mitigated by adoption of Mitigation Measures 3.3-1a, 3.3-1b, 3.3-1c, and 3.3-1d (DEIR pg 3.3-52-57) as incorporated into the Project as COA No. 2. Implementing Mitigation Measures 3.3-1a, 3.3-1b, 3.3-1c, and 3.3-1d would reduce this impact to a less-than-significant level because these measures would maximize upland habitat around Elder Creek and the unnamed pond and ensure that this upland habitat is not disturbed. These measures would reduce the impact of the proposed project by a total of 7.34 acres of habitat within the 100-foot buffer: 7.13 acres of annual grassland, 0.06 acre of coast live oak, and 0.15 acre

of interior live oak, excluding the temporary installation of the proposed intake structure along Elder Creek and the proposed irrigation pipe. These measures also include conducting preconstruction surveys and requiring a biological monitor to be on-site during construction to ensure that no California red-legged frogs, western pond turtles, or western pond turtle nests are destroyed or disturbed by construction activities. Furthermore, because the revised Reduced Vegetation Removal/Grading and Road Use Alternative would reduce the amount of acreage disturbed for vineyard development, it would increase the wildlife movement corridors compared to the mitigated proposed project.

Special-Status Birds:

Swainson's Hawk Nesting Habitat. Impacts on Swainson's hawk nesting habitat would be considered significant. Phases 1 and 2 of construction of the proposed project could result in direct habitat impacts through the potential removal of nest trees. In addition, construction Phases 1–3 could disturb an active nest, resulting in potential nest or fledging abandonment, if the nest is present within 0.25 mile of construction activities occurring during the nesting season (March 1 through September 15). This impact would be potentially significant.

Mitigation Measure 3.3-1e

Before tree removal and other earth-disturbing activities begin during the Swainson's hawk nesting season (March 1 through September 15, coinciding with the grading season of April 1 through September 1 [Napa County Code Section 18.108.070.L]), a qualified biologist shall conduct at least one protocol-level preconstruction survey. (A "qualified biologist" is defined as a person knowledgeable and experienced in the biology and natural history of local avian resources with potential to occur at the project site.) The protocol-level preconstruction survey shall be conducted during the recommended survey periods for the nesting season that coincides with the start of construction activities by phase, in accordance with the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (**Appendix E**; Swainson's Hawk Technical Advisory Committee 2000). For example, if construction will begin on or around April 1, the preconstruction survey shall occur during Survey Period I, which extends from January to March 20. If construction will begin on or around April 15, the preconstruction survey shall occur during Survey Period II, which extends from March 20 to April 5.

The qualified biologist shall conduct surveys for nesting Swainson's hawk within 0.25 mile of all project development areas applicable to the proposed phased construction, where legally permitted. If access to adjacent properties is denied, the biologist shall use binoculars to visually determine whether Swainson's hawk nests are present within 0.25 mile of the project development areas slated for that year/phase.

If no active Swainson's hawk nests are identified on or within 0.25 mile of the project development areas, the qualified biologist shall submit a report summarizing the survey results to Napa County within five days after the final survey. In this case, no further avoidance and minimization measures for nesting habitat are required for that phase. The same survey protocol shall be conducted before implementation of each Project phase.

Mitigation Measure 3.3-1f

If any active Swainson's hawk nests are found within 0.25 mile of the development areas proposed during that phase of construction, the qualified biologist shall contact Napa County and CDFW via phone call or email within one day after the preconstruction survey to report the findings. For this avoidance and minimization requirement, "construction activities" are defined to include operation

of heavy equipment for construction (use of bulldozers or excavators, haul trucks, loaders, and tractors) or other project-related activities that could cause nest or fledging abandonment within 0.25 mile of a nest site between March 1 and September 15.

Should active nest(s) be present within 0.25 mile of development areas, the County and CDFW shall be consulted to develop take avoidance measures including but not limited to the following:

- Establishing appropriate noise buffers.
- Installing high-visibility construction fencing around the buffer zone. Following the installation of any such fencing, it shall be inspected and approved by the County.
- Implementing a monitoring and reporting program before any construction activities occur within 0.25 mile of the nest.

The monitoring and reporting program shall include, at minimum, the presence of a full-time qualified biological monitor to monitor the nest during all construction activities. After take avoidance measures are implemented and construction activities begin, if the qualified biological monitor determines that the construction activities are disturbing the nest, construction activities shall cease until the County and CDFW are consulted. The construction activities shall not resume until the County, in cooperation with CDFW, has determined that construction activities would not result in abandonment of the nest site.

Once the qualified biologist confirms that the nest is no longer active or that the nest would not be disturbed during construction activities within the buffer zone, the biologist shall submit a report summarizing the monitoring results to the County and CDFW within 30 days after the final monitoring event. In this case, no further avoidance and minimization measures for nesting habitat are required for that phase of construction.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to Swainson's hawk nesting habitat to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential biological resource impact to Swainson's hawk nesting habitat is mitigated by adoption of Mitigation Measures 3.3-1e and 3.3-1f (DEIR pg 3.3-58-60) as incorporated into the Project as COA No. 2. Implementing Mitigation Measures 3.3-1e and 3.3-1f would reduce this impact to a less-than-significant level because a preconstruction survey to identify any active Swainson's hawk nests would be conducted within the recommended survey period and within 0.25 mile of the development areas before the start of each construction phase. If nests are found, the project would avoid nests and observe no-disturbance buffer zones around nest sites, as identified within the take avoidance measures developed through consultation with the County and CDFW. Therefore, implementing **Mitigation Measures 3.3-1e and 3.3-1f** would reduce potentially significant impacts on Swainson's hawk to a **less-than-significant** level. Implementing **Mitigation Measure 3.3-1i** related to roosting bat habitat (*below*) would further protect potential nesting habitat for Swainson's hawk.

Burrowing Owl: While no burrowing owl or sign of burrowing owl was observed during the biological resources surveys, and that suitable owl habitat is marginal given the limited presence of burrows within the grasslands that could be utilized by burrowing owl within applicable development areas, the proposed project could result in adverse impacts on burrowing owl if this species were to subsequently occupy and/or nest within the annual grassland proposed for removal.

Because the proposed project has the potential to affect burrowing owl nesting habitat, this impact would be **potentially significant**.

Mitigation Measure 3.3-1g

A qualified biologist shall conduct a habitat assessment for burrowing owls. The survey area shall include a 500-foot radius around the annual grasslands within applicable development areas (i.e., annual grassland habitat). The qualified biologist shall provide a report to Napa County following the completion of the habitat assessment, which shall identify areas of suitable habitat for burrowing owl, if any. If the results of the habitat assessment determine that there is no suitable habitat for burrowing owls, then no further measures regarding burrowing owls are required. If suitable habitat is present, a qualified biologist shall conduct surveys in accordance with Appendix D of the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012). (A “qualified biologist” is defined as a person with a minimum of two years of experience implementing the 2012 Staff Report methodology. Time lapses of project activities of greater than 14 days shall trigger subsequent surveys including but not limited to a final survey within 24 hours prior to ground disturbance before construction equipment mobilizes to areas deemed to be suitable habitat for burrowing owls.

If burrowing owls are detected on or adjacent to the site, the following restricted activity dates and setback distances recommended per CDFW’s Staff Report (CDFG 2012) shall be implemented, unless reduced buffers are accepted by CDFW in writing based on site-specific conditions:

- From April 1 through October 15, low disturbance and medium disturbance activities shall have a 200-meter (656-foot) buffer, while high disturbance activities shall have a 500-meter (1,640-foot) buffer from occupied nests and wintering sites.
- From October 16 through March 31, low disturbance activities shall have a 50-meter (164-foot) buffer, medium disturbance activities shall have a 100-meter (328-foot) buffer, and high disturbance activities shall have a 500-meter (1,640-foot) buffer from occupied nests and wintering sites.

If burrowing owls are present outside of the nesting season, burrowing owls may be passively relocated from the project site and adjacent habitat using CDFW-accepted methods so that construction can proceed. Any required passive relocation of burrowing owls would require CDFW acceptance. If passive relocation of burrowing owls is necessary, a qualified biologist shall prepare a Relocation Plan, including compensatory habitat as described below, for CDFW review and acceptance prior to the start of construction activities. If the survey determines that the project site is actively being used by burrowing owls, or any owls are passively relocated as described above, then compensatory habitat mitigation shall be provided. The habitat mitigation/compensation plan shall be submitted to CDFW for review and approval prior to the start of project activities.

If burrowing owls are observed during surveys, notification shall also be submitted to the California Natural Diversity Database (see <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>).

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to burrowing owl to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential biological resource impact to burrowing owl is mitigated by adoption of Mitigation Measures 3.3-1g (DEIR pg 3.3-60-62) as incorporated into the Project as COA No. 2. Implementing **Mitigation Measure 3.3-1g** would reduce potentially significant impacts on burrowing owl to a **less-than-significant** level by requiring take avoidance surveys that would identify any active burrows or nesting burrowing owls, and if found, requiring implementation of take avoidance measures that include no-disturbance zones around burrow/nest sites. Additionally, implementing the Mitigation Measure 3.3-1a and 3.3-2a would further reduce impacts on annual grassland and potential burrowing owl habitat.

Nesting Migratory Birds and Other Birds of Prey, and Foraging Habitat: Potential nesting habitat for migratory bird species and other birds of prey, including white-tailed kite, bald eagle, golden eagle, bank swallow, and purple martin, is present in and near the development area. If active nests are present in these areas, vegetation clearing and tree removal and planting could result in impacts on these species during Phases 1–3 of project construction. Direct impacts on nesting birds would be considered significant. Because the proposed project has the potential to affect nesting migratory birds and other birds of prey, and foraging habitat for these species, this impact would be **potentially significant**.

Mitigation Measure 3.3-1h

Before tree removal and other earth-disturbing activities begin during the nesting season (February 1 through August 31, coinciding with the grading season of April 1 through September 1 [Napa County Code Section 18.108.070.L]) for each Project construction phase, a qualified biologist shall conduct a preconstruction survey within seven days before the tree removal and other earth-disturbing activities are to occur. (A “qualified biologist” is defined as a person knowledgeable and experienced in the biology and natural history of local avian resources with potential to occur at the project site.) The nesting-bird preconstruction survey shall cover the development areas plus an approximately 500-foot radius around the development areas.

If the preconstruction survey shows no evidence of active nests, a copy of the survey results shall be provided to Napa County and CDFW before the start of work, and no additional measures are required for that phase. If construction does not begin within seven days of the preconstruction survey or halts for more than seven days, an additional preconstruction survey shall be conducted.

If any active nests are located within development areas or within 500 feet of the development areas, an appropriate buffer zone shall be established around the nest(s), as determined by the qualified biologist in consultation and cooperation with the County and CDFW; the minimum buffer zones pursuant to this measure shall be 100 feet for migratory bird nests and 250 feet for raptor nests. Before the start of vegetation removal and earth-disturbing activities, the biologist shall mark the buffer zone(s) with temporary construction fencing. The fencing shall be inspected and approved by the County before any earthmoving and/or development activities begin and shall be maintained until the end of the breeding season or the young have fledged.

If active migratory-bird nests are found between 100 and 500 feet of construction activities (i.e., development areas), or if raptor nests are found between 250 and 500 feet of construction activities (i.e., development areas), a qualified biologist shall monitor the nests weekly during construction to evaluate potential nesting disturbance by construction activities. Alternatively, work may be phased to avoid these areas and continue in other vineyard blocks (development areas) until the nest is no longer occupied. The qualified biologist shall provide monitoring reports weekly to Napa County to document monitoring activities and evaluate effects on nesting birds as prescribed by this measure.

Alternative methods of flushing out nesting birds before preconstruction surveys shall be prohibited, whether those methods are physical (removing or disturbing nests by physically disturbing trees with construction equipment), audible (using sirens or bird cannons), or chemical (spraying nesting birds or their habitats).

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to nesting habitat for migratory bird species and other birds of prey to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential biological resource impact to nesting habitat for migratory bird species and other birds of prey is mitigated by adoption of Mitigation Measures 3.3-1h (DEIR pg 3.3-63-64) as incorporated into the Project as COA No. 2. Implementing **Mitigation Measure 3.3-1h** would reduce potentially significant impacts on nesting habitat for migratory bird species and other birds of prey to a **less-than-significant** level by requiring preconstruction surveys that would identify any nesting birds, and if found, requiring implementation of no-disturbance zones around nest sites during all construction phases. Additionally, implementing the Mitigation Measure 3.3-1a and 3.3-2a would further reduce the loss of foraging habitat.

Construction of the proposed project would not result in a significant reduction of suitable foraging habitat, given that migratory birds and raptors use a variety of habitats present in the vicinity of the development areas, depending the species, and that over 48 acres of grassland habitat and over 500 acres of woodland habitat would remain with mitigation incorporated.

Special-Status Bats: Trees within the annual grassland and oak woodland habitat areas that are proposed for development (in proposed vineyard Blocks 5D, 5F, 5H, 5J, 6, 8, 17, 23C, 23F, 23G, 24G, 25, 27, and 29B) have the potential to support day roosts for special-status bats. The proposed project would also remove a total of 33.46 acres of oak woodland that provide potential suitable roost sites. Given the limited number of trees present in the annual grassland, individual trees 30 inches or greater dbh are considered suitable roosting trees for bats. Impacts on special-status bat species from the loss of suitable habitat/roost trees would be considered significant. Because the proposed project has the potential to affect special-status bat species and potential habitat, this impact would be **potentially significant**.

Mitigation Measure 3.3-1i

Erosion Control Plan #P17-00432-ECPA shall be revised before approval to avoid all potential bat habitat/roost trees in proposed vineyard Blocks 5D, 5F, 5H, 5J, 6, 8, 17, 23C, 23F, 23G, 24G, 25, 27, and 29B. These trees are identified in Figure 3.3-5. A minimum 50-foot avoidance buffer shall be established around the driplines of the habitat/roost trees, under the direct supervision of a qualified biologist, to protect the trees' canopies and root protection zones with high-visibility fencing. (The term "qualified" refers to a biologist who is knowledgeable and experienced in the botany, biology, and natural history of local mammalian and avian resources with potential to occur at the project site.) The fencing shall be inspected and approved by Napa County before the start any earthmoving and/or development activities. Exclusion buffers shall remain in effect until vineyard development and planting activities are complete.

Mitigation Measure 3.3-1j

Erosion Control Plan #P17-00432-ECPA shall be revised before approval to provide for the installation of one bat roost box for every 5 acres of oak woodland habitat removed (a total of six

bat roost boxes). The type of bat roost box shall be identified and box locations shall be mapped on the ECPA site plan near the habitat trees proposed for removal, and under the direction of a qualified biologist in consultation with Napa County. The owner/permittee/biologist shall provide adequate documentation to the County, including photographs showing that the bat roost boxes have been installed properly, before the start of any vegetation removal and earth-disturbing activities associated with the project.

Mitigation Measure 3.3-1k

At least 30 days prior to tree removal activities, a qualified biologist shall assess all trees to determine if they contain suitable bat roosting habitat (e.g., cavities, crevices, deep bark fissures). If any trees contain such habitat, bat presence shall be presumed. Trees containing bat roosting habitat shall be removed using the method described below during the following seasonal periods of bat activity:

Prior to maternity season – from approximately March 1 (or when night temperatures are above 45 degrees Fahrenheit and when rains have ceased) through April 15 (when females begin to give birth to young); and prior to winter torpor – from September 1 (when young bats are self-sufficiently volant) until October 15 (before night temperatures fall below 45 degrees Fahrenheit and rains begin).

On day 1, in the afternoon and under the supervision of a qualified biologist, chainsaws only shall be used to remove tree limbs that do not contain suitable bat roosting habitat (e.g., cavities, crevices, deep bark fissures). The next day, the rest of the tree shall be removed.

If bat habitat trees cannot be removed during the above seasonal periods of bat activity, a qualified biologist shall survey the trees to determine if the tree contains a maternity colony or winter torpor bats. If the qualified biologist cannot make this determination with certainty, the presence of maternity colonies or winter torpor bats shall be assumed, and removal of the tree shall be delayed until the seasonal periods of bat activity specified above. If the biologist determines that bats are present but maternity colony or winter torpor bats are absent, then the tree may be removed outside of the above periods of seasonal bat activity using the above two-step tree removal process. If the qualified biologist determines that bats are absent, then the tree may be removed without bat seasonality or method restrictions.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to special-status bats to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential biological resource impact to special-status bats is mitigated by adoption of Mitigation Measures 3.3-1i through 3.3-1k (DEIR pg 3.3-65-67) as incorporated into the Project as COA No. 2. Implementing these Mitigation Measures would reduce potentially significant impacts on special-status bats to a **less-than-significant** level by avoiding all potential roost trees identified in the development area; bat roost boxes would be installed to offset the loss of other potential bat habitat trees; preconstruction surveys would occur before tree removal to identify any other roosting bats and habitat trees not otherwise avoided through implementation of **Mitigation Measure 3.3-1i**; and if found, no-disturbance buffer zones would be observed around roost sites. Therefore, implementing **Mitigation Measures 3.3-1i** through **3.3-1k** would reduce potentially significant impacts on bat species to a **less-than-significant** level.

Additionally, the project would avoid a total of 2.52 acres of annual grassland surrounding potential roost trees. Implementing **Mitigation Measure 3.3-5a** (below) would further preserve oak woodland and potential bat habitat on the project site.

2) Impact 3.3-2: Construction and operation of the proposed project could have a substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by CDFW or USFWS.

The proposed project would result in the loss of sensitive grassland habitat. Thus, the project would conflict with Napa Policy General Plan Policy CON-17, which requires no net loss of sensitive biotic communities and habitats of limited distribution through avoidance, restoration, or replacement where feasible. Therefore, this impact would be significant.

Mitigation Measure 3.3-2a

To avoid impacts on beardless wildrye grassland, blue wildrye grassland, and purple needlegrass grassland, Erosion Control Plan #P17-00432-ECPA shall be revised before approval to exclude these sensitive natural grassland communities/habitats and plant populations and provide them with a minimum 50-foot buffer from development areas. Figure 3.3-5 shows the areas that would be excluded from development as a result of implementation of this mitigation measure. Before vegetation clearing, the 50-foot buffer shall be established around these grasslands under the direct supervision of a biologist, using high-visibility construction fencing. The fencing shall be inspected and approved by Napa County before the start of any earthmoving and/or development activities. The protective constructive fencing shall be replaced with a permanent means of demarcation and protection around the grassland habitats (such as permanent fence or rock barrier) so that grassland avoidance areas are not encroached upon or disturbed as part of ongoing vineyard operations.

