



A Tradition of Stewardship
A Commitment to Service

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Brian Bordona
Interim Director

To: Jim Wilson, 3942 Stover Street, Napa CA 94558
Erin Chappell c/o Alicia Bird, CDFW, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534
Eric Hernandez, Yocha Dehe Wintun Nation, PO Box 18, Brooks CA 95606
Angela Liao, Goldvista Holdings LLC., PO Box 9446, Rancho Santa Fe, CA 92067
HDVine LLC., 2778 Royal Oak Place, Santa Rosa, CA 95403
State Clearinghouse

From: Donald Barrella

Subject: Response to Comments - Initial Study/Mitigated Negative Declaration
Goldvista Holdings LLC., Liao Vineyard Conversion
Agricultural Erosion Control Plan File #P21-0066-ECPA
3580 Monticello Road, Napa, CA 94558: APNs 033-040-057 &
033-040-058 SCH #2022090431

Date: January 27, 2023

Attached is a copy of the Response to Comments for the subject project. The report contains our responses to comments provided on the September 23, 2022, Initial Study/Mitigated Negative Declaration, which can also be accessed at <https://pbes.cloud/index.php/s/nijr4qenaoYmDiR>

The County could approve the Project on or after **Friday January 27, 2023**.

Should you have any questions, please call Donald Barrella at 707-299-1338 or via e-mail to donald.barrella@countyofnapa.org

Respectfully,

A handwritten signature in blue ink, appearing to read "Donald Barrella".

Donald Barrella
Planner III

cc: Patrick Ryan, Interim Deputy Director PBES (via email)
Alexei Belov, Assistant Engineer, Engineering Division (via email)
Chris Apallas, Deputy County Counsel (via email)



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Brian Bordona
Interim Director

TO: Application File #P21-00066-ECPA

FROM: Donald Barrella, Planner III

DATE: January 27, 2023

RE: Response to Comments – Goldvista Holdings LLC., Liao, Vineyard Conversion
Agricultural Erosion Control Plan (ECPA) File #P21-00066-ECPA
Assessor’s Parcel Numbers 033-040-057 and 033-040-058
3580 Monticello Road, Napa, CA
SCH #2022090431

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 Liao Goldvista Holdings, Vineyard Conversion #P21-00066-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 Liao Goldvista Holdings, Vineyard Conversion Agricultural Erosion Control Plan #P21-00066-ECPA Proposed IS/MND, presents the name of the persons and organizations commenting on the Proposed IS/MND and responses to the received comments. This memorandum, in combination with the Proposed 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 September 26, 2022. In addition, Napa County circulated a Notice of Intent to Adopt the Proposed IS/MND to interested agencies, individuals, and property owners within 1000 feet of the subject property. The public review period ended on October 26, 2022. During the public review period, Napa County received three 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	Jim Wilson: 3942 Stover St./5000 Monticello Rd., Napa CA 94559	September 29, 2022
2	Yocha Dehe Wintun Nation	October 21, 2022
3	California Department of Fish and Wildlife (CDFW)	October 24, 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 on the project. The CEQA Guidelines do not require the preparation of a response to comments for 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.

This Response to Comments Memorandum will also be provided to the owner/Permittee as **notice** of potential Local, State and Federal permits or agreements necessary to implement and/or operate this project as identified within the attached agency comment letter. Furthermore, project approval if granted shall be subject to conditions of approval requiring any and all such permits or agreements be obtained prior to the commencement of vegetation removal and earth-disturbing activities associated with #P21-00066-ECPA , and that #P21-00066-ECPA shall be subject to any conditions and/or specifications of such permits or agreements.

RESPONSE TO COMMENTS

Comment #1 Jim Wilson (Attachment 1)

Response to Comment 1.1: As disclosed and assessed in **Section IV Biological Resources** (*Subsection e-* pages 15-17) and in **Exhibit A-2 (Cover Canopy Calculations)** of the Proposed IS/MND, the project site contains 10.2 acres of oak woodland cover canopy, with 2.75 acres of cover canopy occurring in the project/development. NCC Section 18.108.020(C) (General Provisions: Vegetation Retention Requirements) requires retention 70% of the vegetation canopy cover based on the on-site canopy present on June 16, 2016. The project as proposed retains ±7.5 acres (or 71-73%) of the canopy cover exceeding the 70% retention requirement found in NCC Section 18.108.020(C)

With respect to the 2.53 acres the commenter references, this acreage number is neither evident in any of the project documentation, nor disclosed in project CEQA review and assessment. It is presumed the comment is referring the 2.55 acres identified in **Section IV Biological Resources** (*Subsection e-* pages 15-17) as it relates to the vegetation removal mitigation and preservation disclosures and analysis specific to NCC Section

18.108.020(D) (Vegetation Removal Mitigation). See Response to Comment #1.2 (incorporated herein by reference) regarding vegetation cover canopy removal mitigation.

