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Planning, Building & Environmental Services

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David Morrison
Director

TO: Application File #P20-00284-ECPA

FROM: Pamela Arifian, Planner III

DATE: June 8, 2022

RE: Response to Comments – Butler Vineyard Conversion
Agricultural Erosion Control Plan (ECPA) File #P20-00284-ECPA
Assessor's Parcel Number APN 033-190-006
No situs record; Wild Horse Valley Road, Napa
SCH #2022030347

INTRODUCTION

This memorandum has been prepared by the County Conservation Division to respond to comments received by the Napa County Department of Planning, Building and Environmental Services (Napa County) on the Proposed Initial Study/Mitigated Negative Declaration (Proposed IS/MND) for the Butler Vineyard Conversion #P20-00284-ECPA (proposed project). An IS/MND is an informational document prepared by a Lead Agency, in this case, Napa County, that provides environmental analysis for public review. The agency decision-maker considers it before taking discretionary actions related to any proposed project that may have a significant effect on the environment. The Proposed IS/MND analyzed the impacts resulting from the proposed project and where applicable, identified mitigation measures to minimize the impacts to less-than-significant levels.

This memorandum for the Butler Vineyard Conversion Agricultural Erosion Control Plan #P20-00284-ECPA Proposed IS/MND presents the name of the persons and/or organizations commenting on the Proposed IS/MND and responses to the received comments. This memorandum, in combination with the IS/MND, completes the Final IS/MND.

CEQA PROCESS

In accordance with Section 15073 of the CEQA *Guidelines*, Napa County submitted the Proposed IS/MND to the State Clearinghouse for a 30-day public review period starting March 14, 2022. In addition, Napa County circulated a Notice of Intent to Adopt the Proposed IS/MND to interested agencies and individuals.

Project Revisions and Updated Analyses of the IS/MND

Since publication of the IS/MND, the project was revised to include a smaller development area (from 5.1 gross acres to 4.85 gross acres) to correct an oversight in the vegetation canopy cover analysis.

Additionally, since publication of the IS/MND, changes were made by the Bay Area Air Quality Management District to the significance thresholds for greenhouse gas emissions. While these issues were not explicitly commented upon during the public review period, the revisions and subsequent analyses are described as follows; no new significant impacts were identified, and, as such, recirculation of the IS/MND is not warranted.

Vegetation Canopy Cover Analysis

A correction was made to the vegetation canopy cover analysis provided in the Proposed IS/MND in Section IV(e), Biological Resources and in Exhibit B-2, Tree Canopy Retention Analysis (Acme Engineering, 2021). Further analysis was conducted by Napa County Conservation staff during the public review period regarding consistency with Napa County Code (NCC) Section 18.108.020(D) – Vegetation Removal Mitigation, which requires that any vegetation canopy cover removal be mitigated by permanent replacement or preservation of comparable vegetation canopy cover on an acreage basis at a minimum of 3:1 ratio as prioritized in that code section. Analysis of the Tree Canopy Retention Analysis (Exhibit B-2 of Proposed IS/MND) was revisited to exclude from mitigation the vegetation canopy cover that occurs within stream setbacks (see NCC Section 18.108.020(D)(1)). The revised analysis identified that there is a total of 3.8 acres of vegetation canopy cover existing pre-development outside of stream setbacks (i.e., “eligible” vegetation canopy cover). Therefore, the proposed removal of 1.2 acres of vegetation canopy cover, which would require a minimum of 3.6 acres, would result in inconsistency with the 3:1 vegetation removal mitigation ratio, as it would require 1 acre more than would be available post-development¹.

Since publication of the Initial Study/Mitigated Negative Declaration, the project design has been revised to include a reduced gross development area (from 5.1 gross acres to 4.85 gross acres), which limits removal of vegetation canopy cover to no more than 0.95-acre. The remaining eligible vegetation canopy cover on the parcel (3.8 acres – 0.95 acres = 2.85 acres) would be preserved, resulting in consistency with NCC Section 18.108.020(D)² and a less than significant impact. The preserved vegetation canopy cover shall be designated as such in a deed restriction or mitigation easement or other means of permanent protection pursuant to **Mitigation Measure BR-3** in the IS/MND. To account for the reduction of vegetation canopy cover removal and resulting Preservation Area requirement, a modification will be made to **Mitigation Measure BR-3** as noted below (added language in *bold italics*, deleted language in ~~strikethrough~~):

Mitigation Measure BR-3: The Owner/Applicant, prior to approval, shall revise #P20-00284-ECPA to include the following provisions to reduce potential impacts to oak woodland and achieve consistency with the Napa County Conservation Regulations Chapter 18.108:

- a. An Oak Woodland Preservation Area totaling ~~3.6~~ *2.85* acres located outside of the boundaries of the existing and proposed developed area shall be designated as such in a deed restriction or mitigation easement or other means of permanent protection. Land placed in protection shall be restricted from development and other uses that would degrade the quality of the

¹ 3.8 acres – 1.2 acres = 2.6 acres of eligible vegetation canopy cover available post-project.

² 0.95 x 3 = 2.85

habitat (including, but not limited to conversion to other land uses such as agriculture or urban development and excessive off-road vehicle use that increases erosion) and should be otherwise restricted by the existing goals and policies of Napa County. The applicant shall record the deed restriction or mitigation easement prior to earthmoving or within 90 days of project approval, whichever comes first. The area to be preserved shall be of like kind and quality to the oak woodland being impacted as a result of the proposed project, as follows: areas to be preserved shall take into account the type of vegetation being removed, and species diversity and species that are limited within the project property and Napa County; the acreage included in the preservation area should be selected in a manner that minimizes fragmentation of forest within the project property; and the preservation area should not include portions of the property already subject to development restrictions (i.e., within creek setbacks or on slopes over 50%). The area to be preserved shall be determined by a qualified biologist with knowledge of the habitat and species and shall obtain final approval from Napa County.

- b. Prior to any earthmoving activities temporary fencing shall be placed at the edge of the dripline of trees to be retained that are located adjacent to the project site (typically within approximately 50-feet of the project site). The precise locations of said fences 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.
- c. 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.
- d. In accordance with NCC 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 #P20-00284-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 percent 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.

Since this revision to the vineyard development area results in a project that is less than what was analyzed in the Proposed IS/MND, the potential impacts associated with the project have been reduced, and recirculation of the Proposed IS/MND is not warranted (refer to CEQA *Guidelines* Section 15073.5, which details the conditions that would require recirculation prior to adoption).