Mitigation Measure 3.3-2b

A qualified biologist shall provide a worker education and awareness program to all on-site personnel before the start of materials staging or ground-disturbing activities. The biologist shall explain to construction workers how to avoid impacts on beardless wildrye grassland, blue wildrye grassland, and purple needlegrass grassland and shall include topics on species identification and descriptions. The education program should include handouts, illustrations, photographs, and project maps that show showing areas where avoidance measures are in place. The crew members shall sign a sign-in sheet documenting that they received the training. Proof that the education and awareness program has been conducted shall be submitted to Napa County before the start of vegetation removal and earth-disturbing activities associated with Phases 1 and 2 of project construction.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to sensitive natural communities to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential biological resource impact to sensitive natural communities is mitigated by adoption of Mitigation Measures 3.3-2a and 3.3-2b (DEIR pg 3.3-68-69) as incorporated into the Project as COA No. _____. Implementing these Mitigation Measures would reduce potentially significant impacts on sensitive natural communities to a **less-than-significant** level by avoiding removal of the sensitive natural communities.

3) Impact 3.3-3: Construction and operation of the proposed project could have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

Direct and indirect impacts on wetlands and other waters of the United States are considered significant. Acquisition of all necessary permits before construction and compliance with all permit minimization and mitigation measures would reduce potential impacts; however, because the proposed project would directly affect approximately 0.02 acre of Elder Creek and less than an estimated 0.005 acre of the unnamed pond, this impact would be significant.

Mitigation Measure 3.3-3a

All necessary federal, state and local permits shall be obtained and provided to the County before the construction of the water intake device on Elder Creek and the spillway berm and overflow structure at the unnamed pond. The owner/permittee shall comply with all permit minimization and mitigation measures. Impacts on waters of the United States would require a minimum mitigation ratio of 1:1 (mitigated:affected) to comply with USACE's no-net-loss policy. In addition, the owner/permittee shall comply with the state's NPDES General Permit for Discharges of Storm Water Runoff Associated with Construction Activity, issued by the Regional Water Quality Control Board.

Mitigation Measure 3.3-3b

For project activities that are anticipated to occur within 50 feet of potential jurisdictional features and riparian areas that are proposed for avoidance, high-visibility construction fencing and silt fencing shall be erected at the edge of the construction/maintenance footprint (i.e., development area) before the commencement of construction. The fencing shall be inspected and approved by Napa County before the start of any earthmoving and/or construction activities in these areas. A qualified biological monitor shall be present during fence installation and during any initial grading or vegetation-clearing activities within 50 feet of potential jurisdictional features and riparian habitat, which are proposed for avoidance. The biological monitor shall submit letter reports to the County summarizing the results of fencing installation and construction monitoring to document these provisions.

Mitigation Measure 3.3-3c

All areas with temporary impacts on potential waters of the United States shall be restored immediately after construction. The biological monitor shall submit letter reports to the County summarizing the results of restoration activities to document this provision and compliance with Mitigation Measures 3.3-3a and 3.3-3b.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to wetlands or waters of the United States to a less than significant level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential biological resource impact to wetlands or waters of the United States is mitigated by adoption of Mitigation Measures 3.3-3a, 3.3-b, and 3.3-3c (DEIR pg 3.3-71-72) as incorporated into the Project as COA No. 2. Implementing these Mitigation Measures would reduce impacts on waters of the United States to a less-than-significant level by ensuring no net loss, installing high-visibility and silt fencing to ensure that no aquatic features

would be indirectly affected by erosion and sediment runoff during construction, and restoring affected areas immediately after construction.

4) Impact 3.3-4: Construction and operation of the proposed project could interfere substantially with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or could impede the use of native wildlife nursery sites.

Construction of the proposed project, including wildlife exclusion fencing around individual proposed vineyard blocks and clusters of proposed vineyard blocks, could create barriers to local wildlife movements. It also could conflict with General Plan Policy CON-18. The proposed project could create barriers to local wildlife movement (e.g., around vineyard Blocks 4 and 5, 21 and 22, 19 and 20A, 23C and 23D, 23G and 23F, and 23E and 33A) by installing wildlife exclusion fencing and extra fencing proposed around some vineyard blocks (e.g., Blocks 4, 5, 9, 19, 20, 21, 22, 23, 29, 30, 31, and 33) could preclude wildlife use. This impact would be **significant**.

Mitigation Measure 3.3-4

Erosion Control Plan #P17-00432-ECPA shall be revised before approval to fence clusters of vineyard blocks as shown in Figure 3.3-6 and as described below. The revised fencing plan (i.e., Figure 4 of #P17-00432-ECPA) shall be subject to review and approval by Napa County before its incorporation into #P17-00432-ECPA, and shall include and show the fencing design features describe in 3.3-4iii below.

- i. The following vineyard blocks shall be fenced individually (not together): Vineyard Blocks 4 and 5, 19 and 20A, 21 and 22, 23C and 23D, 23G and 23F, 23E and 33A, and 29B, 30, and 31. The location of new wildlife exclusion fencing shall generally be limited to the outside edge of vineyard avenues and development areas.
- ii. Fencing around vineyard Blocks 9, 19, 20, 29, 30, 31, and 33 shall be revised to place the fencing along the outside the edge of vineyard avenues.
- iii. 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. 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 used on top of the fencing to keep wildlife from becoming entangled.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to wildlife corridors to a less than significant level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential biological resource impact to wildlife corridors is mitigated by adoption of Mitigation Measure 3.3-4 (DEIR pg 3.3-73) as incorporated into the Project as COA No. 2. Implementing this Measure would reduce impacts to wildlife corridors to a less-than-significant level by ensuring the maintenance of sufficiently sized wildlife corridors; maximizing wildlife use areas; and installing fencing that would reduce potential negative effects on the movement of smaller animals while effectively excluding deer and wild pigs from the vineyard. In addition, conditions in the Erosion and Runoff Control Installation and Operation Conditions of Approval in **Section 3.5, Geology and Soils**, would ensure that temporary and permanent erosion control measures and devices

are free from plastic monofilament netting so that reptiles, amphibians, or animals do not become entangled within them.

5) Impact 3.3-5: Construction and operation of the proposed project could conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

The proposed project would be consistent with the vegetation retention requirements in Napa County Code Section 18.108.027(B). However, the proposed project would require conversion of oak woodland, which would conflict with Napa County General Plan Policy CON-24. Implementing the mitigation measures in this Draft EIR would indirectly reduce oak woodland impacts; however, these measures would not reduce potential impacts on oak woodland to a less-than-significant level. In addition, removal of Valley Oak–California Bay–Coast Live Oak–Walnut-Ash Riparian Forest NFD Association without mitigation would conflict with Policy CON-28. Therefore, this impact would be significant.

Implementing Mitigation Measure 3.3-5a, as well as Mitigation Measures 3.3-1i and 3.3-2a, would reduce significant impacts on oak trees and oak woodland, including riparian woodland, to a less-than-significant level by preserving similar habitat at a higher ratio than is proposed for removal. With mitigation, the proposed project would be consistent with General Plan Policy CON-24.

Moreover, implementation of the Reduced Vegetation Removal/Grading and Road Use Alternative in combination with Mitigation Measures No. 3.3-5a, No. 3.3-1i and No. 3.3-2a (i.e. the Modified Project), would further reduce woodland removal by approximately 10-acres resulting in a total of 17.6-acres of woodland removal, down from ±30.62-acres.

Mitigation Measure 3.3-5a

In order to mitigate impacts to oak woodland resulting from development of the proposed project, the owner/permittee shall place in permanent protection a Preserve Area of no less than 61.24 acres of oak woodland for the Proposed Project (30.62 x 2, for a 2:1 preservation ratio), or 35.2 acres of oak woodland for the Modified Project (17.6 x 2, for a 2:1 preservation ratio), which shall be situated on developable lands (i.e., on land with slopes less than 30% and located outside of aquatic resource setbacks pursuant to NCC Sections 18.108.025 and 18.108.026 as shown in Figure 3.3-7) and include the 2.9 acres of woodland removed through other mitigation measures. The preserved woodlands shall have similar habitat value as that being removed, as determined by a qualified professional knowledgeable and experienced in local botany and habitats. Erosion Control Plan #P17-00432-ECPA shall be revised prior to approval to identify the Preservation Area.

All acreage designated for preservation shall be identified as such in a mitigation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection acceptable to Napa County.

The mitigation 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 earth disturbing activities, grading or vegetation removal, or within 12 months of project approval, whichever occurs first. In no case shall earthmoving activities be initiated until said mitigation easement is recorded.

Any request by the Applicant for an extension of time to record the mitigation easement shall be considered by the PBES 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 (e.g., conversion to other land uses such as agriculture 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.

Any county staff time spent assessing and monitoring said provision shall be charged to the permittee, at the rate in effect at the time assessment and monitoring occurs, pursuant to County Fee Policy Part 80.

Mitigation Measure 3.3-5b

The owner/permittee shall locate and construct the point of diversion and associated infrastructure in an area along Elder Creek that does not contain valley oak trees. The location shall avoid removal and damage to valley oaks by providing a minimum protective buffer that extends to the tree's dripline. "Removal and damage" also means trimming of the tree and/or work occurring within the tree's buffer area. The tree protective buffer fencing shall be inspected and approved by Napa County before construction of the point of diversion begins.

If avoiding valley oak is infeasible during construction of the point of diversion, the owner/permittee shall provide justification of the infeasibility, and a removal and replacement plan prepared by a qualified biologist or restoration ecologist, for review and approval by Napa County before construction of the point of diversion commences. If a valley oak or other oaks are removed (which includes substantial trimming of the tree and/or work within the buffer area), they shall be replaced on-site with 15-gallon oak trees at the following ratios: 4:1 removal between 5 and 10 inches dbh, 5:1 removal between 10 and 15 inches dbh, and 10:1 for removal greater than 15 inches dbh. Replacement trees shall be installed and their good health shall be documented before completion and finalization of the erosion control plan. Replacement trees shall be monitored and maintained as necessary for seven years following planting to ensure that they achieve a minimum 80 percent survival. If valley oak plantings are not achieving this success criterion during the monitoring years, the owner/permittee shall replace the plantings and monitor them for an additional seven years following the replanting until they achieve a minimum 80 percent survival rate.

If avoidance of valley oaks is infeasible for construction of the point of diversion, the owner/permittee also shall preserve a minimum of 0.06 acre of riparian woodland in similar habitat in the west-central or northwest portion of the project site. This acreage shall be preserved in a deed restriction, an open space easement with an organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection acceptable to the County as described in Mitigation Measure 3.3-5a.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to oak trees and oak woodland, including riparian woodland to a less than significant level.

Rationale: Based on the DEIR and FEIR and the administrative record, together with corrections to Mitigation Measures 3.3-5a contained in the Errata that accounts for woodland removal reductions associated with implementation of the Modified Project, this potential biological resource impact is mitigated by adoption of Mitigation Measures 3.3-5a and 3.3-5b (DEIR pg 3.3-75-77) as incorporated into the Project as COA No. 2. Implementing Mitigation Measure 3.3-5a, as well as Mitigation Measures 3.3-11

and 3.3-2a, would reduce significant impacts to a less-than-significant level by preserving similar habitat at a higher ratio than is proposed for removal. With mitigation, the proposed project would be consistent with General Plan Policy CON-24 because approximately 61 acres of oak woodland (Proposed Project) or 35.2 acres for the Modified Project would be preserved on the project site in perpetuity.

Mitigation Measure 3.3-5b would reduce potentially significant impacts on riparian woodland, including valley oak, to a less-than-significant level by avoiding impacts or mitigating at a higher ratio than is proposed for removal, in addition to preserving similar habitat at a higher ratio than is proposed for removal.

C) 3.4 Cultural and Tribal Resources

1) Impact 3.4-1: Construction and operation of the proposed project could cause a substantial adverse change in the significance of an archaeological resource pursuant to State CEQA Guidelines Section 15064.5.

Because the proposed project would involve ground-disturbing activities that may extend into undisturbed soil, it is possible that such actions could unearth, expose, or disturb subsurface archaeological resources that have not been identified on the surface. If previously unrecorded archaeological deposits are present in the project area, and if they are found to qualify as archaeological resources pursuant to State CEQA Guidelines Section 15064, impacts of the proposed project on the resources would be potentially **significant**.

Mitigation Measure 3.4-1a

Before the start of construction, an Archaeological Resources Worker Environmental Awareness Program shall be implemented. A qualified archaeologist, or designee, shall conduct training for project personnel regarding the appearance of archaeological resources and the procedures for notifying archaeological staff should materials be discovered. The owner/permittee shall ensure that project personnel are made available for and attend the training and retain documentation demonstrating attendance.

Mitigation Measure 3.4-1b

If indigenous or historic-era archaeological resources are encountered during project development or operation, all activity within 100 feet of the find shall cease and the find shall be flagged for avoidance. The County and a qualified archaeologist, defined as one meeting the U.S. Secretary of the Interior's Professional Qualifications Standards for Archeology, shall be immediately informed of the discovery. The qualified archaeologist shall inspect the find within 24 hours of discovery and notify the County of their initial assessment. Indigenous archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (midden) containing heat-affected rocks, artifacts, or shellfish remains; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include building or structure footings and walls, and deposits of metal, glass, and/or ceramic refuse.

If the County determines, based on recommendations from the qualified archaeologist, that the resource may qualify as a historical resource or unique archaeological resource (as defined in State CEQA Guidelines Section 15064.5) or a tribal cultural resource (as defined in PRC Section 21074), the resource shall be avoided if feasible. Avoidance means that no activities associated with the

project that may affect cultural resources shall occur within the boundaries of the resource or any defined buffer zones.

If avoidance is not feasible, the County shall consult with appropriate Native American tribes (if the resource is indigenous) and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts on the resource pursuant to PRC Section 21083.2, State CEQA Guidelines Section 15126.4, and County General Plan Policy CC-23. This shall include documentation of the resource and may include data recovery or other measures. Treatment for most resources would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource. The resource and treatment method shall be documented in a professional-level technical report to be filed with the California Historical Resources Information System. Work in the area may commence upon completion of approved treatment and under the direction of the qualified archaeologist.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to archaeological resource to a less than significant level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential archaeological resource impact is mitigated by adoption of Mitigation Measures 3.4-1a and 3.4-1b (DEIR pg 3.4-18-20) as incorporated into the Project as COA No. 2. Implementing Mitigation Measures 3.4-1a and 3.4-1b would reduce this potentially significant impact to a less-than-significant level because worker awareness training would be conducted. If an archaeological resource is inadvertently discovered, a qualified archaeologist would assess any previously unrecorded archaeological resource. If it is determined to potentially be an archaeological resource pursuant to State CEQA Guidelines Section 15064, the resource would be avoided if feasible; or, if avoidance is not feasible, Native American tribes would be consulted with (if the resource is indigenous in origin) and treatment measures would be determined. Treatment measures which may include conducting data recovery of the resource.

2) Impact 3.4-2: Construction and operation of the proposed project could disturb human remains, including those interred outside of formal cemeteries.

The proposed project is not anticipated to disturb any human remains. However, because the proposed project would involve ground-disturbing activities, it is possible that such actions could unearth, expose, or disturb previously unknown human remains. If human remains were discovered during project construction activities, impacts of the proposed project on the human remains would be significant if those remains were disturbed or damaged. This impact would be **potentially significant**.

Mitigation Measure 3.4-2

If human remains are uncovered during project construction, all work shall immediately halt within 100 feet and the Napa County Coroner shall be contacted to evaluate the remains, and follow the procedures and protocols set forth in State CEQA Guidelines Section 15064.5(e)(1) and County General Plan Policy CC-23. If the County Coroner determines that the remains are Native American, the County shall contact the NAHC, in accordance with Health and Safety Code Section 7050.5(c) and PRC Section 5097.98. Per PRC Section 5097.98, the County shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located is not damaged or disturbed by further

development activity until the County has discussed and conferred, as prescribed in PRC Section 5097.98, with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to archaeological resource to a less than significant level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential archaeological resource impact is mitigated by adoption of Mitigation Measure 3.4-2 (DEIR pg 3.4-20) as incorporated into the Project as COA No. 2. Implementing Mitigation Measures 3.4-2 would reduce this potentially significant impact to a less-than-significant level because it would require construction workers in the area to cease work and follow appropriate state law if human remains are discovered.

3) Impact 3.4-3: Construction and operation of the proposed project could cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074.

Indigenous archaeological resources have been recorded within the project site but are located outside the project area, small portions of the project area have a moderate to high potential for the presence of buried archaeological resources, and the Yocha Dehe Wintun Nation has requested consultation. If any previously undiscovered archaeological and/or tribal cultural resources and/or human remains are encountered during project construction and found to be a tribal cultural resource, impacts of the proposed project on the resource would be potentially significant.

Mitigation Measure 3.4-3

Before the start of vegetation removal and earth-moving activities under #P17-04320-ECPA, the owner/permittee shall provide documentation to the Napa County Planning Department that a Monitoring Agreement has been entered into with the Yocha Dehe Wintun Nation. Should a Monitoring Agreement not be entered into with the Yocha Dehe Wintun Nation, the owner/permittee shall provide, for review and approval by Napa County, a Cultural Monitoring Plan prepared by a professional archaeologist certified by the Registry of Professional Archeologists, that incorporates the Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation.

The following are examples of mitigation capable of avoiding or substantially lessening potential significant impacts on a tribal cultural resource or alternatives that would avoid significant impacts on the resource that will need to be included in the Monitoring Agreement or Cultural Monitoring Plan. These measures may be considered to avoid or minimize significant adverse impacts and constitute the standard by which an impact conclusion of less than significant may be reached:

- Implement monitoring requirements including but not limited to sensitivity training for site workers, identification of project activities and project site areas requiring an on-site monitor, procedures that are implemented in the event of a find, and monitoring documentation and reporting.
- Avoid and preserve resources in place, including but not limited to planning construction to avoid the resources and protect the cultural and natural context, or planning greenspace,

parks, or other open space to incorporate the resources with culturally appropriate protection and management criteria.

- Treat the resource with culturally appropriate dignity, taking into account the Tribal cultural values and meaning of the resource, including but not limited to the following:
 - Protect the cultural character and integrity of the resource.
 - Protect the traditional use of the resource.
 - Protect the confidentiality of the resource.
 - Establish permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or using the resources or places.
 - Protect the resource.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to tribal cultural resources to a less than significant level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential archaeological resource impact is mitigated by adoption of Mitigation Measure 3.4-3 (DEIR pg 3.4-21-22) as incorporated into the Project as COA No. 2. Implementing Mitigation Measures 3.4-1a, 3.4-1b, 3.4-2, and 3.4-3 would reduce this potentially significant impact to a less-than-significant level because if an archaeological or tribal cultural resource is inadvertently discovered, a qualified archaeologist would assess any previously unrecorded archaeological resource. If the resource is determined to potentially be an archaeological resource, the resource would be avoided if feasible; or, if avoidance is not feasible, Native American tribes would be consulted with (if the resource is indigenous in origin) and treatment measures would be determined. Treatment measures may include conducting data recovery of the resource. In addition, workers in the area would be required to cease work and follow appropriate state law if human remains are discovered.