Response to Comment 1.2: As disclosed and assessed in in **Section IV Biological Resources** (*Subsection e*-pages 15-17) and in **Exhibit A-2 (Cover Canopy Calculations)** of the Proposed IS/MND, while the project proposes to retain approximately 7.5 acres (or 71%-73%) of the oak woodland canopy (or vegetation canopy cover) exceeding the 70% retention requirement Pursuant to NCC Section 18.108.020(C), the project would not be consistent with the 3:1 *Vegetation Removal Mitigation* pursuant to NCC Section 18.108.020(D). As proposed ± 8.25 acres of cover canopy would need to be preserved to comply with the 3:1 provision, in that 2.75 acres of cover canopy is being removed (2.75ac times 3 = 8.25ac). Implementation of **Mitigation Measure BR-3** requires #P21-00066-ECPA to be revised prior to approval to avoid and retain and additional 0.2 to acers of oak woodland cover canopy to achieve consistency with NCC Section 18.108.020(D). Reducing canopy cover removal by 0.2 acres, to 2.55 acres in total, would result in 7.65 acres of cover canopy retention (2.55ac times 3 = 7.65ac), there is 10.2 acres of cover canopy so the removal of 2.55 acres would result in the retention of 7.65 acres consistent with NCC Section 18.108.020(D).

As further disclosed and assessed in this Section of the Proposed IS/MND, NCC 18.108.020(D) prioritizes where the mitigation replacement and preservation areas should be allowed, whereby the first priority is for onsite replacement and/or preservation areas that generally occur on slopes less than 30% and outside of stream and wetland setbacks; if this cannot be reasonably accomplished, then onsite replacement and/or preservation may occur on slopes up to 50%. **Exhibit A-2 (Cover Canopy Calculations)** of the Proposed IS/MND shows areas of 30% slope or greater, and that approximately 6.5 to 7 acres of preserved cover canopy would occur on slopes less than 30%, with the remainder occurring on slopes of 50% or less, consistent with NCC 18.108.020(D). Further, **Mitigation Measure BR-3** would also require permanent preservation of approximately 7.65 acres of oak woodland and cover canopy, consistent with NCC Section 18.108.020(E).

With respect to the Court of Appeal's Walt Ranch decision, that decision specified that woodland avoidance/preservation for the purposes of offsetting Greenhouse Gas (GHG) impacts would need to result in equal amounts of woodlands preserved as that removed (i.e. a 1:1 ratio). The decision also indicated that preserved woodland would need to be located on developable land (i.e. outside of stream setbacks and on land with slopes $\leq 30\%$) for appropriate GHG mitigation. As disclosed and assessed in **Section VIII (Greenhouse Gas Emissions)** of the Proposed IS/MND, incorporation of **Mitigation Measure BR-3** would more than offset the loss in carbon sequestration from woodland removal by permanently protecting three times the amount of woodland (or lost carbon sequestration), of which at least twice the amount of woodland is located on developable land.

Also, see Response to Comment #1.1 (incorporated herein by reference).

Response to Comment 1.3: See Response to Comment #3.1 and 3.5 (incorporated herein by reference).

Comment #2 Yocha Dehe Wintun Nation (Attachment 2)

Response to Comment 2.1: As indicated in the Section 12 (**California Native American Tribal Consultation** – page 3) and Section XVIII (Tribal Cultural Resources – page 40) of the Proposed IS/MND, the Yocha Dehe Wintun Nation has requested the Tribe's Treatment Protocol be incorporated into the project, in addition to any recommendations as a result of Tribal inspections of the project site, should the request be approved.