Greenhouse Gas Emissions

Additionally, the analysis presented in **Section VIII, Greenhouse Gas Emissions**, was conducted in accordance with CEQA *Guidelines* Section 15064.4 for determining the significance of impacts from greenhouse gas (GHG) emissions, and in accordance with the current County practice. Subsequent to publication of the IS/MND, the Bay Area Air Quality Management District (BAAQMD) rescinded the

1,1000 MT CO₂e significance threshold and replaced it with qualitative thresholds geared towards building and transportation projects. Per the BAAQMD, all other projects should be analyzed against either an adopted Climate Action Plan (CAP) or other threshold determined on a case-by-case basis by the Lead Agency. If a project is consistent with the State's long-term climate goals of being carbon neutral by 2045, then a project would have a less-than-significant impact as endorsed by the California Supreme Court in *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204). There is no proposed construction-related climate impact threshold at this time. GHG emissions from construction represent a very small portion of a project's lifetime GHG emissions. The proposed thresholds for land use projects are designed to address operational GHG emissions, which represent the vast majority of project GHG emissions.

In 2018, Napa County published a draft CAP that contained carbon stock and sequestration factors by land use type (see Table 16 of Appendix A), including for agricultural croplands and vineyards. The potential CO₂e release from development of the project includes the following: one-time loss of carbon stock from removing the existing vegetation, the ongoing loss of carbon sequestration of that vegetation, and tailpipe emissions from equipment.

The revised project would remove approximately 3.9 acres of grassland and approximately 0.95-acre of tree canopy, and, with implementation of **Mitigation Measure BR-3**, would permanently preserve a minimum of 2.85 acres of oak woodland on otherwise developable land on the parcel. As detailed in **Section VIII, Greenhouse Gas Emissions**, of the IS/MND, the carbon sequestration associated with the oak woodland proposed for removal (95.1 MT C/acre x 0.95 acres = 90.3 MT C) and grassland (1.4 MT C/acre x 3.9 acres = 5.46 MT C) would be replaced with 3.05 net acres of broadleaf grapevines and cover crop (per the 2018 CAP, vineyards have an above-ground carbon stock of 1.2 MT C/acre; 1.2 MT C/acre x 3.05 acres = 3.66 MT C). The permanent preservation of 2.85 acres of oak woodland on otherwise developable land would result in the permanent sequestration of approximately 271 MT C, which is a little less than three times the estimated loss of carbon storage associated with the oak woodland removal and grassland proposed by the revised project.

Regarding operational emissions, as part of the statewide implementation of Senate Bill (SB) 743, the Governor's Office of Planning and Research (OPR) settled upon automobile vehicle miles of travel (VMT) as the preferred metric for assessing passenger vehicle-related impacts under CEQA and issued revised CEQA Guidelines in December 2018, along with a Technical Advisory on Evaluating Transportation Impacts in CEQA to assist practitioners in implementing the CEQA Guidelines revisions. The CEQA Guidelines and the OPR Technical Advisory concluded that, absent substantial evidence otherwise, the addition of 110 or fewer daily trips could be presumed to have a less than significant VMT impact.

The County maintains a set of Transportation Impact Study Guidelines (TIS Guidelines) that define situations and project characteristics that trigger the need to prepare a TIS. The purpose of a TIS is to identify whether the project is likely to cause adverse physical or operational changes on a County roadway, bridge, bikeway or other transportation facility, to determine whether the project should be required to implement or contribute to improvement measures to address those changes, and to ensure that the project is developed consistent with the County's transportation plans and policies. Per the

County’s current TIS Guidelines, a project is required to prepare a TIS if it generates 110 or more net new daily vehicle trips.

The TIS Guidelines also include VMT analysis requirements for projects based on trip generation, which includes a screening approach that provides a structure to determine what level of VMT analysis may be required for a given project. For a new project that would generate less than 110 net new daily vehicle and truck trips, not only is the project not required to prepare a TIS, it is also presumed to have a less than significant impact for VMT. As detailed in **Section XVII (Transportation)** of the IS/MND, annual activities including pruning, weed control, mowing and harvest would result in up to 110 trips per year, well below the threshold of significance of 110 new daily trips.

Therefore, since the project as revised would not result in the addition of 110 new daily vehicle trips and would result in the permanent preservation of 2.85 acres of oak woodland that would sequester nearly three times the amount of carbon lost due to proposed vegetation removal, the project would not make a cumulatively considerable contribution to the State’s goal of net zero GHG emissions by 2045. Therefore, anticipated project impact in this regard remain less than significant.

Comments Received During the Public Review Period

The public review period ended on April 13, 2022. During the public review period, Napa County received three (3) comment letters on the Proposed IS/MND. Table 1 below lists the entities that submitted comments on the Proposed IS/MND during the public review and comment period. The comment letters are attached as identified in Table 1.

**TABLE 1
COMMENTS RECEIVED ON THE PROPOSED IS/MND**

Comment N^o/ Attachment	Comments Received from	Date Received
1	Yocha Dehe Wintun Nation	March 22, 2022
2	Yvonne Baginski	April 12, 2022
3	Gary Margadant	April 13, 2022

In accordance with CEQA *Guidelines* Section 15074(b), Napa County considers the Proposed IS/MND together with comments received, both during the public review process and before action on the project, prior to adopting the Proposed IS/MND and rendering a decision the project. The CEQA *Guidelines* do not require the preparation of a response to comments for mitigated negative declarations; however, this memorandum responds to comments received. Based on review of the comments received, no new potentially significant impacts beyond those identified in the Proposed IS/MND would occur, no new or additional mitigation measures, or project revisions, must be added to reduce impacts to a less than significant level, and none of the grounds for recirculation of the Proposed IS/MND as specified in State CEQA *Guidelines* Section 15073.5 have been identified. All potential impacts identified in the Proposed IS/MND were determined to be less-than-significant or less-than-significant with mitigation incorporated.

Furthermore, this Response to Comments Memorandum will be provided to the owner/Permittee as notice of potential Local, State and Federal permits necessary to implement and operate this project as identified within the attached agency comment letters, and that project approval, if granted, shall be subject to conditions of approval requiring any and all such permits be obtained prior to the commencement of vegetation removal and earth-disturbing activities (grading) associated with #P20-00304-ECPA.

RESPONSE TO COMMENTS

Comment #1 Yocha Dehe Wintun Nation (Attachment 1)

Response to Comment 1.1: Comment noted. The project, if approved, would be subject to the following conditions of approval as detailed in Section V, Cultural Resources, of the IS/MND (added language in *bold italics*, deleted language in strikethrough):

Cultural Resources – Conditions of Approval: Discovery of cultural, historical or archaeological resources, or human remains during construction, grading, or other earth moving activities:

- In accordance with CEQA Subsection 15064.5(f), should any previously unknown historic or prehistoric resources, including but not limited to charcoal, obsidian or chert flakes, grinding bowls, shell fragments, bone, pockets of dark, friable solids, glass, metal, ceramics, wood or similar debris, be discovered during grading, trenching or other onsite excavation(s), earth work within 100-feet of these materials shall be stopped until a professional archaeologist certified by the Registry of Professional Archaeologists (RPA) and a Yocha Dehe Wintun Nation Tribal Cultural Monitor have had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), as determined necessary.
- If human remains are encountered the Napa County Coroner shall be informed to determine if an investigation of the cause of death is required and/or if the remains are of Native American origin. Pursuant to Public Resources Code Section 5097.98, if such remains are of Native American origin the nearest tribal relatives as determined by the State Native American Heritage Commission shall be contacted to obtain recommendations for treating or removal of such remains, including grave goods, with appropriate dignity.
- All persons working onsite shall be bound by contract and instructed in the field to adhere to these provisions and restrictions.
- *Prior to commencement of vegetation removal and earth-moving activities associated with #P20-00284-ECPA, the owner/Permittee shall provide documentation to Napa County demonstrating that they have engaged with Yocha Dehe Wintun Nation to provide cultural sensitivity training and that cultural sensitivity training has been provided to project personnel. Should the owner/Permittee be unsuccessful in engaging with the Yocha Dehe Wintun Nation, the owner/Permittee shall provide documentation to Napa County that cultural sensitivity training has been provided by a professional archaeologist certified by the Registry of Professional Archeologists (RPA).*

Comment #2 Yvonne Baginski (Attachment 2)

Response to Comment 2.1: Access to a project property is under control of the property owner, particularly due to the project site's location is accessed by a private road. While attempts to facilitate that

viewing were made, it remains the property owner's decision whether to allow public access. The CEQA process for public review does not require the granting of public access to a project site. In response to the complaint filed with Napa County regarding suspicion of grading and other earthmoving activities on the site based on the observation of a hydroseed truck entering the property, the County performed a site inspection on April 26, 2022 and confirmed that no earthmoving activities have occurred on the project parcel. Earthmoving activities are occurring exclusively on the Solano County parcel adjacent to the project parcel. No further response is required.

Response to Comment 2.2: As identified in **Mitigation Measure BR-1** in the proposed IS/MND, preconstruction surveys for nesting birds and raptors are required no earlier than 7 days prior to commencement of vegetation removal and ground disturbing activities, should the project be approved. As project approval has not yet been granted and no earth disturbance may occur prior to approval, the preconstruction surveys have not been performed thus far. Once completed, the results of preconstruction surveys may be shared with the public upon request.

Response to Comment 2.3: The commenter requested copies of permits to allow tree removal. As stated in the Project Description of the proposed IS/MND, the proposed project involves i) the clearing of oak woodland and non-native grassland, and ii) earthmoving and installation and maintenance of erosional control measures in connection with the development of 5.1 (now 4.85) gross acres of new vineyard. Therefore, the Erosion Control Plan (#P20-00284-ECPA), if approved, would permit the removal of the trees as identified on the final (revised) plans. No new or additional evidence has been provided that demonstrates the potential level of impacts analyzed as a result of the proposed project would occur beyond what is identified in the Proposed IS/MND or that additional mitigation is necessary.

Response to Comment 2.4: As stated in **Section IV(d), Biological Resources**, following application submittal, temporary fencing was installed on the project parcel to tie into the fencing for the vineyard development on the Solano County parcel under same ownership. The application submittal materials and correspondence found in **Exhibit G** of the proposed IS/MND include a fencing figure identifying the existing temporary fencing on the project parcel. The fencing figure was submitted in response to a request by County PBES staff following the application review site inspection, which occurred on November 20, 2020, during which time PBES staff observed the newly installed fence that was not included on the original plan submittal. As stated in the proposed IS/MND, **Mitigation Measure BR-2** requires that the owner/Permittee provide a revised Wildlife Exclusion Fencing Plan within 30 days of approval. The revised Fencing Plan shall include wildlife exclusion fencing that uses a design with 6-inch square gaps at the base to allow small mammals to get through, exit gates at the corners to allow trapped wildlife to escape, and smooth wire rather than barbed wire at the top to prevent entanglement. Further, the revised Fencing Plan shall include removal of existing fencing that encroaches into the stream setbacks and crosses the streams to allow access and localized wildlife movement. The Mitigation Measure requires that the revised Fencing Plan shall generally enclose the vineyard blocks rather the larger footprint that currently encloses a majority of the parcel, which will maintain access by wildlife for east-west and north-south movement through the parcel from adjacent parcels. No further response is required.

Response to Comment 2.5: The commenter asserted that the Biological Resources Reconnaissance Survey (**Exhibit B-1**) did not contain information on animals seen or potentially living on the property. As noted on page 11 (Section 4.2.1, Special Status Species/General Assessment) of the BRRS, potential occurrence of special-status species was evaluated first through a literature and database search for known occurrences of special status wildlife in the entirety of Napa County. The literature and database search was followed by four site visits, which occurred on April 11, May 29, June 20 and July 31, 2019 to evaluate the presence of suitable habitat or occurrences of wildlife on the property. Based on the results of those surveys (found in Appendix B and C of the report – **Exhibit B-1**), the biologist determined that targeted assessments and/or protocol-level surveys for special status wildlife were not necessary. Regarding personal sightings of wildlife by the commenter and the neighbor, they are anecdotal in nature, and lack proper evidence to trigger further studies or recirculation of the proposed IS/MND. No further comment or action is necessary.

Response to Comment 2.6: As stated in **Mitigation Measure BR-1**, vegetation removal and earth-disturbing activities may only occur during the grading season of April 1 through October 15 per NCC 18.108.070(L). Project activities may commence following project approval and implementation of preconstruction surveys pursuant to **Mitigation Measure BR-1** as well as completion of other conditions of approval required to occur prior to vegetation removal and ground disturbing activities. As stated in the project description, project development activities are limited to the must stop by the end of the grading season (October 15). The preconstruction surveys required by **Mitigation Measure BR-1** would be required for any earth-disturbing activities between April 1st and August 31st and would account for any nesting birds in the vicinity of project activities. The exclusion buffers and avoidance measures included in **Mitigation Measure BR-1** would occur in consultation with a qualified biologist, and have been approved by California Department of Fish and Wildlife as appropriate measures to avoid potentially significant impacts on nesting birds. No further comment or action is required.

Response to Comment 2.7: As stated in **Section IV(e), Biological Resources**, and in the project revision required by the County as detailed above, the project would retain and preserve oak woodland in accordance with the County General Plan policies and Conservation Regulations, resulting in less than significant impacts. As stated above, following re-analysis of the vegetation canopy cover analysis pursuant to NCC 18.108.020, the project design was revised to include a reduced gross development area (from 5.1 gross acres to 4.85 gross acres), which limits removal of vegetation canopy cover to no more than 0.95-acre. The remaining eligible vegetation canopy cover (on developable land, i.e. outside of stream setbacks and on land with slopes less than 50%) on the parcel would be preserved, resulting in consistency with NCC Section 18.108.020(D)3 and a less than significant impact. The preserved vegetation canopy cover shall be designated as such in a deed restriction or mitigation easement or other means of permanent protection pursuant to **Mitigation Measure BR-3**, as revised above, in the IS/MND.