D) 3.5 Geology and Soils

1) Impact 3.5-5: Construction and operation of the proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Pursuant to Chapter 2, Section 2.4.3, *Project Construction*, the average depth of ripping would be two feet, with maximum ripping depth up to four feet depending on site conditions. Project activities such as vegetation removal or grading of existing roadbeds are unlikely to disturb fossil resources. However, deeper grading or excavations may affect fossil resources, which would be a **potentially significant** impact.

Mitigation Measure 3.5-5a

A Paleontological Resources Worker Environmental Awareness Program shall be implemented before the start of construction. A qualified paleontologist shall train construction personnel regarding the appearance of fossils and procedures for notifying paleontological staff if fossils are discovered during construction work. The owner/permittee shall provide Napa County documentation demonstrating that construction personnel have attend the training before the commencement of vegetation removal and earth-disturbing activities associated with Phase 1 and 2 of project.

Mitigation Measure 3.5-5b

Initial earth-disturbing, grading and/or construction activities as defined by the County Conservation Regulations (NCC Chapter 18.108) in previously undisturbed sediments more than 2 feet deep in areas that are mapped as Great Valley Sequence (KJgvl or Jk) shall be monitored on a 'full time' basis during Phases 1 and 2 of ECPA development, in accordance with a Paleontological Monitoring Plan prepared and implemented by a qualified paleontologist. A qualified paleontologist is defined as an individual who has experience collecting and salvaging paleontological resources and meets the minimum standards of the SVP (2010). The Plan shall be submitted to Napa County for review and approval before commencement of any vegetation removal or earth-disturbing activities associated with the project.

Within the Plan, the extent, and duration and timing of the monitoring shall be determined by the qualified paleontologist based on the location and extent of proposed ground disturbance within the Great Valley Sequence (KJgvl or Jk) deposits. If the qualified paleontologist determines during project monitoring that full-time monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, the paleontologist may recommend (subject to review and approval by Napa County) that monitoring be reduced to periodic spot-checking or cease entirely.

Monitoring shall not be required in any artificial fill or for activities that do not reach the above-stated depths and mapping areas. Should fossils be encountered, construction work shall halt within the Great Valley Sequence deposits until a qualified paleontologist can assess the significance of the find and develop, for Napa County review and approval, additional Plan measures to avoid impacts to paleontological resources. Significant fossils shall be salvaged, following the standards of the SVP (2010) and curated at an accredited repository, such as the University of California Museum of Paleontology or Los Angeles County Museum of Natural History.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects to geology and soils to a less than significant level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential geology and soils impact is mitigated by adoption of Mitigation Measures 3.5-5a and 3.5-5b (DEIR pg 3.5-30) as incorporated into the Project as COA No. 2. Implementing Mitigation Measures 3.5-5a and 3.5-5b would reduce this potentially significant impact to a less-than-significant level because construction personnel would be trained on the procedures to implement if fossils appear, and because ground-disturbing construction activities in previously undisturbed sediments more than two feet deep in areas mapped as Great Valley Sequence (KJgvl or Jk) or five feet deep in areas mapped as Quaternary alluvial fan deposits (Qf) would be monitored and any fossils encountered would be assessed and avoided and/or salvaged and curated.

E) 3.8 Land Use and Planning

1) Impact 3.8-1: Construction and operation of the proposed project could cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

Specific land use impacts would not occur and land use mitigation measures are not required. However, without mitigation, construction and operation of the proposed project would conflict with applicable sections of the Napa County Code and Napa County General Plan. This impact would be

significant. Implementation of mitigation measures identified in Section 3.2, *Air Quality and Greenhouse Gas Emissions*; Section 3.3, *Biological Resources*; and Section 3.5, *Geology and Soils*, would reduce potentially significant impacts identified in those resource/impact categories to a less-than-significant level.

Mitigation Measure 3.8-1

Implement Mitigation Measures 3.2-1a, 3.2-1b, and 3.3-1a through 3.3-5b.

Finding: Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Director hereby finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the potentially significant environmental effects to a **less than significant** level.

Rationale: Based on the DEIR and FEIR and the administrative record, this potential land use impact is mitigated by adoption of Mitigation Measure 3.8-1 found on page 3.8-13 of the DEIR and as COA No. 2 on KJS USE Permit No. P17-00432-ECPA. Implementing Mitigation Measures 3.2-1a, 3.2-1b, 3.3-1a through 3.3-5b, and 3.5-2 would reduce this significant impact to a less-than-significant level because with these mitigation measures incorporated, the proposed project would not conflict with applicable County regulations, policies, or goals.

SECTION 9. Project Alternatives.

A) Legal Requirements.

Section 15126.6(a) of the CEQA Guidelines requires that an EIR include a “range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives.” Public Resources Code section 21081(a)(3) provides that when approving a project for which an EIR has been prepared which identifies one or more significant effects on the environment that would occur if the project is approved or carried out, a public agency may find that (1) changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment, and/or (2) that those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency, and/or that (3) specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report. P.R.C. 21081(a). With respect to significant effects which were subject to a finding under paragraph (3), the public agency must find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

As set forth above, the EIR does not identify any significant effects that cannot be mitigated. Changes have been required in the development of the Project, and incorporated therein, which mitigate or avoid any significant effects. Such changes have been required in the Project or made a condition of approval and are enforceable.

The Project has no significant effects on the environment. Neither the Project as analyzed in the Draft EIR nor the Project as currently approved would result in any significant impacts after mitigation, the Director finds that a good faith effort was made to evaluate a reasonable range of potentially feasible alternatives in the EIR that could feasibly obtain the basic objectives of the Project, even when the alternatives might impede the attainment of the project objectives and might be more costly. As a result,

the scope of alternatives analyzed in the EIR is not unduly limited or narrow. The Director also finds that all reasonable alternatives were reviewed, analyzed and discussed in the review process of the EIR and the ultimate decision of the Project. Because the Project, as mitigated, will not result in significant environmental effects on either a project-specific or cumulative basis, the Director is not required to adopt findings with respect to alternatives to the Project.

B) Range of Alternatives.

Chapter 5 of the DEIR (pages 5-1 through 5-28) and FEIR (pages 2-39 through 2-53) describes the alternatives considered and compares their impacts to the Project. The DEIR evaluated three alternatives: (1) the No Project Alternative; (2) the Reduced Intensity and Increased Stream and Wetland (Aquatic Resource) Setbacks Alternative; and (3) the Reduced Vegetation Removal/Grading and Road Use Alternative.

C) The No Project Alternative.

Description: CEQA Guidelines Section 15126.6 (e)(1) states that a “no project” alternative shall be analyzed. The purpose of describing a “no project” alternative is to allow decision makers to compare the impacts of approving a proposed project with the impacts of not approving the proposed project. The “no project” alternative analysis is not the baseline for determining whether the environmental impacts of a proposed Project may be significant, unless the analysis is identical to the existing environmental setting analysis, which does establish that baseline.

The No Project Alternative is discussed on page 5-2 to 5-4 of the DEIR and FEIR page 2-39. Under this alternative, the Project site would continue in its existing conditions without future development on the property.

Ability to Meet Project Objectives: With the No Project Alternative, new vineyard would not be developed, the approximately 104 acres of existing vineyard would continue to be operated on the project site, and surface water would continue to be diverted and used pursuant to existing water rights. No changes to the grassland, chaparral/scrub, and mixed oak woodland biological communities would occur and the current vegetative cover would remain. A new diversion structure would not be constructed on Elder Creek and a new off stream reservoir would not be constructed. This alternative would not accomplish the basic objectives of the proposed project: installing and operating a new vineyard on an actively farmed property and maximizing the beneficial use of surface water authorized by Water Right License 9125 and Permit 18459.

Environmental Impacts: Unlike the proposed project, the No Project Alternative would not require construction equipment and materials, vehicles, and crews; ground-disturbing construction activities; or operation and maintenance activities. For this reason, the No Project Alternative would result in less severe impacts than the proposed project related to air quality and greenhouse gas (GHG) emissions, biological resources, cultural and tribal cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, and transportation. Mitigation measures identified for the proposed project also would not apply to the No Project Alternative.

With the No Project Alternative, proposed erosion and runoff control measures would not be implemented. Therefore, unlike the proposed project, this alternative would not cause a reduction in soil loss of approximately 43.17 percent (approximately 376.6 tons) or a net decrease

in peak flow rates relative to existing conditions. The No Project Alternative would not affect water quality or surface water and groundwater supplies.

D) The Reduced Intensity and Increased Stream and Wetland (Aquatic Resource) Setbacks Alternative.

Description: The Aquatic Resource Alternative is discussed on pages 5-4 through 5-13 of the DEIR and FEIR pages 2-39 through 2-46. This Alternative includes the areas from the mitigated proposed project, which reduces the project acreage by 15.42 gross acres (and avoids development of Block 5D) through avoidance of biological resources through implementation of Mitigation Measures 3.3-1a, 3.3-1i, and 3.3-2a as described in **Section 3.3, Biological Resources**. The Reduced Intensity and Increased Stream and Wetland (Aquatic Resource) Setbacks Alternative also includes setbacks from all streams based on slope (pursuant to current Napa County Code Section 18.108.025) and 50-foot setbacks from wetlands pursuant to current Napa County Code Section 18.108.026. As a result, less vineyard area would be developed than under the proposed project.

The Reduced Intensity and Increased Stream and Wetland (Aquatic Resource) Setbacks Alternative would consist of approximately 139.75 gross acres of proposed vineyard, as shown in **Figure 5-1**. As described in **Table 5-1**, approximately 17.39 gross acres would not be converted to vineyard compared to the proposed project.

Ability to Meet Project Objectives: This Alternative would partially meet the project objectives, as it would allow for conversion of a portion of the project site (approximately 139.75 gross acres) to vineyard; beneficially use surface water through Water Right License 9125 and Permit 18459; minimize impacts on riparian and aquatic resources by modifying Permit 18459 to allow construction of the storage reservoir at an off-stream location rather than onstream; minimize soil erosion; protect water quality; preserve the on-site grasslands and woodlands; minimize impacts on rare, endangered, and candidate plant and animal species to the extent feasible; and develop a vineyard on portions of the property suitable for the cultivation of high-quality wine grapes. This alternative would provide opportunities for vineyard employment and economic development in Napa County.

However, the Reduced Intensity and Increased Stream and Wetland (Aquatic Resource) Setbacks Alternative would not meet all of the project objectives, specifically the goal to develop up to approximately 111.5 net acres of vineyard within an approximately 156.8-acre conversion area on the portions of the site that are suitable for cultivation of high-quality wine grapes. The alternative would avoid an additional 1.97 acres within the project site compared to the mitigated proposed project to further minimize impacts on streams and wetland habitat to less-than-significant levels. The Reduced Intensity and Increased Stream and Wetland (Aquatic Resource) Setbacks Alternative would develop approximately 97.44 net acres of vineyard within an approximately 139.75-acre development area (Table 5-2). This would in turn slightly reduce the opportunities for vineyard employment and economic development in Napa County.

Environmental Impacts: This Alternative would include construction and operation and maintenance activities similar to those of the proposed project, although the acreage developed would be less (approximately 97.44 net acres of vineyard within an approximately 139.75-acre development area). Therefore, this alternative would result in impacts on cultural and tribal cultural resources, hazards and hazardous materials, noise, and transportation like those identified for the proposed project.

The potential exists for cultural or tribal cultural resources to be uncovered during construction under the Alternative. Implementation of Mitigation Measures 3.4-1a, 3.4-1b, 3.4-2, and 3.4-3, as identified

for the proposed project in Section 3.4, *Cultural and Tribal Cultural Resources*, would minimize potential impacts of the alternative on cultural and tribal cultural resources to a less-than-significant level.

This Alternative would include the development of a smaller vineyard and clearing-limits area (17.39 gross acres less than under the proposed project). Therefore, impacts on air quality and GHG emissions, biological resources, geology and soils, hydrology and water quality, and land use and planning would be less than impacts identified for the proposed project. Compared to the mitigated proposed project, gross acres would be reduced by approximately 1.97 acres under the Reduced Intensity Stream and Wetland (Aquatic Resource) Setbacks Alternative, including approximately 1.58-acre of annual grassland and 0.08 acre of coast live oak (**Table 5-1**).

Like the proposed project, the Reduced Intensity Stream and Wetland (Aquatic Resource) Setbacks Alternative would be designed to reduce annual soil loss from the development area; however, because this alternative would include less acreage than the proposed project, the reduction in annual soil loss would likely be less than under the proposed project. Risks related to a geologic unit becoming unstable or destruction of a unique paleontological resource may be less with the alternative, given the reduced acreage. Implementation of Mitigation Measures 3.5-2, 3.5-5a, and 3.5-5b identified for the proposed project in Section 3.5, *Geology and Soils* would minimize impacts of the Alternative on geology and soils to less-than-significant levels. Because the Alternative would develop a smaller vineyard than the proposed project, annual surface water demand would also be less. The Alternative would require implementation of the vineyard irrigation conditions of approval identified for the proposed project in Section 3.7, *Hydrology and Water Quality* for surface water use. Therefore, impacts on geology and soils and hydrology and water quality would be less than those identified for the proposed project.

Although construction and operation and maintenance activities would be similar to those for the proposed project, the Reduced Intensity Alternative would develop fewer vineyard acres than the proposed project (approximately 97.44 net acres of vineyard within an approximately 139.75-acre development area). Because of the smaller project footprint, the Reduced Intensity Alternative would result in less severe impacts than identified for the proposed project. Impacts would be less than significant with mitigation incorporated.

E) The Reduced Vegetation Removal/Grading and Road Use Alternative (Referred to as the Modified Project)

Description: The Reduced Vegetation Removal/Grading and Road Use Alternative is discussed on pages 5-15 through 5-25 of the DEIR. The Modified Project includes the areas from the mitigated proposed project, which reduces the project acreage by 15.42 gross acres (and avoids development of vineyard Block 5D through avoidance of biological resources through implementation of Mitigation Measures 3.3-1a, 3.3-1i, and 3.3-2a as described in **Section 3.3, Biological Resources**). The Modified Project also reduces blocks and block configurations as compared to the proposed project to limit vegetation removal/grading and road use, development, maintenance, and upgrades for areas that contain minimal vineyard development through implementation of the Reduced Vegetation Removal/Grading and Road Use Alternative. Specifically, this alternative avoids the development of vineyard Blocks 5E, 6, 8, 9H, 10, 11, 13A, 14, 15A, 15B, 16, 18A, 18B, 20B, 23D, 24D, 24G, 27, 28, 29A, 29B, 30, 31, 32, and 33B. As a result, less vineyard would be developed than under the proposed project.

The Alternative would consist of approximately 115.31 gross acres of proposed vineyard, as shown in Figure 5-2. As described in Table 5-3, approximately 41.83 gross acres would not be converted to vineyard compared to the proposed project. As with the proposed project, because the slopes in the

Reduced Vegetation Removal/Grading and Road Use Alternative's proposed blocks are steeper than 5 percent, an Erosion Control Plan would be required, and Napa County would retain approval authority.

Ability to Meet Project Objectives: The Modified Project would partially meet the project objectives, as it would allow for conversion of a portion of the project site (115.31 gross acres) to vineyard; beneficially use surface water through Water Right License 9125 and Permit 18459; minimize impacts on riparian and aquatic resources by modifying Permit 18459 to allow construction of the storage reservoir at an off-stream location rather than onstream; minimize soil erosion; protect water quality; preserve the on-site grasslands and woodlands; minimize impacts on rare, endangered, and candidate plant and animal species to the extent feasible; and develop a vineyard on portions of the property suitable for the cultivation of high-quality wine grapes. This alternative would provide opportunities for vineyard employment and economic development in Napa County.

However, the Reduced Vegetation Removal/Grading and Road Use Alternative would not fully meet all of the project objectives, specifically the goal to develop up to approximately 111.5 net acres of vineyard within an approximately 156.8-acre conversion area on the portions of the site that are suitable for cultivation of high-quality wine grapes. The alternative would avoid an additional 26.41 acres within the project site compared to the mitigated proposed project to limit vegetation removal/grading and road use, development, maintenance, and upgrades for areas that contain minimal vineyard development. The Reduced Vegetation Removal/Grading and Road Use Alternative would develop approximately 82.09 net acres of vineyard within an approximately 115.31-acre development area (Table 5-4). This in turn would somewhat reduce the opportunities for vineyard employment and economic development in Napa County.

Environmental Impacts: The Modified Project would include construction and operation and maintenance activities similar to those of the proposed project, although the acreage developed would be less (approximately 82.09 net acres of vineyard within an approximately 115.31-acre development area). Therefore, this would likely result in impacts on cultural and tribal cultural resources, hazards and hazardous materials, noise, and transportation similar to those identified for the proposed project.

As under the proposed project, the potential exists for cultural or tribal cultural resources to be uncovered during construction under the Reduced Vegetation Removal/Grading and Road Use Alternative. Implementation of Mitigation Measures 3.4-1a, 3.4-1b, 3.4-2, and 3.4-3, as identified for the proposed project in **Section 3.4, Cultural and Tribal Cultural Resources**, would minimize potential impacts of the alternative on cultural and tribal cultural resources to a less-than-significant level.

With this alternative, noise from construction and operation and maintenance activities and vehicles on the local roadways would generally be less than noise generated under the proposed project because activities would be similar (though potentially less, given the reduced project footprint).

The Modified Project Alternative would include the development of a smaller vineyard and clearing-limits area (41.83 gross acres less than under the proposed project). Therefore, impacts on air quality and GHG emissions, biological resources, geology and soils, hydrology and water quality, and land use and planning would be less than impacts identified for the proposed project. This alternative also would not generate GHG emissions that would have a significant impact on the environment or conflict with an applicable plan, policy, or regulation adopted for reducing GHGs.

Compared to the mitigated proposed project, gross acres would be reduced by approximately 26.41 acres under the Reduced Vegetation Removal/Grading and Road Use Alternative; biological communities are summarized in **Table 5-3**. Vegetation removal would be reduced by avoiding development

of vineyard Blocks 5E, 6, 8, 9H, 10, 11, 13A, 14, 15A, 15B, 16, 18A, 18B, 20B, 23D, 24D, 24G, 27, 28, 29A, 29B, 30, 31, 32, and 33B and avoidance of these vineyard blocks would further reduce impacts on biological resources. The Reduced Vegetation Removal/Grading and Road Use Alternative would increase the wildlife movement corridors compared to the mitigated proposed project. Because the Alternative would develop a smaller vineyard than the proposed project, annual surface water demand would also be less.