These recommendations are incorporated into the project through implementation of **Mitigation Measure TR-1**

Mitigation Measure TR-1: The owner/permittee shall revise Erosion Control Plan #P21-00066-ECPA prior to approval to include the following measures to minimize the potential to impact tribal cultural resources:

- a. Prior to approval the owner/Permittee shall, by reference, incorporate the Yocha Dehe Wintun Nation's Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation into #P21-00066-ECPA.
- b. Prior to the commencement of vegetation removal and earth-moving activities pursuant to #P21-00066-ECPA, the owner/Permittee shall provide documentation to Napa County demonstrating that they have engaged with Yocha Dehe Wintun Nation to provide cultural monitors and that cultural sensitivity training has been provided to site workers.
- c. Should the owner/Permittee be unsuccessful in engaging 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 (RPA). The Cultural Monitoring Plan shall outline monitoring requirements including but not limited to, sensitivity training for site workers, find procedures, and monitoring documentation and reporting procedures.

Additionally, as indicated in the 'CEQA Process' Section of this memo the owner/Permittee through these responses to comments has been notified of the Yocha Dehe Wintun Nation's Treatment Protocol, cultural monitors and monitoring agreements, and cultural sensitivity training.

Comment #3 California Department of Fish and Wildlife (CDFW) (Attachment 1)

Response to Comment 3.1: As disclosed in Section IV **Biological Resources** (*Subsection b-c: page 14*) of the Proposed IS/MND, staff inspected the the drainage located on the northeastern corner of the project during the June 2, 2021 site inspect and determined it to be a constructed drainage ditch for past agricultural purposes, and not a stream pursuant to NCC 18.108.025. It was also noted that the ephemeral streams located in proximity of the along the eastern and southern boundaries of the project site have been avoid with setbacks exceeding the minimum 35-foot setbacks in accordance with NCC 18.108.025.

Therefore, the project is not anticipated to disturb, divert or obstruct the natural flow of a stream or associated riparian or wetland resources, or necessitate a LSA (Lake and Streambed Alteration) Agreement with CDFW.

While the project is not anticipated to necessitate an LSA Agreement, as stated in the CEQA Process Section above, this this Response to Comments Memorandum and CDFW's comments will be provided to the owner/Permittee as **notice** of potential Local, State and Federal permits or agreements, or notification thereof, necessary to implement and/or operate this project, and as conditioned would require any and all such permits be obtained prior to the commencement of vegetation removal and earth-disturbing activities associated with #P21-00066-ECPA. In addition to complying with such permit/agreement conditions or specifications, as identified within the attached agency comment letter. Also, see Response to Comment #3.5 (incorporated herein by reference).

Further, the County's determination(s) do not absolve the owner/permittee from providing LSA Notification, obtaining an LSA Agreement, or securing any other necessary permits/agreements from any Responsible or Trustee Agencies, including Tribal entities: also, see Response to Comment #3.5.

Response to Comment 3.2: See Response to Comment #3.3 and 3.4 (incorporated herein by reference) specific to the American Badger and Special-Status Herpetofauna.

Specific to special-status bird and bat species, as disclosed in Section IV Biological Resources (*Subsection a*: pages 12-14) **Mitigation Measure BR-1** and **BR-2** are being implemented and incorporated into the project to avoid impacts to said special-status species.

Response to Comment 3.3: While portions of the project site contain Loam soils, which are friable and a habitat requirement for American badgers, surveys of the project area conducted by qualified professionals found that the grasslands and woodlands in the study area provided poor habitat for this species, and no evidence of species use was identified. Therefore, the Proposed IS/MND appropriately concluded that there would not be a potentially significant to this animal species or its habitat as a result of the project.

However, to ensure that American badgers are not injured or taken, and that any burrows are avoided, the condition below will be included in any approving action by the County. Also, see Response to Comment #3.2 (incorporated herein by reference).

American badger (*Taxidea taxus*) Protection: A qualified biologist shall survey for American badger within the Project site and adjacent habitat within a minimum of 50 feet. If any occupied burrows are discovered the Project shall implement an appropriate buffer from the burrow, as determined by a qualified biologist and approved in writing by CDFW. If the Project cannot avoid impacts to the occupied burrow the Project shall consult with CDFW regarding next steps before proceeding and implement CDFW recommendations such as preparing and implementing an American badger relocation plan.

Response to Comment 3.4: While the Proposed IS/MND discloses that potential habitat for the western pond turtles is present in the ponds on the subject property and adjacent properties and that the blue line stream which may contain poor habitat for the foothill yellow-legged frog (*Rana boylei*) and California red-legged frog (*Rana draytonii*) these features are located over 500 feet to the east of the project site. Therefore, the Proposed IS/MND appropriately concluded that there would not be any anticipated impacts to these species or their habitat as a result of the project.