The IS/MND stated that 11 trees would be removed based on Sheet 2 of the ECP (**Exhibit A** of the IS/MND); however, that Sheet did not include the individual trees to be removed from the eastern side of Block B. The final ECP (revised to remove no more than 0.95-acre of tree canopy as opposed to the 1.2 acres in the originally proposed plan) details those trees that would be removed by the proposed project, which include 16 total trees. The ECP and IS/MND correctly identified the total vegetation canopy cover that

³ 0.95 x 3 = 2.85

exists on the parcel and that would be impacted by the proposed project. Following the project revision as described above, the revised ECP includes a reduced project size that, in turn, reduces the tree canopy cover that would be removed by the project by approximately 0.25-acre. Neither the CEQA *Guidelines*, nor the County's General Plan policies nor Conservation Regulations obligate a significance determination or retention / mitigation on an individual tree basis; rather, they are based on acreage of vegetation canopy cover, as described above and in **Section IV, Biological Resources**. Therefore, the oversight of details regarding individual tree removal does not trigger a change in the significance determination of the impacts associated with the project in this regard, and does not trigger a recirculation of the IS/MND. The trees that were excluded as part of the revised plan are located near the heads of drainages pursuant to General Plan Policy CON-24(a), rather than the 36-inch coast live oak (identified by the commenter in Comment 2.3). The preservation of trees near the heads of drainages was determined to be environmentally superior to the preservation of the identified oak tree, which, if retained, would be isolated from surrounding oak woodland habitat. No further response is required

Response to Comment 2.8: Predation habitat refers to installation of raptor perches to foster predatory bird populations and the use of visual deterrents to mitigate any bird damage or pressure on the crops.

Response to Comment 2.9: Refer to **Response to Comment 2.4**, above. Pursuant to NCC Section 18.108.135, Oversight and Operation, the project would be subject to annual winterization inspections performed by the County to ensure that the project was installed per plan and that the erosion control measures are performing appropriately, for three years after the project has been completed and stable. Any deviations from the approved plan (including incorrect installation of approved Fencing Plan) would be noted during these inspections and corrective action would be required before the project can be finalized. Regarding deer guards, it is presumed that the commenter is referring to cattle guards (metal bars in the road designed to discourage or prevent livestock from passing). The County does not have a policy or code requirement with respect to cattle guards, and has not received input from California Department of Fish and Wildlife (CDFW) that such devices are impacting non-target species in a manner that requires mitigation to reduce potentially significant impacts. Further, the Erosion Control Plan, if approved, does not include installation of cattle guards; any installation of cattle guards resulting from project implementation would be a deviation from the approved plan and subject to corrective action. No further response is required.

Response to Comment 2.10: The intent of **Mitigation Measure BR-3(c)** refers to trimming limbs from trees adjacent to the approved vineyard development, and which are not approved for removal. The Mitigation Measure clarifies that "severely trimming" refers to trimming more than 1/3 of the tree canopy to ensure continued health and vitality of the tree. The language of this Mitigation Measure has been previously approved by the CDFW. As stated in **Response to Comment 2.9**, the project, if approved, would be subject to inspections by the County following installation; any tree removal that occurs outside of the approved plan would require replacement pursuant to **Mitigation Measure BR-3(d)**.

Response to Comment 2.11: As a standard condition of approval, a pre-construction meeting is required, the purpose of which is to review the development and operation requirements of the approved plans,

including but not limited to: implementation and compliance with project specific conditions of approval, timing of development activities and winterization of the site, and the details of the approved plan. All required/necessary protective buffers, including buffer fencing/delineation, are required to be installed prior to the pre-construction meeting for inspection by County staff. Additionally, refer to Responses to Comments 2.9 regarding post-project development inspections and deviations from the approved plan. No further response is required.

Response to Comment 2.12: The ECP (Exhibit A) details that no pre-emergent herbicides will be strip sprayed in the vine rows for weed control. Contact or systemic herbicides may be applied with a maximum width of the spray strip of 24 inches (12 inches on either side of the vine) in order to achieve 75% minimum vegetative cover based on 8-foot row spacing. While Napa County supports the use of integrated pest control methods that may minimize the use of herbicides and pesticides (General Plan Policy CON-2(e)(f)), farming practices related to weed and pest control are at the vineyard manager's discretion. Additionally, refer to **Response to Comment 2.8** regarding predation habitat.

Response to Comment 2.13: As stated in **Section X, Hydrology and Water Quality**, of the proposed IS/MND, the project, if approved, would be subject to a Groundwater Management condition of approval that requires the Permittee to record well monitoring data, which shall be provided to the PBES Director if deemed necessary. No further response is necessary.

Response to Comment 2.14: The proposed vineyard development ECPA does not include solar energy for irrigation pumping.

Response to Comment 2.15: Refer to **Response to Comment 2.4**. Any proposed development within Napa County adjacent to the subject parcel would be subject to the same assessment of wildlife movement through the parcel should the project be approved, and mitigation and/or conditions would be applied in the same manner as the subject project to maintain wildlife access and movement through the parcels. No further response is necessary.

Comment #3 Gary Margadant (Attachment 3)

Response to Comment 3.1: Refer to Response to Comment 2.1. No further response is necessary.

Response to Comment 3.2: Comment noted. The project application submittal materials included photodocumentation; that portion unfortunately was not included in Exhibit G of the IS/MND. The file has been included as Attachment 5 of this document. The site is also visible from publicly accessible Napa County GIS and Google Earth.

Response to Comment 3.3: The proposed project design was reviewed by the Geotechnical Engineer of Record, Miller Pacific Engineering Group, and deemed that their recommendations had been suitably incorporated into their plans. See Geotechnical Plan Review dated November 19, 2020 (Exhibit D of the IS/MND). The letter includes that Geotechnical Engineer should be present to observe subdrain construction and ensure substantial conformance to the plans and specifications. Additionally, the site plan referenced in Figure 6 is conceptual in nature and does not reflect the boundaries proposed in the ECP; the determination regarding vineyard boundaries is outside of the scope of the IS/MND and project review - please contact the project Applicant or Engineer for questions on how the vineyard boundaries were determined.

Response to Comment 3.4: Refer to **Response to Comment 2.2**. Additionally, the Oak Woodland preservation area includes all tree canopy cover indicated on the Tree Retention Analysis, which has been updated pursuant to the revised (reduced) proposed development area, and included as Attachment 1, below.

Response to Comment 3.5: Refer to **Response to Comment 3.3**. All recommendations in the Geotechnical Report prepared by Miller Pacific Engineering Group (Exhibit D of the IS/MND) are requirements for the project, and were included in the design as referenced on the ECP (Exhibit A of the IS/MND). See notes pertaining to ripping depth on Sheet 2 under Fill Compaction and Soil Ripping. Additionally, see Note 3 on Sheet 3, which states that the recommendations in the Geotechnical Report and supplemental review letter are requirements for the project. Details pertaining to unrelated projects on different properties are not relevant to the environmental adequacy of the IS/MND, and no further response is required.