Because of the smaller project footprint, the Modified Project would result in less severe impacts than identified for the proposed project. Impacts would be less than significant with mitigation incorporated.

F) Environmentally Superior Alternative.

The DEIR discussed the Environmentally Superior Alternative at pages 5-25 through 5-30. The DEIR identifies the Reduced Vegetation Removal/Grading and Road Use Alternative as the Environmentally Superior Alternative, in lieu of the No Project Alternative. Under CEQA, if the No Project Alternative is the environmentally superior alternative, the EIR must identify an environmentally superior alternative among the other alternatives. (CEQA Guidelines Section 15126.6(e)(2).) The FEIR updates the alternatives discussion to reflect the changes from the Proposed Project to the Modified Project and corrects additional typographical errors. While the No Project Alternative would be the environmentally superior alternative in the technical sense in that no new impacts would occur, the No Project Alternative would also fail to meet any of the project objectives. Moreover, the No Project Alternative would not have the benefits to water quality that the Modified Project will have because existing erosion would continue.

None of the alternatives would fully achieve the project objectives. The No Project Alternative would not involve any project construction or operation and maintenance activities and would result in no adverse environmental effects; however, identification of an environmentally superior alternative among the other alternatives considered in the EIR is required. Both the Reduced Intensity and Increased Stream and Wetland (Aquatic Resource) Setbacks Alternative and the Reduced Vegetation Removal/Grading and Road Use Alternative would reduce the severity of some environmental impacts, as indicated in **Table 5-5**. However, the Reduced Vegetation Removal/Grading and Road Use Alternative would increase avoidance areas from purple needlegrass grassland and blue wildrye grassland, mapped oak trees greater than 30 inches diameter at breast height, and areas generally containing high biological diversity; increase the distance from mapped the wetland swale and possible waters of the United States; and increase potential wildlife habitat areas compared to the Reduced Intensity and Increased Stream and Wetland (Aquatic Resource) Setbacks Alternative and the proposed project. Therefore, the Reduced Vegetation Removal/Grading and Road Use Alternative is identified as the environmentally superior alternative.

SECTION 10. Findings for Approval of Erosion Control Plan (Napa County Code Chapter 18.108.080).

Pursuant to Napa County Code Section 18.108.080, the Director must approve the erosion control plan. The Director thereby finds:

A) The application is complete and the plans and reports submitted therewith adequately describe the proposed project.

Analysis: By way of the CEQA process described above, the Director has determined that the application is complete, in that it contains all necessary information and data required by NCC Chapter 18.108. All environmental assessment of the ECP has been completed pursuant to CEQA and a FEIR has

been published and provided to the public (SCH No. 2018092042). Additionally, the record for the ECP contains the names and addresses of all property owners listed on the most recent update of the equalized assessment roll as owning property situated within one thousand feet of the Property, which have been duly notified of all application processing events associated with the project.

The Application complies with the requirements of NCC Section 18.108.080. It contains the information required and has been prepared in accordance with the format in Resolution No. 94-19. It conforms to the applicable guidelines required for ECPAs. It has been prepared by a licensed civil engineer. Slopes on the Modified Project site are less than 30 percent. The Conditions of Approval attached hereto as Exhibit "A" are imposed pursuant to the foregoing requirements.

B) The project is supported by adequate environmental documents that comply with the provisions of CEQA.

Analysis: As set forth herein, it has been determined by the Director that P17-00432-ECPA complied with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and Napa County's Local Procedures for Implementing CEQA.

C) The Reduced Vegetation Removal/Grading and Road Use Alternative provides for specific changes or alterations which avoid or mitigate the significant environmental effects of the project as identified in the recommended FEIR.

Analysis: The Reduced Vegetation Removal/Grading and Road Use Alternative has been designed to avoid significant environmental effects. Mitigation Measures identified in the FEIR (March 2023) further result in activities that provide for site and condition-specific changes and alterations that mitigate potential significant environmental effects. Particularly, the Modified Project in conjunction with applicable Mitigation Measures would reduce any impacts associated with the Proposed Project to a less-than-significant level. Furthermore, implementation of the Modified Project would result in reductions to erosion and runoff, and improvements to water quality in the surrounding ecosystem.

D) The Modified Project, as approved, is consistent with the objectives, policies and general land uses and programs set forth in the general plan and the zoning of the site.

Analysis: The Project Site has the general plan designation Agriculture, Watershed and Open Space (AWOS) and zoning designation Agricultural Watershed (AW). Pursuant to NCC Chapters 2.94 (Agriculture and Right to Farm) and 18.20 (AW Agricultural Watershed District) agriculture is an allowed use, and the project is consistent with general plan and zoning district regulations, including General Plan Policies AG/LU-4, 15 and 20.

SECTION 11. Recirculation is Not Required.

In the course of responding to comments received during the public review and comment period on the DEIR, certain portions of the DEIR have been modified and some new information amplifying and clarifying information in the DEIR has been added to the FEIR. The proposed revisions to the DEIR's Reduced Vegetation Removal/Grading and Road Use Alternative that comprise the Modified Project do not involve "significant new information" given that it is a reduced version of the proposed project and involves no new significant impacts. The Administrative Record for the Project also includes an Errata correcting acreages required for preservation in Mitigation Measure 3.3-5a to account for the Modified Project

removing less oak woodland and thus a corresponding reduction in the amount of like habitat required for preservation.

Adoption and implementation of the Modified Project will not result in any significant environmental impacts not identified in the DEIR or result in a substantial increase in the severity of a significant environmental impact identified in the DEIR. The Modified Project has impacts that would be equal to or less than what was analyzed and considered in the DEIR under the original Reduced Vegetation Removal/Grading and Road Use Alternative. There are no substantial changes in the proposed project or the circumstances under which the project is being undertaken that necessitate revisions of the DEIR, nor has significant new information become available. "Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR." (14 Cal Code Regs. Section 15088.5(b).) The Director hereby determines, based on the standards provided in Public Resources Code Section 21092.1 and Section 15088.5 of the CEQA Guidelines, that recirculation of the DEIR is not required prior to adoption of the Modified Project.

SECTION 12. **General Plan Consistency.**

The Director hereby finds that implementation of the Modified Project is consistent with the Napa County General Plan and concurs with the analysis, findings and conclusions set forth in the "General Plan Consistency Analysis" included in DEIR Table 3.8-2 (DEIR pp. 3.8-5– 3.8-13), attached as Exhibit "B" and incorporated here by reference.

SECTION 13. **Record of Proceedings.**

A) The Record of Proceedings (record) upon which the Director bases these Findings and its actions and determinations regarding the Proposed Project includes, but is not limited to:

- 1) The NOP, comments received on the NOP and all other public notices issued by CAL FIRE and the County in relation to the Project (e.g., Notice of Availability);
- 2) The DEIR, the FEIR and the appendices and technical reports cited in and/or relied upon in preparing the DEIR and FEIR;
- 3) The FEIR, including comment letters, oral testimony and technical materials cited in the document;
- 4) All non-draft and/or non-confidential reports and memoranda prepared by the County and consultants related to the EIR, its analysis and findings;
- 5) All staff reports, County files and records and other documents, prepared for and/or submitted to the Department, Director and/or the County relating to the FEIR and/or the ECP including an Errata correcting Mitigation Measure 3.3-5a;
- 6) The evidence, facts, findings and other determinations set forth in this Resolution and the above-referenced documents;
- 7) Minutes and transcripts of the discussions regarding the Project and/or project components at public hearings or scoping meetings held by the Department and/or the Director;
- 8) The Napa County General Plan;
- 9) The Napa County Code;
- 10) All applications, designs, plans, studies, data and correspondence submitted by Applicant in connection with the FEIR and/or ECP;
- 11) All documentary and oral evidence received or submitted to the County during the comment periods relating to the FEIR and the ECP;

- 12) All files, documents and records related to the Property and the Application, P17-00432-ECPA; and
- 13) All other matters of common knowledge to the Director including, but not limited to, County, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the County of Napa and its surrounding areas.

B) The FEIR is on file with the Department and, along with the related planning and other County records, minutes and files constituting the record of proceedings, are incorporated herein by this reference.

SECTION 14. **Location and Custodian of Records.**

The documents and other materials that constitute the record of proceedings on which the Director's findings regarding the mitigation measures and alternatives are based are located at the office and in the custody of the Napa County PBES Department, at 1195 Third Street, Suite 210, Napa, California. The location and custodian of these documents is provided in compliance with Public Resources Code Section 21081.6(a)(2) and 14 Cal. Code of Regulations section 15091(e).

SECTION 15. **Mitigation Monitoring and Reporting Program.**

The Director hereby adopts the Mitigation Monitoring and Reporting Program (MMRP) attached as Exhibit "C."

SECTION 16. **Adoption of the Project and Related Actions.**

The Director hereby:

- A) Adopts the findings of facts and rationales as set forth herein;
- B) Adopts the Modified Project (also considered the Environmentally Superior Alternatives) and rejects the Proposed Project and all of the other Alternatives; and
- C) Approves P17-00432-ECPA, as revised for the Modified Project, subject to the attached Conditions of Approval attached as Exhibit "A".

SECTION 17. **Filing Notice of Determination.**

The Director hereby directs the Department to file a Notice of Determination regarding the Modified Project P17-00432-ECPA within five business days of adoption of these Findings and Conditions of Approval.

SECTION 18. **Effective Date.**

These Finding and Conditions of Approval shall take effect upon the effective date of the Notice of Decision which once issued shall constitute the Decision pursuant to County Code Section 2.88.040 (A)(1) for purposes of filing an appeal.



Brian D. Bordona
Director, Napa County Planning, Building & Environmental Services

Attachments:

- Exhibit “A” – Conditions of Approval
- Exhibit “B” – General Plan Consistency Analysis
- Exhibit “C” –Mitigation Monitoring and Reporting Program (MMRP)

EXHIBIT A

BOARD OF SUPERVISORS APPEAL HEARING JUNE 25, 2024 RECOMMENDED CONDITIONS OF APPROVAL

KJS INVESTMENT PROPERTIES & SORRENTO INC. AGRICULTURAL EROSION CONTROL PLAN #P17-004323380 & 3370 SAGE CANYON ROAD: APNs 025-270-022 & 025-270-025

1. The permittee shall strictly conform to all provisions of the approved Agricultural Erosion Control Plan (ECPA) #P17-00432-ECPA. It is the responsibility of the permittee to communicate the requirements of all conditions and mitigation measures to all designers, contractors, and professionals related to the implementation and maintenance of the ECPA to ensure compliance is achieved.
2. Mitigation Measures: The permittee shall fully comply with the Mitigation Measures contained in the adopted Mitigation Monitoring and Reporting Program dated March 2023 (Chapter 4, KJS & Sorrento Vineyard Conversion FEIR) (attached), incorporated herein by reference as required conditions of approval for the project.
3. Project Security: Pursuant to County Code Section 18.108.140(A)(2), a financial security shall be submitted to the Director within ten days of approval. The financial security shall be in a form approved by County Counsel and shall be in an amount as determined by the Director, sufficient to guarantee restoration of any site disturbance, should the County be required to do so in case of default by the permittee.
4. Preservation Area Restriction: As described in the Mitigation, Monitoring and Report Program, areas required for permanent protection, of no less than 35.2-acres, which shall be situated on developable lands (i.e., on land with slopes less than 30% and located outside of aquatic resource setbacks pursuant to NCC Sections 18.108.025 and 18.108.026, shall be identified as such in a conservation easement with an organization accredited by the Land Trust Accreditation Commission as the grantee, or other equivalent means of permanent protection as approved by the Director of PBES. Areas placed in protection shall be restricted from development and other uses that would degrade the quality of the habitat (including, but not limited to conversion to other land uses such as agriculture or residential development, and excessive off-road vehicle use that increases erosion) and should be otherwise restricted by the existing goals and policies of Napa County. Upon County Counsel's review and approval as to the form of the conservation easement, the applicant shall record the conservation easement prior to any ground disturbing activities, grading, or vegetation removal or within 12 months of project approval, whichever occurs first.
5. The owner/Permittee shall obtain any and all other required Local, State and Federal permits necessary to implement and operate this Project, and provide any necessary notifications, including but not limited to the Fish and Game Code and the Clean Water Act,

prior to commencement of Vegetation Removal and Earth-Disturbing Activities associated with such permits, in addition to the following:

- a. The project owner/permittee shall construct rocked water crossings first, before conducting other vegetation removal, earth-disturbing, or construction activities that require the transport of construction equipment across streams. Before the construction and installation of stream crossings associated with #P17-00432-ECPA, and development of vineyard blocks reliant on those crossings, the owner/permittee shall obtain and demonstrate to the County that all required authorizations and/or permits from agencies with jurisdiction over waters of the United States or the state, such as:
 - i. Water Quality Certification (Section 401 permit) from the Regional Water Board
 - ii. Section 1602 Lake and Streambed Alteration Agreement) from the California Department of Fish and Wildlife
 - iii. Section 404 Nationwide Permit from the U.S. Army Corps of Engineers.
 - b. Issuance of an approved grading permit application by Napa County PBES prior to the start of any construction associated with the water storage reservoir located in Vineyard Block 24A.
6. Pre-construction meeting: The owner/permittee shall schedule an on-site pre-construction meeting that shall include the project planner, owner or owner's agent, vineyard manager, and any other parties deemed necessary by Planning Division staff, such as but is not limited to: County Engineering Division staff, the project biologist, or representatives of any affected responsible or trustee agency. Napa County staff shall be provided a minimum of two weeks' notice for the meeting to provide adequate time to schedule. The purpose of this meeting will be to review the development and operation requirements of #P17-00432-ECPA including but not limited to: implementation and compliance with project specific conditions of approval, preconstruction surveys, timing of development activities and winterization of the site, the details of the approved plan, and the ECPA modification process. All required/necessary protective buffers, including buffer fencing/delineation, shall be installed prior to the pre-construction meeting for inspection by Engineering and Planning Division staff. Development activities associated with #P17-00432-ECPA shall not commence until the owner/permittee has received written clearance from the Engineering and Planning Division indicating that all applicable conditions have been satisfied.
7. Adhering throughout the duration of the project to the Oversight and Operation regulations specified in County Code Section 18.108.135 enclosed, which deal with among other things installation oversight, erosion control measure maintenance, monitoring, failure response, and non-compliance. 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, a qualified professional shall inspect the site and certify in writing to the Director that all of the erosion control measures required at that stage of development have been installed in conformance with the plan and related specifications. The report shall

be provided to the Director of Planning, Building, and Environmental Services ("Director") within 7 days from the inspection.

8. The permittee shall implement the following measures to avoid inadvertent encroachment into specified creek setbacks and special status plant populations:
 - i. The location of all creek setbacks and special status plant populations shall be clearly demarcated in the field with temporary construction fencing or flagging, which shall be placed at the outermost edge of required setbacks shown on the project plans and as outlined in the applicable mitigation measures. Temporary fencing or flagging shall be installed prior to any earthmoving activities. The precise locations of said fences or flagging shall be inspected and approved by the Engineering and Conservation Division prior to any earthmoving and/or development activities. No disturbance, including grading, placement of fill material, storage of equipment, etc. shall occur within the designated areas for the duration of erosion control plan installation and vineyard installation. The protection fencing or flagging shall remain in place during the duration of project implementation and until wildlife exclusion fencing is installed as shown on the approved plans.
 - ii. All construction and related traffic shall remain on the inside (vineyard block side) of the protective fencing to ensure that the creek, buffer zones, and associated riparian habitat and/or woodland remain undisturbed.
 - iii. In accordance with County Code Section 18.108.100 (Erosion hazard areas – Vegetation preservation and replacement), trees that are inadvertently removed which are not within the boundary of the project and/or not identified for removal as part of P17-00432-ECPA shall be replaced on-site with fifteen-gallon trees at a ratio of 2:1 at locations approved by the PBES Director.
 - iv. **Water Quality:** The owner/permittee shall 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 the standard conditions identified in standard Condition of Approval #10 (Hazards and Hazardous Materials), 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, watercourses, 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, unless previous authorized under other entitlement and the site has a County Hazardous Materials Business Plan (HMBP) or adequate equivalent.
9. **Tree/woodland protection:** The owner/permittee shall implement the following measures to protect trees, woodland and associated vegetation cover canopy:

- a. Prior to any earthmoving activities temporary fencing, or other means of project limit demarcation acceptable to the County, shall be placed at the edge of the dripline of trees to be retained that are located adjacent to the project area (typically within approximately 50-feet of the project area). The precise locations of said fences and/or demarcation shall be inspected and approved by the Planning Division prior to the commencement of any earthmoving activities. No disturbance, including grading, placement of fill material, storage of equipment, etc. shall occur within the designated protection areas for the duration of erosion control plan and vineyard installation.
- b. The owner/permittee shall refrain from severely trimming the trees (typically no more than 1/3rd of the canopy) and vegetation to be retained adjacent to the vineyard conversion area.
- c. In accordance with County Code Section 18.108.100 (Erosion hazard areas – Vegetation preservation and replacement) trees that are inadvertently removed that are not within the boundary of the project and/or not identified for removal as part of #P17-00432-ECPA shall be replaced on-site with fifteen-gallon trees at a ratio of 2:1 at locations approved by the planning director. A replacement plan shall be prepared for county review and approval that includes at a minimum, the locations where replacement trees will be planted, success criteria of at least 80%, and monitoring activities for the replacement trees. The replacement plan shall be implemented before vineyard planting activities. Any replaced trees shall be monitored for at least three years to ensure an 80% survival rate. Replacement trees shall be installed and documented that they are in good health prior to completion and finalization of the erosion control plan.

10. Implementation of the following Hazardous Materials Best Management Practices during vineyard maintenance and operations:

- a. The owner/permittee shall implement the Hazardous Materials Business Plan on file (DHD Permit #2920: CERS ID #1017225: DHD Establishment #1125) with the Napa County Division of Environmental Health documenting all proposed hazardous materials to be used onsite during construction and operation. If storage amounts or the use of hazardous materials change during project operation, the owner/permittee shall update the Hazardous Materials Business Plan, as necessary. The Napa County Division of Environmental Health will review the plan and may conduct inspections to ensure that the Hazardous Materials Business Plan is being followed during project operations. Updates to the Hazardous Materials Business Plan, if warranted, will be made through the California Environmental Reporting System.
- b. The owner/permittee shall refrain from disposing of debris, storing materials, or constructing and 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 best management practices for hazardous materials, and to avoid the risk of contaminating surface water or groundwater, all operational activities that include the use or handling of hazardous materials (e.g., storing and washing agricultural chemicals; using portable restrooms; refueling, maintaining, and storing

vehicles and equipment; and storing soil amendments) shall occur at least 100 feet from groundwater wells, watercourses, streams, and any other water resources. This requirement shall apply whether or not such activities occurred in these areas before this ECPA.