Because there are wetland within closer proximity to the project site, to ensure that western pond turtles, foothill yellow-legged frog, and California red-legged frog are not injured or taken, and otherwise avoided, the condition below as recommended by CDFW will be included in any approving action by the County. Also, see Response to Comment #3.2 (incorporated herein by reference).

Special-Status Herpetofauna Protection: For all Project activities that occur within 500 feet of stream or wetland habitat, prior to ground-disturbing activities, a qualified biologist shall conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of foothill yellow-legged frog, California red-legged frog, and western pond turtle and their nests. If any of these special-status species are discovered during the survey, Project activities shall not begin until CDFW has been consulted and approved in writing measures to avoid and minimize impacts to

special-status species, and the measures have been implemented. If California red-legged frog is encountered, the Project shall consult with USFWS pursuant to the federal Endangered Species Act and obtain any required authorization for impacts.

Response to Comment 3.5: The project Biological Resource Assessment (Northwest Biosurvey, March 2021 - **Exhibit B-1** of the Proposed IS/MND) did not identify any riparian habitat occurring within the project site or project area. See *Response to Comment #3.1* (incorporated herein by reference) regarding LSA Notification and any measures determined necessary by the CDFW to be included in any LSA Agreement.

Response to Comment 3.6: The County will direct the Project Biologist to report the observance of special-status species or and natural communities detected in their Biological Resource Assessment (Northwest Biosurvey, March 2021 - **Exhibit B-1** of the Proposed IS/MND), or as a result of any subsequent survey required for this project to the CNDDDB. Additionally, as previously indicated this this Response to Comments Memorandum will be provided to the owner/Permittee as **notice** of this requirement.

Response to Comment 3.7: The CDFW Environmental Filing Fee for a Mitigated Negative Declaration will be paid upon filing of the CEQA Notice of Determination for this project if approved.

List of Attachments

Attachment 1 – Jim Wilson email/letter dated September 29, 2022

Attachment 2 – Yocha Dehe Wintun Nation letter dated October 21, 2022

Attachment 3 – California Department of Fish and Wildlife letter dated October 24, 2022

Attachment 4 - Cover Canopy Calculations: Exhibit A-1 of the Proposed IS/MND

Attachment 1

From: [Jim Wilson](#)
To: [Barrella, Donald](#)
Cc: [Bordona, Brian](#)
Subject: Liao Vineyard/ Goldvista Holdings LLC ECPA 21-00066
Date: Thursday, September 29, 2022 9:46:12 AM
Attachments: [Walt - Staff Report - Final.pdf](#)
[Walt 19 - Applicant's Proposal and Ascent Report.pdf](#)
[Walt 3 - Amended Revised Mitigation Proposal - 3-29-22 .pdf](#)

[External Email - Use Caution]

Dear Donald,

Regarding Liao Vineyard/ Goldvista Holdings LLC [ECPA 21-00066](#), I have three concerns, and questions for you.

1) The proposed project does not meet the 3:1 minimum canopy retention.

The proposal shows:

Existing canopy 10.14ac.

Proposed canopy removal 3.07ac.

Proposed canopy retention 70%.

However, for the 3:1 mitigation ratio to be met, the canopy removal allowed in this instance is 2.53 acres. Can this be corrected?

The 3:1 minimum ratio is specified in the [18.108.020 - General provisions](#), as well as WQTPO support docs such as:

[NAPA COUNTY WATER QUALITY AND TREE PROTECTION ORDINANCE Frequently Asked Questions \(FAQs\)](#)

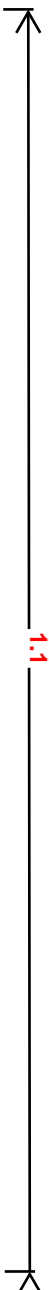
8. How does this ordinance better protect our forests?

The ordinance expands existing protections of forests in municipal watersheds to include forests, oak woodlands, and native trees and it increases the percentage of tree canopy protection on each parcel from 60 percent to 70 percent. The ordinance also expands this 70% vegetation canopy retention protection to parcels within the Agricultural Watershed (AW) zone. Existing mitigation requirements (**the number of acres of trees that must be conserved or replanted for every acre of trees removed**) are also increased from 2:1 to 3:1 **under the new ordinance**, unless there is riparian habitat restoration or public benefit provided.