Response to Comment 3.6: It is assumed that the commenter is referring to the Hydrologic Analysis (Exhibit E), as there is no Hydraulic Analysis associated with the project. The Hydrologic Analysis was performed in accordance with County protocol, and was deemed technically adequate by County Engineering Services on January 13, 2021. Additionally, the comment is personal opinion and commentary, general and speculative in nature, therefore no further response is necessary.

List of Attachments

Attachment 1 – Revised Vegetation Canopy Cover Retention Analysis, dated June 2 2022.

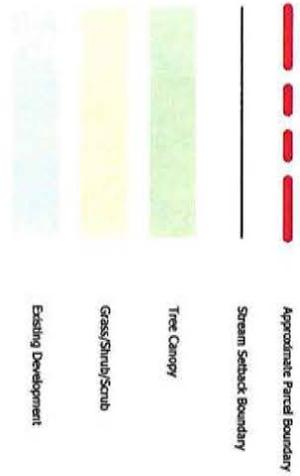
Attachment 2 – Yocha Dehe Wintun Nation letter dated March 22, 2022.

Attachment 3 – Yvonne Baginski letter dated April 12, 2022.

Attachment 4 – Gary Margadant letter dated April 13, 2022.

Attachment 5 – Photodocumentation dated August 6, 2020

Legend



Pre-Development Cover Conditions:

Tree Canopy:	±4.85 acres
Grass/Shrub/Scrub:	±4.90 acres
Existing Development:	±0.35 acres
Total:	±10.1 acres



Notes:

1. Magnetic declination is approximately 13° east of true north at this location.
2. Aerial image was taken in summer of 2018.



Site Plan
Scale: 1" = 200'

SHEET 1 OF 2	PROJECT NO. 180901-0121
	DRAWING NO. 04 01
	SCALE 1" = 200'
	DATE 6/2/2022

LANDS OF BUTLER
RETENTION ANALYSIS
PRE-DEVELOPMENT

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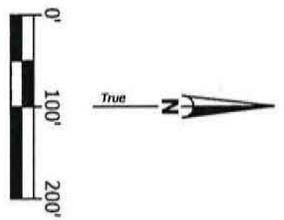
DESIGNED BY	OR
DRAWN BY	OR
CHECKED BY	OR

Legend

-  Approximate Parcel Boundary
-  Stream Setback Boundary
-  Tree Canopy
-  Grass/Shrub/Scrub
-  Existing Development
-  Proposed Vineyard Development
-  Temporary Stockpile/Sealing Area

Post-Development Cover Conditions:

Tree Canopy:	±3.90 acres
Grass/Shrub/Scrub:	±1.05 acres
Existing Development:	±0.35 acres
Proposed Development:	±4.85 acres
Total:	±10.1 acres



- Notes:**
- Magnetic declination is approximately 13° east of true north at this location.
 - Aerial image was taken in summer of 2018.



Site Plan

Scale: 1" = 200'

<p>SHEET</p> <p style="font-size: 2em;">2</p> <p>OF 2</p>	PROJECT NO.	180901-0121
	DRAWING NO.	04 02
	SCALE	1" = 200'
	DATE	6/2/2022

LANDS OF BUTLER

RETENTION ANALYSIS

POST-DEVELOPMENT

www.acmeng.com
 1700 Soscol Avenue
 Ste. 9, Napa, CA 94559
 707-253-ACME



DESIGNED BY	OR
DRAWN BY	OR
CHECKED BY	OR

Butler Hillside Vineyard New Vineyard Development Tree Canopy Retention Analysis		
Predevelopment Conditions (2018 Aerial)		
Tree Canopy	4.85	acres
Grass/Shrub/Scrub	4.90	acres
Existing Development	0.35	acres
Total	10.1	acres
Areas Disturbed during Development		
Tree Canopy to be removed	0.95	acres
Grass/Shrub/Scrub to be removed	3.90	acres
Proposed Development	4.85	acres
Post-Development Conditions (2018 Aerial)		
Tree Canopy	3.90	acres
Grass/Shrub/Scrub	1.00	acres
Existing Development	0.35	acres
Proposed Development	4.85	acres
Total	10.1	acres
Tree Canopy Retention Percentage		
Tree Canopy Retention	80%	

Notes:

- 1.) The 2018 conditions were used as a baseline due to the fact that the subject parcel was damaged by the 2017 Atlas Fire (Napa County Ordinance No. 1441)
- 2.) The project as proposed would remove a total of 0.95 acres of vegetation canopy cover outside of stream setbacks.
- 3.) Vegetation canopy cover outside of stream setbacks in the post development condition totals 2.85 acres, which meets the 3:1 preservation requirement in NCC Section 18.108.020(D).

Butler Vineyard Conversion P20-00284-ECPA
Responses to Comments on Initial Study/Mitigated Negative
Declaration

Attachment 1: Yocha Dehe Wintun Nation



YOCHA DEHE
CULTURAL RESOURCES

March 22, 2022

Napa County Department of Planning, Building and Environmental Services
Attn: Pamela Arifian,
1195 Third Street, Suite 210
Napa, CA 94559

RE: Butler Vineyard Erosion Control YD-12182020-04

Dear Ms. Arifian:

Thank you for your project notification letter dated, March 8, 2022, regarding cultural information on or near the proposed Butler Vineyard Erosion Control. We appreciate your effort to contact us and wish to respond.

The Cultural Resources Department has reviewed the project and concluded that it is within the aboriginal territories of the Yocha Dehe Wintun Nation. Therefore, we have a cultural interest and authority in the proposed project area.

Based on the information provided, Yocha Dehe Wintun Nation is not aware of any known cultural resources near this project site and a cultural monitor is not needed. However, if any new information is available or cultural items are found, please contact the Cultural Resources Department. In addition, we recommend cultural sensitivity training for any pre-project personnel.

1.1

To schedule cultural sensitivity training, prior to the start of the project, please contact:

CRD Administrative Staff
Yocha Dehe Wintun Nation
Office: (530) 796-3400
Email: THPO@yochadehe-nsn.gov

Please refer to identification number YD - 12182020-04 in correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Sincerely,

DocuSigned by:

5ED632FDB9C34EA...

Tribal Historic Preservation Officer

Yocha Dehe Wintun Nation

PO Box 18 Brooks, California 95606 p) 530.796.3400 f) 530.796.2148 www.yochadehe.org

Butler Vineyard Conversion P20-00284-ECPA
Responses to Comments on Initial Study/Mitigated Negative
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Attachment 2: Yvonne Baginski

Yvonne Baginski

yvonnebaginski@gmail.com

707-694-5486

Public Comment, Butler Vineyard Conversion, #p20-00284-ECPA

Napa County has requested public comments, due April 13, 2022.