- c. During construction and operation, best management practices consistent with recommendations from the Napa County Division of Environmental Health shall be used to reduce hazardous material contamination of surface water and groundwater. Best management practices may include but are not limited to:
 - i. Workers shall follow manufacturers' recommendations on the use, storage, and disposal of chemical products.
 - ii. Workers shall avoid overtopping fuel gas tanks and shall use automatic shutoff nozzles where available.
 - iii. During routine maintenance of equipment, grease and oils shall be properly contained and removed.
 - iv. Discarded containers of fuel and other chemicals shall be disposed of properly.
 - v. Spill containment features shall be installed at the project site wherever chemicals are stored overnight.
 - vi. All refueling, maintenance of vehicles and other equipment, handling of hazardous materials, and project staging areas shall occur at least 100 feet from watercourses, the existing groundwater well, and any other water resource to avoid the risk of surface water or groundwater contamination.
 - vii. To prevent the accidental discharge of fuel or other fluids from 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.

11. Erosion and Runoff Control (i.e. Hydromodification) Installation and Operation): The following conditions, including the recommendations from Gilpin Geosciences' Engineering Geologic Investigation, shall be incorporated by reference into #P17-00432-ECPA pursuant to NCC Chapter 18.108 (Conservation Regulations):

- a. Vineyard blocks proposed for the hillsides of the project site shall avoid introducing concentrated surface runoff at drainages presently showing excessive erosion.
- b. The vineyard blocks proposed for sidehill bench and ridgeline/knoll top areas shall control runoff with consideration for the abrupt change in the slope incline downslope of these features.
- c. Surface runoff shall not be concentrated and shall be directed to an outlet outside of the mapped landslide, where it shall flow onto erosion-resistant surfaces.
- d. No grading shall be attempted on the landslide deposits.
- e. Ripping of the vineyard blocks within the landslide deposits shall be limited to a depth of 24 inches.
- f. Permanent Erosion and Runoff Control Measures: Pursuant to Napa County Code Section 18.108.070(L), installation of runoff and sediment attenuation devices and hydromodification facilities, including but not limited to straw wattles and permanent no-till cover, shall be installed no later than September 15 during the same year that

initial vineyard development occurs. This requirement shall be clearly stated on the final Erosion Control Plan. Additionally, pursuant to Napa County Code Section 18.108.135, "Oversight and Operation," the qualified professional who has prepared the erosion control plan (#P17-00432-ECPA) shall oversee its implementation throughout the duration of the project, and confirm that the erosion control measures, sediment retention devices, and hydromodification facilities specified for the vineyard have been installed and are functioning 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. The professional shall then certify in writing to the planning director, through an inspection report or formal letter of completion, that all erosion control measures, sediment retention devices, and hydromodification facilities required at that stage of development have been installed in conformance with the plan and related specifications and are functioning correctly.

- g. 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 between 75 and 90 percent within the vineyard and vineyard avenues, consistent with the Erosion Control Plan. The cover crop may be strip sprayed in designated vineyard blocks as outlined in the Erosion Control Plan, with a strip no wider than 0.8 to 1.5 feet (9.6 to 18 inches) wide at the base of vines (see the Erosion Control Plan for details), using post-emergent herbicides; no pre-emergent sprays shall be used. 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's "Protocol for Replanting/Renewal of Approved Non-Tilled Vineyard Cover Crops" dated July 19, 2004, or as amended.
- h. Temporary and permanent erosion control measures and devices shall be free of plastic monofilament netting and should generally be composed of biodegradable or compostable materials, and/or utilize biodegradable or compostable materials in their construction, so that reptiles, amphibians, or animals do not become entangled within them.

12. Vineyard Irrigation:

- a. Before the start of any vegetation removal or earthmoving activities associated with development areas located outside of the current authorized place of use, or any portions thereof, the owner/permittee shall provide documentation to Napa County showing or otherwise demonstrating that all portions of this development area are located within the place of use prescribed in Water Right License 9125 and Permit 18459. Development of those areas located outside of the prescribed place of use shall not begin or occur until evidence has been provided to Napa County that the place of use has been changed with the State Water Resources Control Board, Division of Water Rights, to cover said development areas, or until a modification of #P17-00432-ECPA has been processed to evaluate an alternate water supply pursuant to the California Environmental Quality Act and County policies.

- b. Before development of the offstream reservoir, the owner/permittee shall also provide documentation to the County showing or otherwise demonstrating that: i) the offstream location under Permit 18459 has been changed with the State Water Resources Control Board, Division of Water Rights, from an onstream location to the offstream location; ii) that Permit 18459 has been modified to not exceed 48 acre-feet per year by storage collected from December 15 of each year to March 31 of the succeeding year; iii) that Diversions under Permit 18459 would not occur unless the February median bypass flows of 0.6 cfs at Point of Diversion 1 on Elder Creek and 0.9 cfs at Point of Diversion 2 at Matheson Reservoir were met; and iv) that the maximum rate of diversion to offstream storage would not exceed 0.29 cfs at Point of Diversion 1 or 0.41 cfs at Point of Diversion.
 - c. No new or existing on-site or off-site water sources, other than the surface water evaluated as part of the proposed project (i.e., existing water right License 9125 and Permit 18459) shall be used for irrigation of the proposed vineyard. Any other proposed irrigation source, including but not limited to wells, imported water, new or existing ponds/reservoir(s) or other surface water impoundments, to serve the vineyard, shall not be allowed without additional environmental review, if necessary, and may be subject to modification to this ECPA. Before the start of vegetation clearing and earth-disturbing activities for Phase 1 of ECPA development, the owner/permittee shall demonstrate that a minimum of 28 acre-feet of surface water is in storage on the project site. Before the start of vegetation clearing and earth-disturbing activities for Phase 2 of ECPA development, the owner/permittee shall demonstrate that a minimum of 28 acre-feet of surface water is in storage in addition to the amount necessary to irrigate Phase 1 plantings.
13. Water Quality Monitoring: The owner/permittee shall grant access to the City and County to defined access points to the waterways upstream and downstream of the development area to conduct water quality monitoring in accordance with the City and County's 2019 Memorandum of Understanding and 2022 Amendment No. 1 (and any subsequent amendments or extensions thereto) and its associated Hydrology and Water Quality Monitoring Plan. Sample analyses shall be conducted after rain events when the creeks are flowing. Should runoff water exhibit the presence of increased nutrients or any synthetic/manufactured man-made constituents, the City and County will work with the owner/permittee to ensure that BMPs are adjusted to protect water quality.
14. Groundwater Management:
- The owner/permittee shall be required (at the permittee's expense) to record well monitoring data on all on-site wells (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 requested by the PBES Director.
- To support the County's groundwater monitoring program, well monitoring data as discussed above will be provided to the County if the PBES Director determines that such data could be useful in supporting the County's groundwater monitoring program. The

property well(s) will be made available for inclusion in the groundwater monitoring network if the PBES Director determines that the well(s) could be useful in supporting the program.

15. Open Burning: The owner/permittee shall conduct open burning of cleared vegetation in accordance with BAAQMD Regulation 5, which allows open burning only during specified burn periods. Prior notification shall be submitted to BAAQMD and documentation of compliance shall be submitted to Napa County.
16. The disposal of debris, storage of materials, or construction/operation of vineyard avenues outside the boundaries of the approved plan is prohibited. The property owner shall prepare and submit a Hazardous Business Plan to the County and California Environmental Reporting System prior to development.
17. Wildlife exclusion fencing shall be installed and maintained as specified in approved Erosion Control Plan #P17-00432-ECPA.
18. All persons working on-site shall be educated and trained on the EAP (Emergency Action Plan) (Final EIR Appendix A), so that safety measures will be appropriately implemented during emergency incidents, including evacuation plan and communication and reporting protocols/procedures with management and emergency officials.
19. All persons working on-site shall be bound by contract and instructed in the field to adhere to all provisions and restrictions specified above.
20. 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 measures caused by the Permittee's contractors, employees, and guests are the responsibility of the Permittee.
21. The owner and/or the owner's contractor shall keep the approved plans, or a copy thereof, available on-site at all times while site improvement and vineyard installation work is taking place. Said work includes, but is not limited to, ground clearing, grading, vine planting, and installation and maintenance of erosion control measures. Furthermore, prior to commencement of work you must acquire any/all other required Local, State and Federal permits necessary to implement this project.

22. No grading, earthmoving activities, or soil disturbance of any kind can take place between September 15th and April 1st of the following year pursuant to Sections 18.108.027(c) and 18.108.070(L) of the Napa County Conservation Regulations. The property owner may submit a request to extend this deadline by filing a written request and applicable fee total to the Planning, Building, and Environmental Services Department a minimum of ten days prior to the required winterization deadline. Such a request is subject to review and approval by the Director.
23. Compliance with those additional conditions resulting from a private settlement as set forth in Exhibit A-1, attached, and incorporated here by reference. In the event of a conflict between the conditions in Exhibit A and Exhibit A-1, the conditions of Exhibit A-1 shall control.

EXHIBIT A-1

KJS Investment Properties & Sorrento Inc., Vineyard Conversion, Agricultural Erosion Control Plan Application File No. P17-00432-ECPA 3380 and 3370 Sage Canyon Road, APNs 025-270-022 and 025-270-025

Jointly Requested Additional Conditions of Approval

HYPERION VINEYARD HOLDINGS, LLC AND HYPERION INVESTMENTS, LLC ("KJS") and CENTER FOR BIOLOGICAL DIVERSITY ("Center") jointly request that the approval of the Erosion Control Plan include the following exhibits as additional or replacement attachments to the Application and proposed Additional Conditions of Approval:

1. **Replacement Site Plan for Reduced Vineyard Acreage and Revised Project:** Replace the KJS Somerston Site Plan for the Revised ECP with the KJS Investment Properties and Sorrento, Inc. Deed Restriction and Donation Areas dated April 29, 2024, as part of the Revised ECP for the Somerston Vineyards Project (**Exhibit A-2**).

2. **Additional Condition of Approval- Revised Site Plan:** KJS shall remove vineyard blocks 1, 2, 3, 4, 5, 7 and 9 (A, B, C, D, F, G) in the southern parcel, parcel 025-270-025, from the Project footprint, as shown in **Exhibit A-2**. KJS shall submit the Revised ECP with the reduced vineyard planting acreage shown in **Exhibit A-2** for the County's Records within 30 days of Board action occurring on June 25, 2024. Except for the changes identified in Condition 1, the Revised ECP shall remain substantially identical to the ECP approved by the PBES Director on November 3, 2023. KJS shall have the right to continue planting its existing vineyards that were not a subject of the Revised ECP and to plant blocks 12 and 13B in the southern parcel, and all vineyard blocks in the northern parcel, parcel 025-270-022 as part of the Revised Project Approvals.

3. **Additional Condition of Approval - Deed Restricted Property.** Within 30 days after the County has approved the Revised ECP for the Revised Project, KJS shall record with the County a deed restriction on the land in the southern parcel 025-270-025 previously proposed for development as vineyard blocks 1, 2, 3, 4, 5, 7 and 9 ("Deed Restricted Property"), as shown in **Exhibit A-2**. The deed restriction shall prohibit any future vineyard development or agricultural use of the Deed Restricted Property.

4. **Additional Condition of Approval - Donation of Land in Fee Title Interest.** KJS will be required to apply for and receive a lot line adjustment or such other subdivision approval ("LLA") necessary to create a legal parcel for donation to the Land Trust of Napa County ("Napa Land Trust") prior to commencement of grading. Within 30 days after the County's approval and recordation of the LLA, and prior to grading on the Project site, KJS shall convey 62.8 acres of land in the northern part of parcel 025-270-022, as shown more particularly in **Exhibit A-2** (the "Donated Land"), in fee title interest and free of any restriction, lien, or encumbrance, to the Napa Land Trust. In the event that the County approves a smaller vineyard development area as part of the Revised Project, the Donated Land shall be proportionately reduced. The Donated Land shall be contiguous to land currently owned by the Napa Land Trust to the west of the Property boundary. In the event that Napa County does not approve the Revised Project, KJS shall not be required to donate any land to the Napa Land Trust and this obligation shall be null and void.

Exhibit B

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
Agricultural Preservation and Land Use Element				
AG/LU-1	Agriculture and related activities are the primary land uses in Napa County.	Yes	Appendix B (Section 2, <i>Agriculture and Forestry Resources</i>)	N/A
AG/LU-4	The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.	Yes	Appendix B (Section 2, <i>Agriculture and Forestry Resources</i>)	N/A
AG/LU-20	<p>The following standards shall apply to lands designated as Agriculture, Watershed, and Open Space on the Land Use Map of this General Plan.</p> <p>Intent: To provide areas where the predominant use is agriculturally oriented; where watersheds are protected and enhanced; where reservoirs, floodplain tributaries, geologic hazards, soil conditions, and other constraints make the land relatively unsuitable for urban development; where urban development would adversely impact all such uses; and where the protection of agriculture, watersheds, and floodplain tributaries from fire, pollution, and erosion is essential to the general health, safety, and welfare.</p> <p>General Uses: Agriculture, processing of agricultural products, single-family dwellings.</p>	Yes	Impact 3.8-1	N/A
Circulation Element				
CIR-31	The County seeks to provide a roadway system that maintains current roadway capacities in most locations and is efficient in providing local access.	Yes	Impacts 3.10-1 through 3.10-4	N/A
CIR-38	The County seeks to maintain operations of roads and intersections in the unincorporated County area that minimize travel delays and promote safe access for all users. Operational analysis shall be conducted according to the latest version of the Highway Capacity Manual and as described in the current version of the County's Transportation Impact Study Guidelines. In general, the County seeks to maintain Level of Service (LOS) D on arterial roadways and at signalized intersections, as the service level that best aligns with the County's desire to balance its rural character with the needs of supporting economic vitality and growth.	Yes	Impacts 3.10-1 and 3.10-2	N/A
CIR-40	The County shall maintain and apply consistent highway access standards regarding new driveways to minimize interference with through traffic while providing adequate local access. The County shall also maintain and apply consistent standards (though not exceeding public road standards) regarding road widths, turn lanes, and other improvements required in association with new development. When a project is proposed in a location such that County roads are needed to access the nearest fully staffed fire station, the County may require the developer to improve the County roads to meet adequate fire protection standards similar to improvements required on the developer's property.	Yes	Impact 3.10-3	N/A

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
Conservation Element				
CON-1	The County will preserve land for greenbelts, forest, recreation, flood control, adequate water supply, air quality improvement, habitat for fish, wildlife and wildlife movement, native vegetation, and natural beauty. The County will encourage management of these areas in ways that promote wildlife habitat renewal, diversification, and protection.	Yes, with mitigation	Impacts 3.3-1 through 3.3-5	Mitigation Measures 3.3-1a through 3.3-5b
CON-2	The County shall identify, improve, and conserve Napa County's agricultural land through the following measures: ... c) Require that existing significant vegetation be retained and incorporated into agricultural projects to reduce soil erosion and to retain wildlife habitat. When retention is found to be infeasible, replanting of native or non-invasive vegetation shall be required. ... f) Minimize pesticide and herbicide use and encourage research and use of integrated pest control methods such as cultural practices, biological control, host resistance, and other factors.	Yes, with mitigation	Chapter 2, <i>Project Description</i> ; Appendix A; Impacts 3.3-1 through 3.3-5; Impact 3.6-1	Mitigation Measures 3.3-1a through 3.3-5b
CON-4	The County recognizes that preserving watershed open space is consistent with and critical to the support of agriculture and agricultural preservation goals.	Yes	Chapter 2, <i>Project Description</i> ; Appendix A	N/A
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.	Yes, with mitigation	Impacts 3.3-1, 3.3-2, 3.3-3, 3.5-2, and 3.5-4	Mitigation Measures 3.3-1a, 3.3-3a, 3.3-3b, 3.3-3c, and 3.5-2c
CON-9	The County shall pursue a variety of techniques and practices to achieve the County's Open Space Conservation policies, including: a) Exclusive agriculture zoning or Transfer of Development Rights. b) Acquisition through purchase, gift, grant, bequest, devise, lease, or otherwise, the fee or any lesser interest or right in real property. c) Williamson Act or other incentives to maintain land in agricultural production or other open space uses. d) Requirements for mitigation of development impacts, either on-site or at other locations in the county or through the payment of in-lieu fees in limited circumstances when impacts cannot be avoided.	Yes, with mitigation	Impacts 3.3-1, 3.3-2, and 3.3-5	Mitigation Measures 3.3-1a, 3.3-1i, 3.3-2a, 3.3-5a, and 3.3-5b
CON-10	The County shall conserve and improve fisheries and wildlife habitat in cooperation with governmental agencies, private associations and individuals in Napa County.	Yes, with mitigation	Impacts 3.3-1 through 3.3-5	Mitigation Measures 3.3-1a through 3.3-5b

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
CON-11	<p>The County shall maintain and improve fisheries habitat through a variety of appropriate measures, including the following as well as best management practices developed over time: ...</p> <p>m) Control sediment production from mines, roads, development projects, agricultural activities, and other potential sediment sources.</p> <p>n) Implement road construction and maintenance practices to minimize bank failure and sediment delivery to streams. ...</p>	Yes	Chapter 2, <i>Project Description</i> ; Appendix A; Impact 3.5-3	N/A
CON-13	<p>The County shall require that all discretionary residential, commercial, industrial, recreational, agricultural, and water development projects 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:</p> <p>a) Maintain the following essentials for fish and wildlife resources:</p> <ol style="list-style-type: none"> 1) Sufficient dissolved oxygen in the water. 2) Adequate amounts of proper food. 3) Adequate amounts of feeding, escape, and nesting habitat. 4) Proper temperature through maintenance and enhancement of streamside vegetation, volume of flows, and velocity of water. ... <p>d) Provide protection for habitat supporting special-status species through buffering or other means. ...</p> <p>g) Require temporary or permanent buffers of adequate size (based on the requirements of the subject special-status species) to avoid nest abandonment by birds and raptors associated with construction and site development activities.</p>	Yes, with mitigation	Impacts 3.3-1 through 3.3-5	Mitigation Measures 3.3-1a through 3.3-5b
CON-14	<p>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.</p>	Yes, with mitigation	Impacts 3.3-1, 3.3-3 and 3.3-4	Mitigation Measures 3.3-1a, 3.3-3a, 3.3-3b, 3.3-3c, and 3.3-4
CON-16	<p>The County shall require a biological resources evaluation for discretionary projects in areas identified to contain or potentially contain special-status species based upon data provided in the Baseline Data Report (BDR), California Natural Diversity Database (CNDDB), or other technical materials. This evaluation shall be conducted prior to the approval of any earthmoving activities. The County shall also encourage the development of programs to protect special-status species and disseminate updated information to state and federal resource agencies.</p>	Yes	Section 3.3; Appendix E	N/A