[Implementation Guide Water Quality & Tree Protection Ordinance](#)

VEGETATION REMOVAL MITIGATION

In addition to the vegetation retention requirements in the AW zoning district, the removal of any vegetation canopy cover **shall be mitigated by permanent replacement or preservation of comparable vegetation canopy cover, on an acreage basis at a minimum 3:1 ratio**, or at a 2:1 ratio if the replacement of vegetation occurs within stream setbacks or where the project includes substantial public benefits as determined by the director of Planning, Building and Environmental Services. The selection of areas for mitigation are required to be informed by a qualified professional or site



specific vegetation land cover mapping on file with PBES.

The Implementation Guide has a hypothetical project to show how this is done.

2) The proposed project allows areas off-limits to development (>30% slope) to be used for tree removal mitigation.

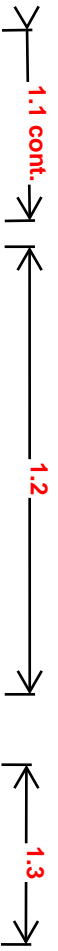
The proposal includes a map of the existing tree canopy cover on the parcel (10.14ac) and also areas of that tree cover with slopes >30%. While the proposed project does not specify the acreage of >30% slope tree canopy cover, it is understood that not all 10.14 acres is developable. The minimum 3:1 tree removal mitigation ratio must be applied to canopy cover at risk of development. Therefore less than the total area of 10.14ac may be considered for development. After applying the minimum 3:1 mitigation ratio, canopy cover to be removed will be <2.53 acres. Can this be corrected?

Note - the Court of Appeal's Walt Ranch decision held that for tree removal mitigation, the area to be preserved had to be additive. In the Board Agenda Letter dated 4/19/22, File ID #: 22-605, PBES discusses this decision and, as a result, the applicant's revised mitigation proposal that consisted of mapping woodland habitat located on slopes <30%. See attachments.

3) BASIC APPLICATION FOR EROSION CONTROL PLAN REVIEW #17 - Yes/No checkbox is not checked.

#17 reads: "All streams and watercourses in vicinity of project areas(s) shown and the required setback(s) indicated with the distance and slope?" Is this information available? Are ephemeral streams located on this parcel? Does the proposed project avoid these areas?

Thank you,
Jim Wilson



ATTACHMENTS



Napa County

Board Agenda Letter

Board of Supervisors

Agenda Date: 4/19/2022

File ID #: 22-605

TO: Board of Supervisors
FROM: David Morrison, Director of Planning, Building and Environmental Services
REPORT BY: Brian Bordona, Assistant Director
SUBJECT: Walt Ranch Vineyard ECP - GHG Mitigation Appeal

RECOMMENDATION

PUBLIC HEARING 1:30 P.M. - (Walt Ranch Appeal)

Consideration and possible action regarding an appeal filed by Center for Biological Diversity (Appellant) to a decision by the Director of the Napa County Department of Planning, Building and Environmental Services on October 6, 2021, to approve a revision to Mitigation Measure 6-1 and to incorporate the revised mitigation measure into the Mitigation Monitoring and Reporting Plan applicable to the Walt Ranch Vineyards Agricultural Erosion Control Plan - File No. P11-00205-ECPA submitted by Hall Brambletree Associates, LP (Applicant) to allow earthmoving associated with the development of approximately 209 net acres of vineyard (± 316 gross acres) (the Project) as further described in the Board Agenda Letter for this matter. The Project would be located on the west side of Monticello Road, approximately one mile southwest of its intersection with Highway 128, and approximately one-half mile north of its intersection with Waters Road, approximately 6.25 miles east of the Town of Yountville in Napa County located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. (Assessor Parcel Numbers: 032-120-028, 032-480-007, -008, -011 through -024, -027, -028, 032-490-004, -005, -006, -008 through -020.)