1. This project is physically unavailable to tour for public comment or perusal. The inaccessibility of this proposed project, is of considerable concern as the remote location, with a locked gate across Wild Horse Valley Rd., makes public observation impossible. Two email attempts to contact ACME Engineering, have been ignored to date. One phone call to the engineer at ACME has been ignored, and an email sent to the property owner received no response. We also requested assistance from the Napa County Planning Department, and they have received no response to their request, as well.

This is of considerable concern. The emails and phone calls were ignored. No response or acknowledgment. The lack of cooperation of in our efforts to produce a public comment that would be helpful to the to project, raised our suspicions on not only intent, but whether there is unlawful, unregulated activities already occurring on the property.

2.1

The lack of transparency is of considerable concern.

I made two visits to adjoining properties to get a sense of the area. During one visit, April 8, I was able to drive up to the entrance of the property where, I then witnessed, the Solano Hydroseed truck entering the gate. This is an erosion control business, and aroused my suspicions that grading, and perhaps other activities have already started. I filed a complaint with Napa County.

Mitigation Measure BR-1 states that preconstruction survey for nesting birds and raptors will be conducted no earlier than 7 days prior to vegetation removal I would like to see copies of the most recent preconstruction bird surveys.

2.2

Former experience of extensive vineyard construction, including the ripping out of trees, vegetation, and indicated erosion control measure, is that mistakes are made. Without observation, unreported or unrecognized, these mistakes can cause environmental disasters. Reviews of the property plans show that this is going to be a difficult project, fraught with the possibility of error. Potential errors in erosion control, the ripping out of very large trees (the 36 inch oak tree must be at least 120 years old, and the slopes of the property are considerable

2.3

(26%). Permits are needed to cut down these trees, I would like to see copies of permits for the cutting down of the 11 trees. This project will need close and constant observation to ensure that all agreements are followed through as promised.

2.3
cont'd

2. Prior to approval of plans, the property owner has already fenced off the entire property (as seen by aerial photographs). This newly-fenced area has not been physically observed by planning officials, and I am concerned. wildlife to access the two streams on the property. Since this property is so remote, and with no public access...we surmise that the only thing the owner wants kept off the property is deer, fox, bobcat, coyote and other wildlife. This intent is important to note since eastern hills of Napa County are almost the only areas where wildlife can still subsist, especially so with the fires having damaged so over 50% of wildlife habitat in Napa County . As Napa and Solano Counties continue to develop and build on flat acreage in their incorporated areas, wildlife biologists point to the hills and incorporated area as potential wildlife refuge. The problem is, when those unincorporated areas become vineyards or residential development, there is no safe haven left for the wildlife. Fencing off property presents a barrier to desperate animals seeking refuge, shelter and water.

2.4

In speaking with the next door neighbor, I was told that the area contains a mountain lion, bobcat, fox, feral pigs, and rattlesnakes. I personally rescued a Western Pond turtle attempting to cross Two Sisters Rd., saw four young feral pigs and watched a bald eagle fly to a tree. This is an area of abundant wildlife.

2.5

Reading the wildlife assessment for the property, "special-status wildlife surveys were not performed during the site visits and were considered out of the scope of current assessment due to inappropriate timing, and other factors." This report contains no information on animals seen or potentially living on this property. Considering two visits yielded some information to an untrained eye (bald eagle, turtle), I am requesting an accurate and up-to-date wildlife survey be completed.

3. The property will be ripped during prime breeding time for birds and animals. (April 1-Sept. 1. We are requesting that all ripping out and destructive property work be postponed until after the breeding time is complete. August or September. Also asking that all breeding nests found on the property be marked for protection in subsequent years.
4. Eleven trees are to be destroyed. In looking at the vineyards owned in Solano County, we note that several trees are left standing in the vineyards. We are asking that the oak tree, at the very least, be able to remain on the property and that an attempt is made to save all the native trees.
5. Please explain what "predation habitat" means in bird control.
6. On the wildlife exclusion fencing that is going in around the vineyard, we ask that the fencing and fence line be approved by Napa County Planning officials before and after installation. We have discovered that many vineyard operators are installing the fencing upside down, which totally defeats the purpose of the larger openings on the bottom, specifically made that way so

2.6

2.7

2.8

2.9

small mammals can escape. We are also requesting that any "Deer Guards" be banned for this project.

2.9
cont
'd

7. We are especially concerned about the vagueness of the definitions of the following:

Mitigation Measure BR-3 (c) "the owner/permittee shall refrain from severely trimming trees"
This statement is open to interpretation and needs to be clearly solidified with consequences.
We are asking that the trees to be trimmed be examined by certified arborists, in the interest of preservation and conservation. No trimming permitted without prior authorization by the planning department.

2.10

Mitigation Measure BR-3 (d) the term "inadvertent removal" brings this up as a reasonable possibility. Our experience with clearing projects, is "inadvertent removal" is a strong possibility, and after the fact re-planting lacks the vivacity of the habitat removed. We ask that prior to clearing and tractor work, clear boundaries are measured, taped and secure. These boundaries would then be observed and monitored by the planner (before and after), Any "inadvertent" removal can then be minimized and consequences can be immediately enforced.

2.11

8. Weed control. We are in opposition to the use of Roundup and Rely as a method of weed control. These herbicides are known carcinogens and harmful to all.

While the weed control measure specify "spot control" on the project plan, there is a discrepancy with the "24" spray width" under the vine control Which is it? We ask that the vineyard manager look into alternatives offered by Napa Green, and look into becoming a Nap Green Certified vineyard. We also request that bat, owl and bluebird boxes be installed on the property.

2.12

9. As we enter our third disastrous year of drought, groundwater is increasing in its importance to our sustainability as a species. With the proposed erosion control tiling irrigation measures, the water that would naturally seep through the ground into the aquifers is being deferred into ditches, and then to creeks. It is not allowed to naturally replenish the source of water that in the future, as surface water disappears, may be our only source of water for farming. This re-filling of our aquifers is evident and Napa County is currently making an effort to measure groundwater utilization. With the lack rain and as streams dry up, we are looking at groundwater as the only remaining source for local farming. The groundwater issue is significant. We are asking that water utilization by this vineyard be measured, monitored and reported to Napa County.

2.13

10. Will this property use solar energy for irrigation pumping?

2.14

11. The Wildlife study, as currently completed, assumes that neighboring properties will retain current habitat. This is an unrealistic assumption, and needs to be removed from the study as an expectation. On-site wildlife movement needs to be considered as if all the neighboring properties will eventually be developed into vineyards or residences.

2.15

Butler Vineyard Conversion P20-00284-ECPA
Responses to Comments on Initial Study/Mitigated Negative
Declaration

Attachment 3: Gary Margadant

Public Comment, Butler Vineyard Conversion, #p20-00284-ECPA

April 13, 2022

Gary S Margadant, PE

4042 Mount Veeder Road, Napa CA 94558

COMMENTS:

1. The public was not allowed to visit the site of this ECP and see the original condition of the property before the ECP was approved. The owner Jeff Butler, and contract person Ryan Pierce, and Acme Engineering were all approached for access. We received no answers for a many requests for access. Even the NC PBES Planner, Pamela Arifian, did not receive a reply for her request to visit the property during the public comment period.