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
CON-17	<p>Preserve and protect native grasslands, serpentine grasslands, mixed serpentine chaparral, and other sensitive biotic communities and habitats of limited distribution. The County, in its discretion, shall require mitigation that results in the following standards:</p> <ul style="list-style-type: none"> a) Prevent removal or disturbance of sensitive natural plant communities that contain special-status plant species or provide critical habitat to special-status animal species. b) In other areas, avoid disturbances to or removal of sensitive natural plant communities and mitigate potentially significant impacts where avoidance is infeasible. ... d) Encourage scientific study and require monitoring and active management where biotic communities and habitats of limited distribution or sensitive natural plant communities are threatened by the spread of invasive non-native species. e) Require no net loss of sensitive biotic communities and habitats of limited distribution through avoidance, restoration, or replacement where feasible. Where avoidance, restoration, or replacement is not feasible, preserve like habitat at a 2:1 ratio or greater within Napa County to avoid significant cumulative loss of valuable habitats. 	Yes, with mitigation	Impacts 3.3-1, 3.3-2, and 3.3-5	Mitigation Measures 3.3-1a, 3.3-1i, 3.3-2a, 3.3-5a, and 3.3-5b
CON-18	<p>To reduce impacts on habitat conservation and connectivity:</p> <ul style="list-style-type: none"> a) In sensitive domestic water supply drainages where new development is required to retain between 40 and 60 percent of the existing (as of June 16, 1993) vegetation onsite, the vegetation selected for retention should be in areas designed to maximize habitat value and connectivity. ... c) Preservation of habitat and connectivity of adequate size, quality, and configuration to support special-status species should be required within the project area. The size of habitat and connectivity to be preserved shall be determined based on the specific needs of the species. d) 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. e) The County shall require new vineyard development to be designed to minimize the reduction of wildlife movement to the maximum extent feasible. In the event the County concludes that such development will have a significant impact on wildlife movement, the County may require the applicant to relocate or remove existing perimeter fencing installed on or after February 16, 2007 to offset the impact caused by the new vineyard development. 	Yes, with mitigation	Impacts 3.3-1 through 3.3-5, and Impact 3.8-1	Mitigation Measures 3.3-1a through 3.3-5b
CON-19	The County shall encourage the preservation of critical habitat areas and habitat connectivity through the use of conservation easements or other methods as well as through continued implementation of the Napa County Conservation Regulations associated with vegetation retention and setbacks from waterways.	Yes, with mitigation	Impacts 3.3-1 through 3.3-5	Mitigation Measures 3.3-1a through 3.3-5b

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
CON-22	The County shall encourage the protection and enhancement of natural habitats which provide ecological and other scientific purposes. As areas are identified, they should be delineated on environmental constraints maps so that appropriate steps can be taken to appropriately manage and protect them.	Yes, with mitigation	Impacts 3.3-1 through 3.3-5	Mitigation Measures 3.3-1a through 3.3-5b
CON-24	<p>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:</p> <ul style="list-style-type: none"> 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 (Public Resources Code 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. d) Support hardwood cutting criteria that require retention of adequate stands of oak trees sufficient for wildlife, slope stabilization, soil protection, and soil production be left standing. 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. 	Yes, with mitigation	Impacts 3.3-1, 3.3-2, and 3.3-5	Mitigation Measures 3.3-1a, 3.3-2a, 3.3-5a, and 3.3-5b
CON-26	Consistent with Napa County's Conservation Regulations, natural vegetation retention areas along perennial and intermittent streams shall vary in width with steepness of the terrain, the nature of the undercover, and type of soil. The design and management of natural vegetation areas shall consider habitat and water quality needs, including the needs of native fish and special-status species and flood protection where appropriate. Site-specific setbacks shall be established in coordination with Regional Water Quality Control Boards, California Department of Fish and Game [CDFW], U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration National Marine Fisheries Service, and other coordinating resource agencies that identify essential stream and stream reaches necessary for the health of populations of native fisheries and other sensitive aquatic organisms within the County's watersheds.	Yes, with mitigation	Chapter 2, <i>Project Description</i> ; Appendix A; Impacts 3.3-1, 3.3-3 and 3.3-4	Mitigation Measures 3.3-1a, 3.3-3a, 3.3-3b, and 3.3-3c

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
CON-26 (cont.)	Where avoidance of impacts to riparian habitat is infeasible along stream reaches, appropriate measures will be undertaken to ensure that protection, restoration, and enhancement activities will occur within these identified stream reaches that support or could support native fisheries and other sensitive aquatic organisms to ensure a no net loss of aquatic habitat functions and values within the county's watersheds.			
CON-27	The County shall enforce compliance and continued implementation of the intermittent and perennial stream setback requirements set forth in existing stream setback regulations, provide education and information regarding the importance of stream setbacks and the active management and enhancement/restoration of native vegetation within setbacks, and develop incentives to encourage greater stream setbacks where appropriate. Incentives shall include streamlined permitting for certain vineyard proposals on slopes between 5 and 30 percent and flexibility regarding yard and road setbacks for other proposals.	Yes	Chapter 2, <i>Project Description</i> ; Appendix A; Impact 3.3-1, 3.3-2, 3.3-3, 3.3-4	Mitigation Measures 3.3-1a, 3.3-2a, 3.3-3a, 3.3-3b, 3.3-3c, and 3.3-4
CON-28	To offset possible additional losses of riparian woodland due to discretionary development projects and conversions, developers shall provide and maintain similar quality and quantity of replacement habitat or in-kind funds to an approved riparian woodland habitat improvement and acquisition fund in Napa County. While on-site replacement is preferred where feasible, replacement habitat may be either on-site or off-site as approved by the County.	Yes, with mitigation	Impact 3.3-5	Mitigation Measures 3.3-5a and 3.3-5b
CON-29	The County shall coordinate its efforts with other agencies and districts such as the Resource Conservation District and share a leading role in developing and providing outreach and education related to stream setbacks and other best management practices that protect and enhance the County's natural resources.	Yes	Chapter 2, <i>Project Description</i> ; Appendix A	N/A
CON-30	All public and private projects shall avoid impacts to wetlands to the extent feasible. If avoidance is not feasible, projects shall mitigate impacts to wetlands consistent with state and federal policies providing for no net loss of wetland function.	Yes, with mitigation	Chapter 2, <i>Project Description</i> ; Appendix A; and Impact 3.3-3	Mitigation Measures 3.3-3a, 3.3-3b, and 3.3-3c
CON-41	The County will work to protect Napa County's watersheds and public and private water reservoirs to provide for the following purposes: a) Clean drinking water for public health and safety; b) Municipal uses, including commercial, industrial and domestic uses; c) Support of the eco-systems; d) Agricultural water supply; e) Recreation and open space; and f) Scenic beauty.	Yes	Impacts 3.7-1 through 3.7-5	N/A

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
CON-42	The County shall work to improve and maintain the vitality and health of its watersheds. Specifically, the County shall: ... d) Support environmentally sustainable agricultural techniques and best management practices (BMPs) that protect surface water and groundwater quality and quantity (e.g., cover crop management, integrated pest management, informed surface water withdrawals and groundwater use). ...	Yes	Chapter 2, <i>Project Description</i> ; Appendix A; and Impacts 3.7-1 through 3.7-4	N/A
CON-45	Protect the County's domestic supply drainages through vegetation preservation and protective buffers to ensure clean and reliable drinking water consistent with state regulations and guidelines. Continue implementation of current Conservation Regulations relevant to these areas, such as vegetation retention requirements, consultation with water purveyors/system owners, implementation of erosion controls to minimize water pollution, and prohibition of detrimental recreational uses.	Yes	Chapter 2, <i>Project Description</i> ; Appendix A; and Impacts 3.3-1, 3.3-3, 3.3-4, and 3.7-1	Mitigation Measures 3.3-1a, 3.3-3a, 3.3-3b, and 3.3-3c
CON-47	The County shall comply with applicable Water Quality Control/Basin Plans as amended through the Total Maximum Daily Load (TMDL) process to improve water quality.	Yes	Impacts 3.7-1 and 3.7-4	N/A
CON-48	Proposed developments shall implement project-specific sediment and erosion control measures (e.g., erosion control plans and/or stormwater pollution prevention plans) that maintain predevelopment sediment erosion conditions or at a minimum comply with State water quality pollution control (i.e., Basin Plan) requirements and are protective of the County's sensitive domestic supply watersheds. Technical reports and/or erosion control plans that recommend site-specific erosion control measures shall meet the requirements of the County Code and provide detailed information regarding site specific geologic, soil, and hydrologic conditions and how the proposed measure will function.	Yes	Impacts 3.7-1 and 3.7-4	N/A
CON-50	The County will take appropriate steps to protect surface water quality and quantity, including the following: a) Preserve riparian areas through adequate buffering and pursue retention, maintenance, and enhancement of existing native vegetation along all intermittent and perennial streams through existing stream setbacks in the County's Conservation Regulations (also see Policy CON-27 which retains existing stream setback requirements). ... c) The County shall require discretionary projects to meet performance standards designed to ensure peak runoff in 2-, 10-, 50-, and 100-year events following development is not greater than predevelopment conditions. d) Maintain minimum lot sizes of not less than 160 acres in Agriculture, Watershed, and Open Space (AWOS) designated areas to reflect desirable densities based on access, slope, productive capabilities for agriculture and forestry, sewage disposal, water supply, wildlife habitat, and other environmental considerations.	Yes	Chapter 2, <i>Project Description</i> ; Appendix A; Impacts 3.3-1, 3.3-2, 3.3-3, 3.3-4, and 3.7-1 through 3.7-4	Mitigation Measures 3.3-1a, 3.3-2a, 3.3-3a, 3.3-3b, 3.3-3c, and 3.3-4

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
CON-50 (cont.)	<p>e) In conformance with National Pollution Discharge Elimination System (NPDES) requirements, prohibit grading and excavation unless it can be demonstrated that such activities will not result in significant soil erosion, silting of lower slopes or waterways, slide damage, flooding problems, or damage to wildlife and fishery habitats. ...</p> <p>g) Address potential soil erosion by maintaining sections of the County Code that require all construction-related activities to have protective measures in place or installed by the grading deadlines established in the Conservation Regulations. In addition, the County shall ensure enforceable fines are levied upon code violators and shall require violators to perform all necessary remediation activities.</p> <p>h) Require replanting and/or restoration of riparian vegetation to the extent feasible as part of any discretionary permit or erosion control plan approved by the County, understanding that replanting or restoration that enhances the potential for Pierce's Disease or other vectors is considered infeasible. ...</p>			
CON-53	The County shall ensure that the intensity and timing of new development are consistent with the capacity of water supplies and protect groundwater and other water supplies by requiring all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval.	Yes	Impacts 3.7-2 and 3.7-5	N/A
CON-65	<p>The County shall support efforts to reduce and offset greenhouse gas (GHG) emissions and strive to maintain and enhance the County's current level of carbon sequestration functions through the following measures: ...</p> <p>b) Preserve and enhance the values of Napa County's plant life as carbon sequestration systems to recycle greenhouse gases.</p>	Yes	Impact 3.2-5	N/A
Safety Element				
SAF-8	Consistent with County ordinances, require a geotechnical study for new projects and modifications of existing projects or structures located in or near known geologic hazard areas, and restrict new development atop or astride identified active seismic faults in order to prevent catastrophic damage caused by movement along the fault.	Yes	Impacts 3.5-2 and 3.5-4	Mitigation Measure 3.5-2
SAF-9	As part of the review and approval of development and public works projects, planting of vegetation on unstable slopes shall be incorporated into project designs when this technique will protect structures at lower elevations and minimize the potential for erosion or landslides.	Yes	Chapter 2, <i>Project Description</i> ; Appendix A	N/A
SAF-10	No extensive grading shall be permitted on slopes over 15 percent where landslides or other geologic hazards are present unless the hazard(s) are eliminated or reduced to a safe level.	Yes, with mitigation	Chapter 2, <i>Project Description</i> ; Appendix A; Impacts 3.5-2 and 3.5-4	Mitigation Measure 3.5-2

CONSISTENCY OF THE PROPOSED PROJECT WITH THE NAPA COUNTY GENERAL PLAN

Relevant Policy	Policy Summary	Is the Proposed Project Consistent?	Draft EIR Analysis	Mitigation Measure(s)
SAF-30	Potential hazards resulting from the release of liquids (wine, water, petroleum products, etc.) from the possible rupture or collapse of aboveground tanks should be considered as part of the review and permitting of these projects.	Yes	Impact 3.6-1	N/A

NOTES: County = Napa County; EIR = environmental impact report; N/A = not applicable

SOURCE: Data compiled by Environmental Science Associates in 2021

Exhibit C

CHAPTER 4

MITIGATION MONITORING AND REPORTING PROGRAM

4.1 INTRODUCTION

Public Resources Code (PRC) Section 21081.6 and Section 15097 of the California Environmental Quality Act (CEQA) Guidelines (State CEQA Guidelines) require public agencies to establish monitoring or reporting programs for projects they approve whenever approval involves adopting either a mitigated negative declaration or specified environmental findings related to environmental impact reports (EIRs).

This Mitigation Monitoring and Reporting Program (MMRP) was developed to ensure that Napa County carries out the adopted measures to mitigate and/or avoid significant environmental impacts associated with the implementation of the KJS and Sorrento Vineyard Conversion Erosion Control Plan Application Project (#P17-00432-ECPA) (proposed project).

Napa County will use this MMRP to ensure compliance with mitigation measures during project implementation. The mitigation measures identified in this MMRP were developed as part of the EIR process for the proposed project. Conditions of approval that were included in the Draft EIR are listed in Final EIR **Appendix F**.

4.2 MMRP COMPONENTS

The components of **Table 4-1**, which contains applicable mitigation measures, are addressed briefly below.

Issue Area: This column lists the impact numbers from the Draft EIR.

Impact: This column summarizes the impact identified in the KJS and Sorrento Vineyard Conversion Erosion Control Plan Application Project (#P17-00432-ECPA) Draft EIR.

Mitigation Measure: All mitigation measures identified in the Draft EIR are presented, as revised in the Final EIR, and numbered accordingly. Note that some of the text for the mitigation measures in Table 4-1 has been edited (relative to the Draft EIR) for clarity/completeness and non-substantive revisions are not reflected in Final EIR Chapter 2.

Responsibility for Implementing: This item identifies the entity that will undertake the required mitigation.

Responsibility for Monitoring: Napa County is primarily responsible for ensuring that mitigation measures are successfully implemented. Napa County may contract out for these services and/or make them part of the construction specifications, and other agencies may also be responsible for monitoring the implementation of mitigation measures. As a result, more than one monitoring party may be identified.

Monitoring and Reporting Actions: For each mitigation measure, one or more actions are described. The actions delineate the means by which the mitigation measures will be implemented and, in some instances, the criteria for determining whether a measure has been successfully implemented. Where mitigation measures are particularly detailed, the action may refer back to the measure.

Timing: Implementation of the action must occur before or during some part of project approval, project design, or construction, or on an ongoing basis. The timing for each measure is identified.

TABLE 4-1
KJS AND SORRENTO VINEYARD CONVERSION #P17-00432-ECPA MITIGATION MONITORING AND REPORTING PROGRAM

Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.2 Air Quality and Greenhouse Gas Emissions	3.2-1: Construction and operation of the proposed project could conflict with or obstruct implementation of BAAQMD's 2017 Clean Air Plan.	Mitigation Measure 3.2-1a (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Construction contractors shall be required to implement the following measures consistent with the BAAQMD-recommended basic control measures during construction: <ol style="list-style-type: none">All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.All haul trucks transporting soil, sand, or other loose material off-site shall be covered.All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.Idling times shall be minimized either by shutting equipment off when not in use or by reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure, 13 CCR Section 2485). Clear signage shall be provided for construction workers at all access points.All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.A publicly visible sign shall be posted with the telephone number and person to contact at Napa County regarding dust complaints. This person shall respond and take corrective action within 48 hours. To ensure compliance with applicable regulations, BAAQMD's phone number shall also be visible.	Construction contractor	Napa County, construction contractor	Implement measures consistent with the BAAQMD-recommended basic control measures.	During construction
	3.2-2: Construction and operation of the proposed project could result in a cumulatively considerable net increase of a criteria air pollutant for which the Bay Area is in nonattainment under an applicable federal or state air quality standard.	Implement Mitigation Measure 3.2-1a (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative)	See above.	See above.	See above.	See above.
3.3 Biological Resources	3.3-1: Construction and operation of the proposed project could have a substantial adverse effect, either directly or through habitat modifications, on a species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS.	Mitigation Measure 3.3-1a (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Erosion Control Plan #P17-00432-ECPA shall be revised before approval to reduce the footprint of the proposed vineyard blocks surrounding Elder Creek and the unnamed pond by increasing the upland nesting and overland movement buffer from 50 feet to 100 feet in portions of proposed vineyard Blocks 6, 17, 23A, 23B, 23E, 23G, 24B, 24C, 24E, 24G, 29B, 33A, and 33E. The blue dotted lines in Figure 3.3-5 show where the buffer shall be a minimum of 100 feet and Figure 3.3-6 shows the mitigated proposed project. The location of wildlife exclusion fencing in these areas shall also be revised in the ECPA according this mitigation measure and Mitigation Measure 3.3-4 before approval, and shall generally be limited to the outside edge of the vineyard avenues. No barbed wire shall be permitted.	Construction contractor, owner/permittee	Napa County, CDFW	Revise Erosion Control Plan #P17-00432-ECPA before approval to increase the upland nesting and overland movement buffer to 100 feet in portions of the proposed vineyard Blocks 6, 17, 23A, 23B, 23G, 24B, 24C, 24E, 24G, 29B, 33A, and 33E. Revise Erosion Control Plan #P17-00432-ECPA before approval to be located outside of the 100-foot buffer per this Mitigation Measure and Mitigation Measure 3.3-4.	Before construction