The public was essentially barred from having access to the site by fencing and trespass warnings and any escort access. We were not allowed to see the property prior to April 13, 2022, the closing of the Public Comment window for the project.

Napa County relies on public collaboration for viewing and reviewing projects and notifying them of anyt perceived discrepencies in the plans and construction of the projects. In this case, the public was not allowed to view any aspects of the property topography and the proposed project construction and Erosion Control Efforts.

3.1

This project should not be approved until the public and PBES are allowed to view the site and document the original condition of the site. If the site has undergone any construction activity designed by the Project consultants, then the project applicant, constutants and contractors are in violation of the Napa County Regulation and their State Professional licensing .

I observed a Truck from Solano Hydroseed driving up the access road towards the property on 4/10/2022. If Solano Hydroseed is under contract to provide services to the new vineyard, then work, prior to Napa County Approval of the ECP, is under way, and the truck is part of the effort to protect disturbed ground: All disturbed areas should be seeded as soon as practical (as described in the Geotechnical Investigation by Miller Pacific).

2. The Erosion control plans by Acme Engineering showed the location of 4 photos of the site, yet the photos were not included in the document. Again, public viewing was denied.

3.2

3. The Geotechnical Investigation by Miller Pacific Figure 6 shows a conceptual design for subdrain location and alignment at 4 locations, 2 at TP 4 and 2 at TP 2. But the ECP drawings only show 1 subdrain location at TP4 and none at TP 2. What criteria was used to disregard the proposed subdrain locations at TP4 and TP2 and the substitution of a straw roll and water

3.3

bar at TP2? How will these substitutions improve stability?

Why were the straw rolls substitutions proposed for the long subdrain location south of TP4? How will the substitution of this subdrain improve stability?

3.3 cont'd

Figure 6 also shows an Approximate proposed vineyard boundary in a dashed line around the subdrain locations. The criteria used to compose this line and separate vineyard / non vineyard locations is not discussed. What are the Primary geotechnical considerations for such differentiation? There appears to be no explanation in the narrative when the risk of damage due to erosion is moderate to high.

4. The project Revision Statement of the MND, dated 3/3/22 and signed by the Owner, W J Butler, describing Mitigations Measures BR-1, BR-2 and BR-3 requiring various conservation efforts for Nesting Birds, Wildlife Exclusion Fencing System and an Oakwoodland preservation area with permanent restrictions.

3.4

Are the preconstruction surveys required by BR-1 to be posted on the project document (PBES) website? Have any surveys been completed to date especially if construction work has already started at the site?

When will the Oakwoodland preservation area be designated on the project drawings? Will this require a Revision of the ECP Drawings?

5. Ripping of the soil is recommended in the Geotechnical Investigation by Miller Pacific, Conclusions , Site Grading, 4. Fill Compaction and Soil Ripping. The soil ripping is limited in depth by slope, and 2 directions to avoid complete obliteration of soil structure in sloping areas. To reduce the risk of instability, we recommend soil ripping be limited to a depth of about 24-inches where slopes exceed 5:1, and a depth of about 36-inches in other areas.

3.5

This slope limits the ripping depth in the northern part of Block A and the western park of block B to 24". Adherence to this limitation is a crucial parameter to limit the potential for future erosion and slope instability. How will the varied ripping depth be correctly placed?

If the whole site is ripped to 36", there is a possibility of repeating the mistake by del Dotto vineyards on Yount Mill Road as part of P16-00153 ECP (APN 031 120 034 000) . The whole vineyard under construction 1/16/2019 became unstable under a strong rainstorm and slid into the full width of the road. The vineyard slopes were less than 10%.

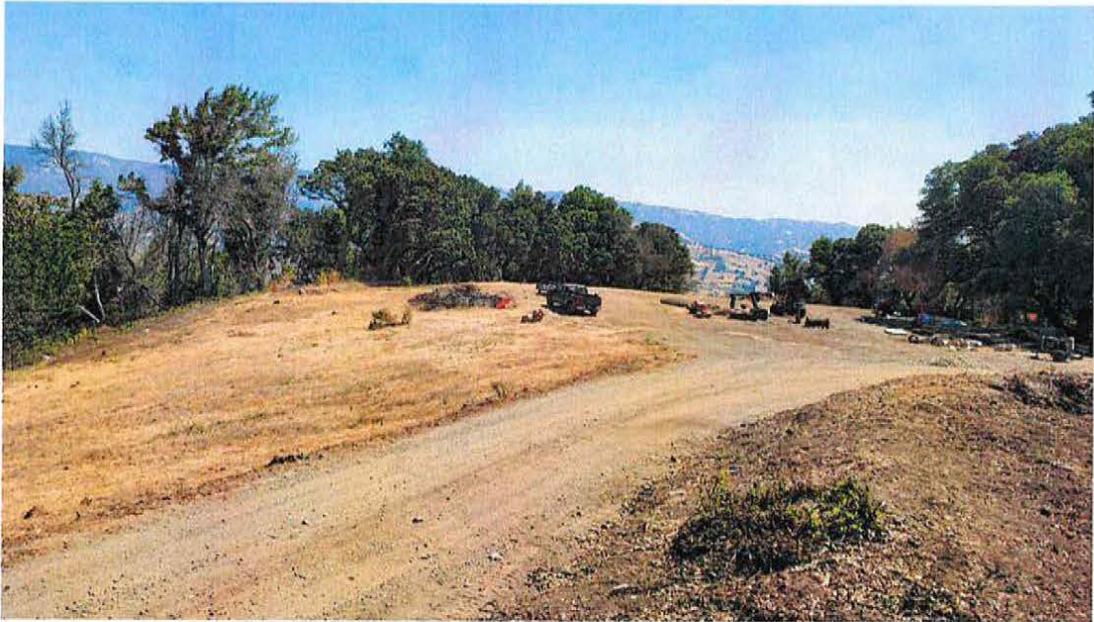
7. The Hydraulic Analysis by ACME Engineering relied on WinTR-55 a single-event rainfall-runoff, small watershed hydrologic model. It was used to determine the predevelopment and post-development peak flow rates for the 2, 5, 10, 25, 50 and 100 year return period 24 hour storm events.

3.6.

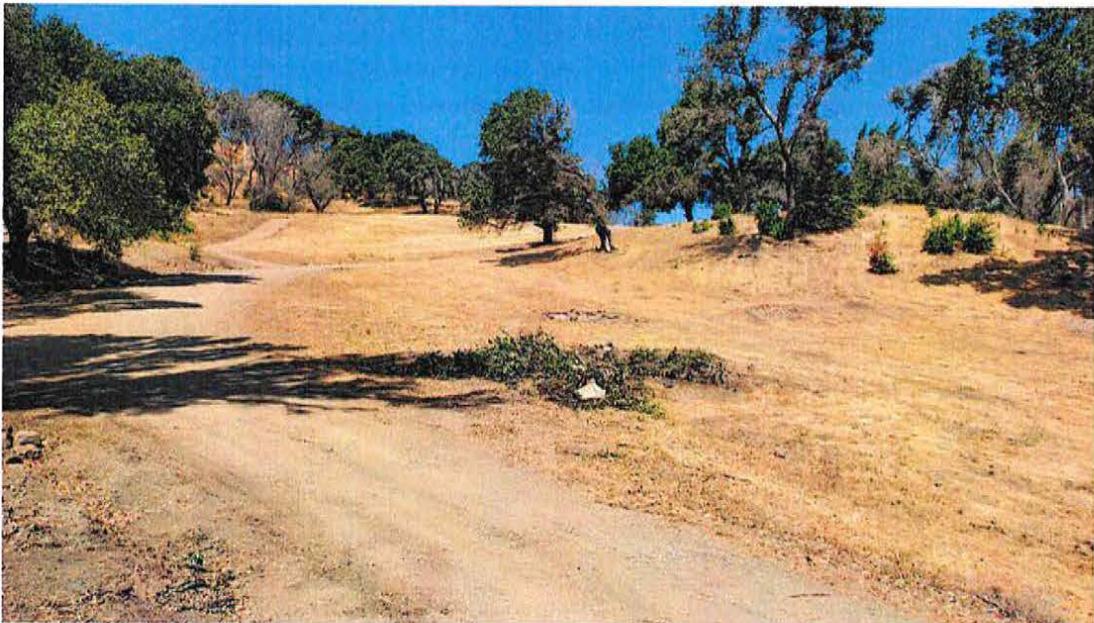
I suspect that his model is based on historical rain data and is not used to determine surface flows during the recent and expected rainstorms generated by Climate Change. The modern and expected storms of concentrated and large rainfall events of long duration, more than the 24 hrs cycles present in the modeling. These expected changes in the modeling should have been considered in the design of the Erosion Control efforts of the Engineering and consulting firms providing input on the project design.

Just as the del Dotto Disaster discussed in 6, these expected rainstorms will severely test the designs of the erosion control and should have been part of the analysis and design.

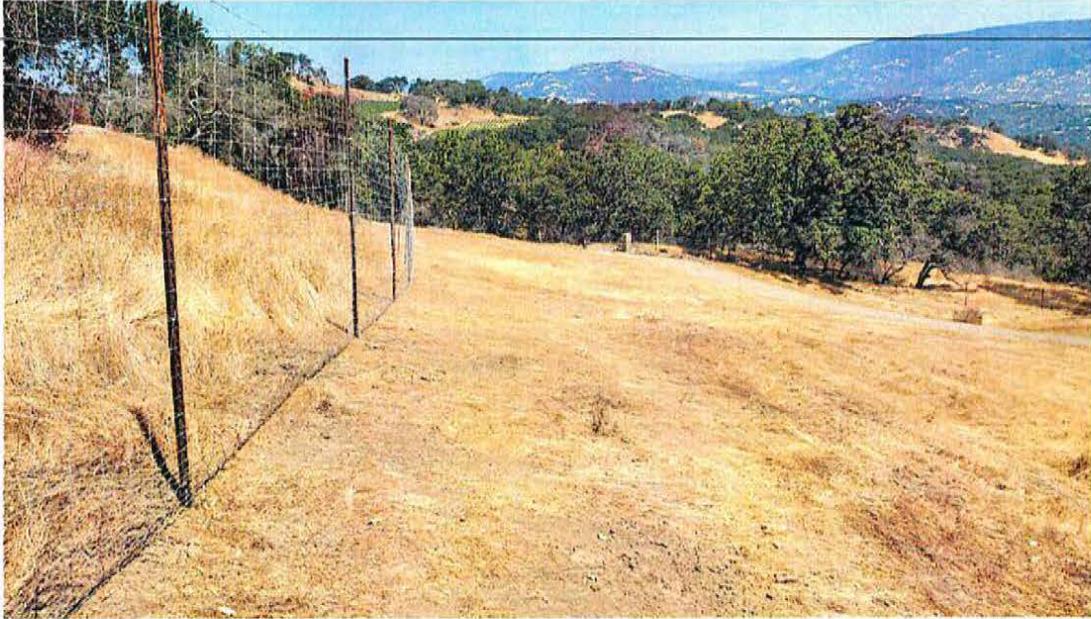
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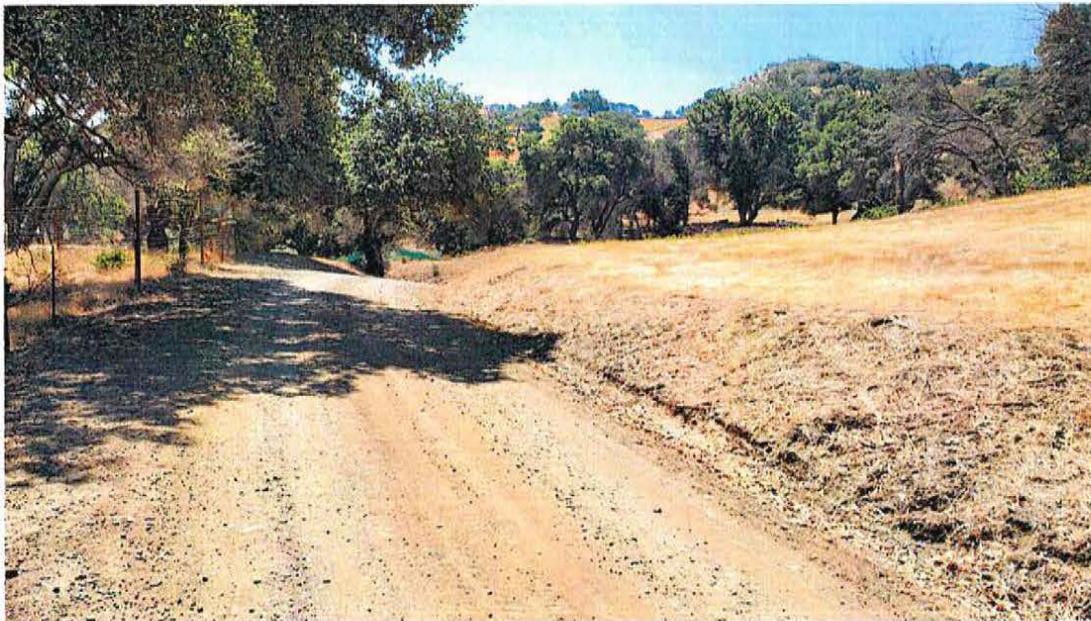
Photodocumentation Location 1
August 6, 2020



Photodocumentation Location 2
August 6, 2020



Photodocumentation Location 3
August 6, 2020



Photodocumentation Location 4
August 6, 2020