TABLE 4-1
KJS AND SORRENTO VINEYARD CONVERSION #P17-00432-ECPA MITIGATION MONITORING AND REPORTING PROGRAM

Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.3 Biological Resources (cont.)	3.3-1 (cont.)	Mitigation Measure 3.3-1b (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): A qualified biologist shall provide a worker education and awareness program to all on-site personnel before the start of materials staging or ground-disturbing activities within 492 feet of Elder Creek or the unnamed pond. (The term “qualified” refers to a biologist or biological monitor who is knowledgeable and experienced in the biology and natural history of local herpetology, mammalian, and avian resources with potential to occur at the project site.) The qualified biologist shall explain to construction workers how best to avoid impacts on western pond turtle, foothill yellow-legged frog, and California red-legged frog. This education program shall include topics related to species identification, life history descriptions, and habitat requirements during various life stages. The program should include handouts, illustrations, photographs, and project maps showing areas where minimization and avoidance measures are in place, and where these species would most likely occur if present. Crew members shall sign a sign-in sheet documenting that they received the training. Documentation that the worker education and awareness program has occurred, including any education program handouts, illustrations, photographs, or project maps shall be submitted to Napa County before project vegetation removal or earth-disturbing activities begin.	Qualified biologist	Napa County, qualified biologist	Prepare and implement a worker education and awareness program prior to staging or ground-disturbing activities within 492 feet of Elder Creek or the unnamed pond. Document any worker education and awareness program that has occurred and submit to Napa County.	Before construction
		Mitigation Measure 3.3-1c (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): i. A qualified biologist shall conduct a preconstruction survey within 24 hours before the removal of vegetation and initial project grading within 492 feet of suitable aquatic habitat for western pond turtle and California red-legged frog. A preconstruction survey for foothill yellow-legged frog shall also occur and shall be focused on carefully examining the bank no less than 50 feet of the Elder Creek streambed where the water diversion structure will be installed, where appropriate, and at least 500 feet upstream and downstream of the water diversion structure site. During the preconstruction survey, the qualified biologist shall relocate any western pond turtles found within the proposed development area to suitable habitat away from the construction zone, but outside the development area. Should any active western pond turtle nests be observed within the development area, a minimum 50-foot avoidance buffer shall be established. No work shall occur within the buffer. ii. Should any California red-legged frogs be present within the development area during the preconstruction survey, no work shall begin. The qualified biologist shall contact Napa County, USFWS, and CDFW within 24 hours of the observation. Work shall not begin until USFWS has provided authorization and the frog has left on its own accord. If foothill yellow-legged frogs are discovered during the preconstruction survey, the qualified biologist shall contact Napa County and CDFW within 24 hours, and project construction shall not begin until CDFW provides written permission to do so. If foothill yellow-legged frogs are discovered during project construction, all work in the immediate area shall cease until the individual moves out of harm’s way, as determined by the on-site biological monitor. iii. A copy of the preconstruction survey results, that includes any find and relocation efforts shall be provided to Napa County and CDFW before project vegetation removal or earth-disturbing activities begin.	Qualified biologist	Napa County, qualified biologist, CDFW	Conduct preconstruction survey for western pond turtle and California red-legged frog within 492 feet of suitable aquatic habitat. If any western pond turtles are found, the qualified biologist will relocate the western pond turtle to suitable habitat outside of the development area. If any western pond turtle nests are found, a 50-foot avoidance buffer will be established. If any California red-legged frogs are found during the preconstruction survey, no work shall occur and USFWS, Napa County and CDFW will be notified. No work will begin until USFWS has provided authorization. Provide USFWS, Napa County and CDFW with a copy of the survey results for review and written acceptance.	Before construction

TABLE 4-1
KJS AND SORRENTO VINEYARD CONVERSION #P17-00432-ECPA MITIGATION MONITORING AND REPORTING PROGRAM

Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.3 Biological Resources (cont.)	3.3-1 (cont.)	<p>Mitigation Measure 3.3-1d (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative):</p> <p>i. A qualified biological monitor shall directly supervise all vegetation clearing, earth-disturbing activities, and infrastructure installation occurring within 492 feet of suitable aquatic habitat for western pond turtle, California red-legged frog, and foothill yellow-legged frog. Before project vegetation removal or earth-disturbing activities begin, the owner/permittee shall provide documentation to Napa County that a qualified biologist (or biological monitor) is under contract to conduct the supervision, monitoring, and reporting specified by this measure.</p> <p>ii. Should any western pond turtles be detected near the development area during construction, the biological monitor shall relocate any western pond turtles found within the development area to suitable habitat outside the development area, but within the project site.</p> <p>iii. Should any California red-legged frogs be present within the development area during construction, work shall halt. The biological monitor shall contact Napa County, USFWS, and CDFW within 24 hours of the observation. Work shall not resume until the County and USFWS have provided authorization and the frog has left on its own accord. Within 14 days after the final monitoring event, the qualified biological monitor shall submit a letter report to the County summarizing the results of the biological monitoring.</p> <p>iv. If foothill yellow-legged frogs are discovered during project construction, all work in the immediate area shall cease until the individual moves out of harm's way, as determined by the on-site biological monitor.</p>	Qualified biologist	Napa County, qualified biologist, USFWS, CDFW	<p>A qualified biologist will monitor activities within 492 feet of suitable aquatic habitat for western pond turtle, California red-legged frog and foothill yellow-legged frog. Documentation will be provided to Napa County that a qualified biologist (or biological monitor) is under contract.</p> <p>If any western pond turtles are found, the qualified biologist will relocate the western pond turtle to suitable habitat outside of the development area.</p> <p>If any California red-legged frogs are found, no work shall occur and USFWS, Napa County and CDFW will be notified. No work will begin until USFWS has provided authorization.</p> <p>If foothill yellow-legged frogs are found, all work in the immediate area shall cease until the individual moves out of harm's way, as determined by the on-site biological monitor.</p> <p>Qualified biologist will provide Napa County a letter summarizing results of biological monitoring within 14 days of the final monitoring event.</p>	During construction
		<p>Mitigation Measure 3.3-1e (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Before tree removal and other earth-disturbing activities begin during the Swainson's hawk nesting season (March 1 through September 15, coinciding with the grading season of April 1 through September 1 [Napa County Code Section 18.108.070.L]), a qualified biologist shall conduct at least one protocol-level preconstruction survey. (A "qualified biologist" is defined as a person knowledgeable and experienced in the biology and natural history of local avian resources with potential to occur at the project site.) The protocol-level preconstruction survey shall be conducted during the recommended survey periods for the nesting season that coincides with the start of construction activities by phase, in accordance with the <i>Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley</i> (Appendix E; Swainson's Hawk Technical Advisory Committee 2000). For example, if construction will begin on or around April 1, the preconstruction survey shall occur during Survey Period I, which extends from January to March 20. If construction will begin on or around April 15, the preconstruction survey shall occur during Survey Period II, which extends from March 20 to April 5.</p> <p>The qualified biologist shall conduct surveys for nesting Swainson's hawk within 0.25 mile of all project development areas applicable to the proposed phased construction, where legally permitted. If access to adjacent properties is denied, the biologist shall use binoculars to visually determine whether Swainson's hawk nests are present within 0.25 mile of the project development areas slated for that year/phase.</p> <p>If no active Swainson's hawk nests are identified on or within 0.25 mile of the project development areas, the qualified biologist shall submit a report summarizing the survey results to Napa County within 5 days after the final survey. In this case, no further avoidance and minimization measures for nesting habitat are required for that phase. The same survey protocol shall be conducted before implementation of each project phase.</p>	Qualified biologist	Napa County, qualified biologist	<p>Conduct preconstruction survey for nesting Swainson's hawks within 0.25 mile of the project development area.</p> <p>Provide Napa County a copy of the survey results within 5 days after the final survey.</p>	Before construction

TABLE 4-1
KJS AND SORRENTO VINEYARD CONVERSION #P17-00432-ECPA MITIGATION MONITORING AND REPORTING PROGRAM

Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.3 Biological Resources (cont.)	3.3-1 (cont.)	<p>Mitigation Measure 3.3-1f (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): If any active Swainson's hawk nests are found within 0.25 mile of the development areas proposed during that phase of construction, the qualified biologist shall contact Napa County and CDFW via phone call or email within 1 day after the preconstruction survey to report the findings. For this avoidance and minimization requirement, "construction activities" are defined to include operation of heavy equipment for construction (use of bulldozers or excavators, haul trucks, loaders, and tractors) or other project-related activities that could cause nest or fledging abandonment within 0.25 mile of a nest site between March 1 and September 15.</p> <p>Should active nest(s) be present within 0.25 mile of development areas, the County and CDFW shall be consulted to develop take avoidance measures including but not limited to the following:</p> <ul style="list-style-type: none">Establishing appropriate noise buffers.Installing high-visibility construction fencing around the buffer zone. Following the installation of any such fencing, it shall be inspected and approved by the County.Implementing a monitoring and reporting program before any construction activities occur within 0.25 mile of the nest. <p>The monitoring and reporting program shall include, at minimum, the presence of a full-time qualified biological monitor to monitor the nest during all construction activities. After take avoidance measures are implemented and construction activities begin, if the qualified biological monitor determines that the construction activities are disturbing the nest, construction activities shall cease until the County and CDFW are consulted. The construction activities shall not resume until the County, in cooperation with CDFW, has determined that construction activities would not result in abandonment of the nest site.</p> <p>Once the qualified biologist confirms that the nest is no longer active or that the nest would not be disturbed during construction activities within the buffer zone, the biologist shall submit a report summarizing the monitoring results to the County and CDFW within 30 days after the final monitoring event. In this case, no further avoidance and minimization measures for nesting habitat are required for that phase of construction.</p>	Owner/permittee, qualified biologist	Napa County, qualified biologist, CDFW	<p>If nesting Swainson's hawks are found, a qualified biologist will contact Napa County and CDFW via phone call or email within 1 day after preconstruction survey to report findings.</p> <p>Identify and prepare an appropriate monitoring and reporting program in consultation with the County and CDFW.</p>	Before and during construction
		<p>Mitigation Measure 3.3-1g (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): A qualified biologist shall conduct a habitat assessment for burrowing owls. The survey area shall include a 500-foot radius around the annual grasslands within applicable development areas (i.e., annual grassland habitat). The qualified biologist shall provide a report to Napa County following the completion of the habitat assessment, which shall identify areas of suitable habitat for burrowing owl, if any. If the results of the habitat assessment determine that there is no suitable habitat for burrowing owls, then no further measures regarding burrowing owls are required. If suitable habitat is present, a qualified biologist shall conduct surveys in accordance with Appendix D of the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012). (A "qualified biologist" is defined as a person with a minimum of two years of experience implementing the 2012 Staff Report methodology.) Time lapses of project activities of greater than 14 days shall trigger subsequent surveys including but not limited to a final survey within 24 hours prior to ground disturbance before construction equipment mobilizes to areas deemed to be suitable habitat for burrowing owls.</p> <p>If burrowing owls are detected on or adjacent to the site, the following restricted activity dates and setback distances recommended per CDFW's Staff Report (CDFG 2012) shall be implemented, unless reduced buffers are accepted by CDFW in writing based on site-specific conditions:</p> <ul style="list-style-type: none">From April 1 through October 15, low disturbance and medium disturbance activities shall have a 200-meter (656-foot) buffer, while high disturbance activities shall have a 500-meter (1,640-foot) buffer from occupied nests and wintering sites.From October 16 through March 31, low disturbance activities shall have a 50-meter (164-foot) buffer, medium disturbance activities shall have a 100-meter (328-foot) buffer, and high disturbance activities shall have a 500-meter (1,640-foot) buffer from occupied nests and wintering sites.	Qualified biologist	Napa County, qualified biologist, CDFW	<p>Conduct habitat assessment for burrowing</p> <p>If suitable habitat is present, conduct surveys in accordance with Appendix D of the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012).</p>	Before construction

TABLE 4-1
KJS AND SORRENTO VINEYARD CONVERSION #P17-00432-ECPA MITIGATION MONITORING AND REPORTING PROGRAM

Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.3 Biological Resources (cont.)	3.3-1g (cont.)	<p>If burrowing owls are present outside of the nesting season, burrowing owls may be passively relocated from the project site and adjacent habitat using CDFW-accepted methods so that construction can proceed. Any required passive relocation of burrowing owls would require CDFW acceptance. If passive relocation of burrowing owls is necessary, a qualified biologist shall prepare a Relocation Plan, including compensatory habitat as described below, for CDFW review and acceptance prior to the start of construction activities. If the survey determines that the project site is actively being used by burrowing owls, or any owls are passively relocated as described above, then compensatory habitat mitigation shall be provided. The habitat mitigation/compensation plan shall be submitted to CDFW for review and approval prior to the start of project activities.</p> <p>If burrowing owls are observed during surveys, notification shall also be submitted to the California Natural Diversity Database (see https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data).</p>				
		<p>Mitigation Measure 3.3-1h (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Before tree removal and other earth-disturbing activities begin during the nesting season (February 1 through August 31, coinciding with the grading season of April 1 through September 1 [Napa County Code Section 18.108.070.L]) for each project construction phase, a qualified biologist shall conduct a preconstruction survey within 7 days before the tree removal and other earth-disturbing activities are to occur. (A “qualified biologist” is defined as a person knowledgeable and experienced in the biology and natural history of local avian resources with potential to occur at the project site.) The nesting-bird preconstruction survey shall cover the development areas plus an approximately 500-foot radius around the development areas.</p> <p>If the preconstruction survey shows no evidence of active nests, a copy of the survey results shall be provided to Napa County and CDFW before the start of work, and no additional measures are required for that phase. If construction does not begin within 7 days of the preconstruction survey or halts for more than 7 days, an additional preconstruction survey shall be conducted.</p> <p>If any active nests are located within development areas or within 500 feet of the development areas, an appropriate buffer zone shall be established around the nest(s), as determined by the qualified biologist in consultation and cooperation with the County and CDFW; the minimum buffer zones pursuant to this measure shall be 100 feet for migratory bird nests and 250 feet for raptor nests. Before the start of vegetation removal and earth-disturbing activities, the biologist shall mark the buffer zone(s) with temporary construction fencing. The fencing shall be inspected and approved by the County before any earth-moving and/or development activities begin and shall be maintained until the end of the breeding season or the young have fledged.</p> <p>If active migratory-bird nests are found between 100 and 500 feet of construction activities (i.e., development areas), or if raptor nests are found between 250 and 500 feet of construction activities (i.e., development areas), a qualified biologist shall monitor the nests weekly during construction to evaluate potential nesting disturbance by construction activities. Alternatively, work may be phased to avoid these areas and continue in other vineyard blocks (development areas) until the nest is no longer occupied. The qualified biologist shall provide monitoring reports weekly to Napa County to document monitoring activities and evaluate effects on nesting birds as prescribed by this measure.</p> <p>Alternative methods of flushing out nesting birds before preconstruction surveys shall be prohibited, whether those methods are physical (removing or disturbing nests by physically disturbing trees with construction equipment), audible (using sirens or bird cannons), or chemical (spraying nesting birds or their habitats).</p>	Qualified biologist	Napa County, qualified biologist, CDFW	<p>Conduct preconstruction survey for nesting birds in all suitable habitat in the development area, and within a minimum of 500 feet from the project area.</p> <p>Provide Napa County and CDFW with a copy of the survey results for review and written acceptance.</p> <p>If nesting birds are found, identify appropriate avoidance methods and exclusion buffers in consultation with the County and CDFW before the start of project activities.</p>	Before and during construction

TABLE 4-1
KJS AND SORRENTO VINEYARD CONVERSION #P17-00432-ECPA MITIGATION MONITORING AND REPORTING PROGRAM

Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.3 Biological Resources (cont.)	3.3-1 (cont.)	Mitigation Measure 3.3-1i (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Erosion Control Plan #P17-00432-ECPA shall be revised before approval to avoid all potential bat habitat/roost trees in proposed vineyard Blocks 5D, 5F, 5H, 5J, 6, 8, 17, 23C, 23F, 23G, 24G, 25, 27, and 29B. These trees are identified in Figure 3.3-5. A minimum 50-foot avoidance buffer shall be established around the driplines of the habitat/roost trees, under the direct supervision of a qualified biologist, to protect the trees' canopies and root protection zones with high-visibility fencing. (The term "qualified" refers to a biologist who is knowledgeable and experienced in the botany, biology, and natural history of local mammalian and avian resources with potential to occur at the project site.) The fencing shall be inspected and approved by Napa County before the start any earth-moving and/or development activities. Exclusion buffers shall remain in effect until vineyard development and planting activities are complete.	Owner/permittee, qualified botanist	Napa County	Revise Erosion Control Plan #P17-00432-ECPA before approval to avoid all potential bat habitat/roost trees in proposed vineyard Blocks 5D, 5F, 5H, 5J, 6, 8, 17, 23C, 23F, 23G, 24G, 25, 27, and 29B.	Before construction
		Mitigation Measure 3.3-1j (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Erosion Control Plan #P17-00432-ECPA shall be revised before approval to provide for the installation of one bat roost box for every 5 acres of oak woodland habitat removed (a total of six bat roost boxes). The type of bat roost box shall be identified and box locations shall be mapped on the ECPA site plan near the habitat trees proposed for removal, and under the direction of a qualified biologist in consultation with Napa County. The owner/permittee/biologist shall provide adequate documentation to the County, including photographs showing that the bat roost boxes have been installed properly, before the start of any vegetation removal and earth-disturbing activities associated with the project.	Owner/permittee	Napa County	Revise Erosion Control Plan #P17-00432-ECPA before approval to provide for the installation of one bat roost box for every 5 acres of oak woodland habitat removed (a total of six bat roost boxes).	Before construction
		Mitigation Measure 3.3-1k (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): At least 30 days prior to tree removal activities, a qualified biologist shall assess all trees to determine if they contain suitable bat roosting habitat (e.g., cavities, crevices, deep bark fissures). If any trees contain such habitat, bat presence shall be presumed. Trees containing bat roosting habitat shall be removed using the method described below during the following seasonal periods of bat activity: Prior to maternity season – from approximately March 1 (or when night temperatures are above 45 degrees Fahrenheit and when rains have ceased) through April 15 (when females begin to give birth to young); and prior to winter torpor – from September 1 (when young bats are self-sufficiently volant) until October 15 (before night temperatures fall below 45 degrees Fahrenheit and rains begin). On day 1, in the afternoon and under the supervision of a qualified biologist, chainsaws only shall be used to remove tree limbs that do not contain suitable bat roosting habitat (e.g., cavities, crevices, deep bark fissures). The next day, the rest of the tree shall be removed. If bat habitat trees cannot be removed during the above seasonal periods of bat activity, a qualified biologist shall survey the trees to determine if the tree contains a maternity colony or winter torpor bats. If the qualified biologist cannot make this determination with certainty, the presence of maternity colonies or winter torpor bats shall be assumed, and removal of the tree shall be delayed until the seasonal periods of bat activity specified above. If the biologist determines that bats are present but maternity colony or winter torpor bats are absent, then the tree may be removed outside of the above periods of seasonal bat activity using the above two-step tree removal process. If the qualified biologist determines that bats are absent, then the tree may be removed without bat seasonality or method restrictions.	Qualified biologist	Napa County, qualified biologist, CDFW	At least 30 days prior to tree removal activities, assess all trees to determine if they contain suitable bat roosting habitat. Remove trees containing bat roosting habitat according to the described methods.	Before and during construction

TABLE 4-1
KJS AND SORRENTO VINEYARD CONVERSION #P17-00432-ECPA MITIGATION MONITORING AND REPORTING PROGRAM

Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.3 Biological Resources (cont.)	3.3-2: Construction and operation of the proposed project could have a substantial adverse effect on riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by CDFW or USFWS.	Mitigation Measure 3.3-2a (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): To avoid impacts on beardless wildrye grassland, blue wildrye grassland, and purple needlegrass grassland, Erosion Control Plan #P17-00432-ECPA shall be revised before approval to exclude these sensitive natural grassland communities/habitats and plant populations and provide them with a minimum 50-foot buffer from development areas. Figure 3.3-5 shows the areas that would be excluded from development as a result of implementation of this mitigation measure. Before vegetation clearing, the 50-foot buffer shall be established around these grasslands under the direct supervision of a biologist, using high-visibility construction fencing. The fencing shall be inspected and approved by Napa County before the start of any earth-moving and/or development activities. The protective constructive fencing shall be replaced with a permanent means of demarcation and protection around the grassland habitats (such as permanent fence or rock barrier) so that grassland avoidance areas are not encroached upon or disturbed as part of ongoing vineyard operations.	Owner/permittee, qualified botanist/ biologist	Napa County	Revise Erosion Control Plan #P17-00432-ECPA before approval to exclude sensitive natural grasslands communities/habitats and plant populations and provide a minimum 50-foot buffer from development areas.	Before construction
		Mitigation Measure 3.3-2b (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): A qualified biologist shall provide a worker education and awareness program to all on-site personnel before the start of materials staging or ground-disturbing activities. The biologist shall explain to construction workers how to avoid impacts on beardless wildrye grassland, blue wildrye grassland, and purple needlegrass grassland and shall include topics on species identification and descriptions. The education program should include handouts, illustrations, photographs, and project maps that show areas where avoidance measures are in place. The crew members shall sign a sign-in sheet documenting that they received the training. Proof that the education and awareness program has been conducted shall be submitted to Napa County before the start of vegetation removal and earth-disturbing activities associated with Phases 1 and 2 of project construction.	Owner/permittee, qualified botanist/ biologist	Napa County, qualified botanist/ biologist	Implement worker education and awareness program regarding the appearance and description of beardless wildrye grassland, blue wildrye grassland, and purple needlegrass grassland.	Before construction
	3.3-3: Construction and operation of the proposed project could have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.	Mitigation Measure 3.3-3a (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): All necessary federal, state and local permits shall be obtained and provided to the County before the construction of the water intake device on Elder Creek and the spillway berm and overflow structure at the unnamed pond. The owner/permittee shall comply with all permit minimization and mitigation measures. Impacts on waters of the United States would require a minimum mitigation ratio of 1:1 (mitigated:affected) to comply with USACE's no-net-loss policy. In addition, the owner/permittee shall comply with the state's NPDES General Permit for Discharges of Storm Water Runoff Associated with Construction Activity, issued by the Regional Water Quality Control Board.	Owner/permittee	Napa County, USACE, Regional Water Board, CDFW	Obtain necessary permits and comply with all permit minimization and mitigation measures.	Before construction
		Mitigation Measure 3.3-3b (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): For project activities that are anticipated to occur within 50 feet of potential jurisdictional features and riparian areas that are proposed for avoidance, high-visibility construction fencing and silt fencing shall be erected at the edge of the construction/maintenance footprint (i.e., development area) before the commencement of construction. The fencing shall be inspected and approved by Napa County before the start of any earth-moving and/or construction activities in these areas. A qualified biological monitor shall be present during fence installation and during any initial grading or vegetation-clearing activities within 50 feet of potential jurisdictional features and riparian habitat, which are proposed for avoidance. The biological monitor shall submit letter reports to the County summarizing the results of fencing installation and construction monitoring to document these provisions.	Construction contractor, biological monitor	Napa County, biological monitor	Install high-visibility construction fencing and silt fencing at the edge of the construction/ maintenance footprint (i.e., development area) within 50 feet of potential jurisdictional features and riparian areas that are proposed for avoidance. Biological monitor shall be present during fence installation and during initial project activities within 50 feet of potential jurisdictional features and riparian habitat and fencing shall be inspected by Napa County. Biological monitor shall submit letter reports to Napa County summarizing results of fence installation and construction monitoring.	Before and during construction
		Mitigation Measure 3.3-3c (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): All areas with temporary impacts on potential waters of the United States shall be restored immediately after construction. The biological monitor shall submit letter reports to the County summarizing the results of restoration activities to document this provision and compliance with Mitigation Measures 3.3-3a and 3.3-3b.	Construction contractor, biological monitor, owner/permittee	Napa County	Potential waters of the United States will be restored immediately after construction. Biological monitor shall submit letter reports to Napa County summarizing the results of restoration activities and compliance with mitigation measures.	During and after construction

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Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.3 Biological Resources (cont.)	3.3-4: Construction and operation of the proposed project could interfere substantially with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or could impede the use of native wildlife nursery sites.	Mitigation Measure 3.3-4 (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Erosion Control Plan #P17-00432-ECPA shall be revised before approval to fence clusters of vineyard blocks as shown in Figure 3.3-6 and as described below. The revised fencing plan (i.e., Figure 4 of #P17-00432-ECPA) shall be subject to review and approval by Napa County before its incorporation into #P17-00432-ECPA, and shall include and show the fencing design features describe in 3.3-4iii below. i. The following vineyard blocks shall be fenced individually (not together): Vineyard Blocks 4 and 5, 19 and 20A, 21 and 22, 23C and 23D, 23G and 23F, 23E and 33A, and 29B, 30, and 31. The location of new wildlife exclusion fencing shall generally be limited to the outside edge of vineyard avenues and development areas. ii. Fencing around vineyard Blocks 9, 19, 20, 29, 30, 31, and 33 shall be revised to place the fencing along the outside the edge of vineyard avenues. iii. 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. 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 used on top of the fencing to keep wildlife from becoming entangled.	Owner/permittee	Napa County	Revise Erosion Control Plan #P17-00432-ECPA before approval to fence clusters of vineyard blocks. Fence vineyards as indicated in the Vineyard Fencing Plan.	Before and after construction
	3.3-5: Construction and operation of the proposed project could conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	Mitigation Measure 3.3-5a (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): In order to mitigate impacts to oak woodland resulting from development of the proposed project, the owner/permittee shall place in permanent protection a Preserve Area of no less than 61.24 acres of oak woodland <u>for the proposed Project</u> (30.62 x 2, for a 2:1 preservation ratio), <u>or 35.2 acres of oak woodland for the Modified Project</u> (17.6 x 2, for a 2:1 preservation ratio), half of which shall be situated on developable lands (i.e., on land with slopes less than 30% and located outside of aquatic resource setbacks pursuant to NCC Sections 18.108.025 and 18.108.026 as shown in Figure 3.3-7) and include the 2.9 acres of woodland removed through other mitigation measures. The preserved woodlands shall have similar habitat value as that being removed, as determined by a qualified professional knowledgeable and experienced in local botany and habitats. Erosion Control Plan #P17-00432-ECPA shall be revised prior to approval to identify the Preservation Area. All acreage designated for preservation shall be identified as such in a mitigation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection acceptable to Napa County. The mitigation 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 earth disturbing activities, grading or vegetation removal, or within 12 months of project approval, whichever occurs first. In no case shall earthmoving activities be initiated until said mitigation easement is recorded. Any request by the Applicant for an extension of time to record the mitigation easement shall be considered by the PBES 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 (e.g., conversion to other land uses such as agriculture 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. Any county staff time spent assessing and monitoring said provision shall be charged to the permittee, at the rate in effect at the time assessment and monitoring occurs, pursuant to County Fee Policy Part 80.	Owner/permittee	Napa County	Establish an enforceable restriction to preserve a minimum of 61.24 acres of oak woodland in similar habitat in the west-central or northwest portion of the project site. Record the enforceable restriction within 60 days of the County's approval of #P17-00432-ECPA.	Before and after construction

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Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.3 Biological Resources (cont.)	3.3-5 (cont.)	<p>Mitigation Measure 3.3-5b (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): The owner/permittee shall locate and construct the point of diversion and associated infrastructure in an area along Elder Creek that does not contain valley oak trees. The location shall avoid removal and damage to valley oaks by providing a minimum protective buffer that extends to the tree's dripline. "Removal and damage" also means trimming of the tree and/or work occurring within the tree's buffer area. The tree protective buffer fencing shall be inspected and approved by Napa County before construction of the point of diversion begins.</p> <p>If avoiding valley oak trees is infeasible during construction of the point of diversion, the owner/permittee shall provide justification of the infeasibility, and a removal and replacement plan prepared by a qualified biologist or restoration ecologist, for review and approval by Napa County before construction of the point of diversion commences. If a valley oak or other oaks are removed (which includes substantial trimming of the tree and/or work within the buffer area), they shall be replaced on-site with 15-gallon oak trees at the following ratios: 4:1 removal between 5 and 10 inches dbh, 5:1 removal between 10 and 15 inches dbh, and 10:1 for removal greater than 15 inches dbh. Replacement trees shall be installed and their good health shall be documented before completion and finalization of the erosion control plan. Replacement trees shall be monitored and maintained as necessary for a minimum of seven years following planting to ensure that they achieve a minimum 80 percent survival. If valley oak plantings are not achieving this success criterion during the monitoring years, the owner/permittee shall replace the plantings and monitor them for an additional seven years following replanting until they achieve a minimum 80 percent survival rate.</p> <p>If avoidance of valley oaks is infeasible for construction of the point of diversion, the owner/permittee also shall preserve a minimum of 0.06 acre of riparian woodland in similar habitat in the west-central or northwest portion of the project site. This acreage shall be preserved in a deed restriction, an open space easement with an organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection acceptable to the County as described in Mitigation Measure 3.3-5a.</p>	Owner/permittee	Napa County	<p>Avoid valley oak trees when locating the point of diversion and associated infrastructure in Elder Creek.</p> <p>Napa County shall inspect the tree protective buffer fencing.</p> <p>Prepare a removal and replacement plan if avoiding valley oak trees is infeasible. Replace and monitor any oaks on-site with 15-gallon oak trees at the ratios described in the measure for seven years to achieve a minimum 80 percent survival.</p>	Before and after construction
3.4 Cultural and Tribal Cultural Resources	3.4-1: Construction and operation of the proposed project could cause a substantial adverse change in the significance of an archaeological resource pursuant to State CEQA Guidelines Section 15064.5.	<p>Mitigation Measure 3.4-1a (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Before the start of construction, an Archaeological Resources Worker Environmental Awareness Program shall be implemented. A qualified archaeologist, or designee, shall conduct training for project personnel regarding the appearance of archaeological resources and the procedures for notifying archaeological staff should materials be discovered. The owner/permittee shall ensure that project personnel are made available for and attend the training and retain documentation demonstrating attendance.</p>	Owner/permittee, qualified archaeologist	Napa County	Implement Archaeological Resources Worker Environmental Awareness Program, train project personnel regarding the appearance of archaeological resources and the procedures for notifying archaeological staff should materials be discovered, and provide documentation showing that these steps have been taken.	Before construction
		<p>Mitigation Measure 3.4-1b (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): If indigenous or historic-era archaeological resources are encountered during project development or operation, all activity within 100 feet of the find shall cease and the find shall be flagged for avoidance. The County and a qualified archaeologist, defined as one meeting the U.S. Secretary of the Interior's Professional Qualifications Standards for Archeology, shall be immediately informed of the discovery. The qualified archaeologist shall inspect the find within 24 hours of discovery and notify the County of their initial assessment. Indigenous archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (midden) containing heat-affected rocks, artifacts, or shellfish remains; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-era materials might include building or structure footings and walls, and deposits of metal, glass, and/or ceramic refuse.</p> <p>If the County determines, based on recommendations from the qualified archaeologist, that the resource may qualify as a historical resource or unique archaeological resource (as defined in State CEQA Guidelines Section 15064.5) or a tribal cultural resource (as defined in PRC Section 21074), the resource shall be avoided if feasible. Avoidance means that no activities associated with the project that may affect cultural resources shall occur within the boundaries of the resource or any defined buffer zones.</p>	Construction contractor, qualified archaeologist	Napa County, qualified archaeologist	If indigenous or historic-era archaeological resources are encountered during project development or operation, cease all activity within 100 feet of the find, flag the find for avoidance, and inform the correct parties.	During construction

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Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.4 Cultural and Tribal Cultural Resources (cont.)	3.4-1 (cont.)	If avoidance is not feasible, the County shall consult with appropriate Native American tribes (if the resource is indigenous) and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts on the resource pursuant to PRC Section 21083.2, State CEQA Guidelines Section 15126.4, and County General Plan Policy CC-23. This shall include documentation of the resource and may include data recovery or other measures. Treatment for most resources would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource. The resource and treatment method shall be documented in a professional-level technical report to be filed with the California Historical Resources Information System. Work in the area may commence upon completion of approved treatment and under the direction of the qualified archaeologist.				
	3.4-2: Construction and operation of the proposed project could disturb human remains, including those interred outside of formal cemeteries.	Mitigation Measure 3.4-2 (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): If human remains are uncovered during project construction, all work shall immediately halt within 100 feet and the Napa County Coroner shall be contacted to evaluate the remains, and follow the procedures and protocols set forth in State CEQA Guidelines Section 15064.5(e)(1) and County General Plan Policy CC-23. If the County Coroner determines that the remains are Native American, the County shall contact the NAHC, in accordance with Health and Safety Code Section 7050.5(c) and PRC Section 5097.98. Per PRC Section 5097.98, the County shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located is not damaged or disturbed by further development activity until the County has discussed and conferred, as prescribed in PRC Section 5097.98, with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.	Construction contractor	Napa County/Coroner	Halt work within 100 feet and notify the Napa County Coroner if human remains are uncovered. Contact the NAHC if the remains are determined to be Native American.	During construction
	3.4-3: Construction and operation of the proposed project could cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074.	Mitigation Measure 3.4-3 (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Before the start of vegetation removal and earth-moving activities under #P17-004320-ECPA, the owner/permittee shall provide documentation to the Napa County Planning, Building and Environmental Services Department that a Monitoring Agreement has been entered into with the Yocha Dehe Wintun Nation. Should a Monitoring Agreement not be entered into with the Yocha Dehe Wintun Nation, the owner/permittee shall provide, for review and approval by Napa County, a Cultural Monitoring Plan prepared by a professional archaeologist certified by the Registry of Professional Archeologists that incorporates the Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation. The following are examples of mitigation capable of avoiding or substantially lessening potential significant impacts on a tribal cultural resource or alternatives that would avoid significant impacts on the resource that will need to be included in the Monitoring Agreement or Cultural Monitoring Plan. These measures may be considered to avoid or minimize significant adverse impacts and constitute the standard by which an impact conclusion of less than significant may be reached: <ul style="list-style-type: none">• Implement monitoring requirements, including but not limited to sensitivity training for site workers, identification of project activities and project site areas requiring an on-site monitor, procedures that are implemented in the event of a find, and monitoring documentation and reporting.• Avoid and preserve resources in place, including but not limited to planning construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space to incorporate the resources with culturally appropriate protection and management criteria.• Treat the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including but not limited to the following:<ul style="list-style-type: none">○ Protect the cultural character and integrity of the resource.○ Protect the traditional use of the resource.○ Protect the confidentiality of the resource.	Owner/permittee	Napa County and Yocha Dehe Wintun Nation	Enter and implement Monitoring Agreement with the Yocha Dehe Wintun Nation	Before, during and after construction

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Issue Area	Impact	Mitigation Measure	Responsibility for Implementing	Responsibility for Monitoring	Monitoring and Reporting Actions	Timing
3.4 Cultural and Tribal Cultural Resources (cont.)	3.4-3 (cont.)	<ul style="list-style-type: none">Establish permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or using the resources or places.Protect the resource.				
3.5 Geology and Soils	3.5-5: Construction and operation of the proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	Mitigation Measure 3.5-5a (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): A Paleontological Resources Worker Environmental Awareness Program shall be implemented before the start of construction. A qualified paleontologist shall train construction personnel regarding the appearance of fossils and procedures for notifying paleontological staff if fossils are discovered during construction work. The owner/permittee shall provide Napa County documentation demonstrating that construction personnel have attended the training before the commencement of vegetation removal and earth-disturbing activities associated with Phases 1 and 2 of project.	Construction contractor qualified paleontologist	Napa County	Implement Paleontological Resources Worker Environmental Awareness Program, train project personnel regarding the appearance of paleontological resources and the procedures for notifying paleontological staff should materials be discovered, and provide documentation showing that these steps have been taken.	Before construction
		Mitigation Measure 3.5-5b (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative): Initial earth-disturbing, grading, and/or construction activities as defined by the County Conservation Regulations (NCC Chapter 18.108) in previously undisturbed sediments more than 2 feet deep in areas that are mapped as Great Valley Sequence (KJgvl or Jk) shall be monitored on a “full time” basis during Phases 1 and 2 of ECPA development, in accordance with a Paleontological Monitoring Plan prepared and implemented by a qualified paleontologist, defined as an individual who has experience collecting and salvaging paleontological resources and meets the minimum standards of the SVP (2010). The Plan shall be submitted to Napa County for review and approval before commencement of any vegetation removal or earth-disturbing activities associated with the project. Within the Plan, the extent, duration, and timing of the monitoring shall be determined by the qualified paleontologist based on the location and extent of proposed ground disturbance within the Great Valley Sequence (KJgvl or Jk) deposits. If the qualified paleontologist determines during project monitoring that full-time monitoring is no longer warranted based on the specific geologic conditions at the surface or at depth, the paleontologist may recommend (subject to review and approval by Napa County) that monitoring be reduced to periodic spot-checking or cease entirely. Monitoring shall not be required in any artificial fill or for activities that do not reach the above-stated depth and mapping areas. Should fossils be encountered, construction work shall halt within the Great Valley Sequence deposits until a qualified paleontologist can assess the significance of the find and develop, for Napa County review and approval, additional Plan measures to avoid impacts on paleontological resources. Significant fossils shall be salvaged, following the standards of the SVP (2010) and curated at an accredited repository, such as the University of California Museum of Paleontology or Los Angeles County Museum of Natural History.	Construction contractor, qualified paleontologist	Napa County, qualified paleontologist	Prepare and implement Paleontological Monitoring Plan.	Before and during construction
3.8 Land Use and Planning	3.8-1: Construction and operation of the proposed project could cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.	Implement Mitigation Measures 3.2-1a, 3.2-1b, and 3.3-1a through 3.3-5b (proposed project, Reduced Intensity and Increased Stream and Wetland [Aquatic Resource] Setbacks Alternative, and Reduced Vegetation Removal/Grading and Road Use Alternative).	See above.	See above.	See above.	See above.