EXECUTIVE SUMMARY

The matter before the Board involves the appeal of a revision to a mitigation measure adopted to offset the impacts on the environment of the greenhouse gas (GHG) emissions from the construction and operation of the Project. The Environmental Impact Report (EIR) was adopted and certified in December 2016 and was not invalidated or decertified by the subsequent petitions for writ of mandate filed by the Appellant, among others. Instead, the Court issued a writ of mandate requiring the County to revise and substantiate the mitigation of GHG impacts caused by the Project. The Director approved the revised Mitigation Measure 6-1, which requires

the Applicant to (1) place no less than 124 acres of oak woodland on the Project site into a perpetual conservation easement, and (2) plant no fewer than 16,790 oak trees within lands protected by conservation easements identified in this and other mitigation measures applicable to the Project. After the appeal was filed, the Applicant submitted a revised proposal that would substantiate the mitigation measure originally adopted by the County in the EIR by identifying and mapping 292.6 acres of woodland habitat, from which 248 acres would be conserved, on specific portions of the property that meet the conditions for adequate conservation easements, as required by the Court of Appeal. The Project is located in the AW (Agricultural Watershed) Zoning District and has a General Plan land use designation of AWOS (Agriculture, Watershed and Open Space).

PROCEDURAL REQUIREMENTS

1. Chair introduces item.
2. Chair invites disclosures from Board members.
3. Chair invites the Staff Report presentation.
4. Chair opens the public hearing and invites testimony from Appellant and their witnesses as previously disclosed on their witness list and in the order noted on the witness list attached as **Attachment 7**.
5. Chair invites any other interested members of the public to testify regarding the appeal.
6. Chair invites testimony from the Applicant and their witnesses as previously disclosed on their witness list attached as **Attachment 7**.
7. Chair then invites Appellant to have final rebuttal, if any.
8. Chair closes the public hearing.
9. A motion of intent is made and seconded to deny, uphold, and/or remand the appeal.
10. Chair refers the matter to County Counsel's office for preparation of a Resolution of Findings of Fact and Decision on Appeal. Staff recommends that the Board direct County Counsel's office to return to the Board on June 7, 2022, with the proposed Resolution for the Board's consideration and adoption.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No
County Strategic Plan pillar addressed: Vibrant and Sustainable Environment

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The Final Environmental Impact Report was certified on August 1, 2016 (State Clearinghouse No. 2012-02046); an Addendum was prepared to analyze the impact and effectiveness of the revised Mitigation Measure 6-1. The Applicant's revised proposal substantiates the mitigation measure described in the EIR.

BACKGROUND AND DISCUSSION

On August 1, 2016, the Director approved the Hall Brambletree Associates, LP - Walt Ranch Vineyard Conversion - File No. P11-00205-ECPA, which consisted of an erosion control plan for the earthmoving associated with the development of approximately 209 net acres of vineyard (\pm 316 gross acres). The Director

also approved the Environmental Impact Report (“EIR”) (SCH #2012102046), finding that, as mitigated, the environmentally superior alternative project would not result in any significant impacts to the environment.

The decision followed 134 days of public comment on the Draft EIR, including two public hearings before the Director. Thereafter, the Director’s decision was appealed by four parties on numerous identified grounds. In December of 2016, the Board held three separate hearings on the consolidated appeals, including public comment on the Project. After due consideration, the Board upheld the Director’s approval, with some modification to mitigation measures and conditions of approval. The EIR was certified on December 22, 2016, and the project approved.

On January 19, 2017, three Petitions for Writ of Mandate were filed challenging the approval in Napa Superior Court, on numerous grounds. On April 5, 2018, the Superior Court denied the Petitions and upheld the County’s decision to certify the EIR and approve the Project. The petitioners appealed the Superior Court’s decision and on September 30, 2019, the Court of Appeal upheld the Superior Court’s decision on all grounds except one. (Attachment 22.) The Court of Appeal held that there was insufficient evidence that the preservation of 248 acres of woodlands would offset the GHG emissions resulting from the project because the record did not identify the specific woodlands to be preserved. For this reason, there was insufficient evidence to show that such woodlands were otherwise subject to conversion to other uses. The Court of Appeal therefore directed the County to reconsider the adequacy of Mitigation Measure 6-1.

On May 6, 2020, the Superior Court entered judgment and issued a writ consistent with the Court of Appeal’s decision. (Attachment 21.) The judgment and writ directed the County to set aside its findings “concerning whether the Project, as mitigated, will have a less-than-significant impact with respect to GHG emissions.” The judgment provided that no Project activity that may result in GHG emissions may proceed unless and until such findings are reconsidered and supported by substantial evidence on the record. Nevertheless, the judgment did not set aside the approval of the Project, nor did the judgment decertify the EIR. Therefore, the only issue that was left to resolve is the adoption of adequate mitigation for GHG emissions; all other issues related to the Project and the EIR are conclusively resolved.

The Judgment concluded, in relevant part, as follows:

1. As set forth in the Opinion, the Petition for Writ of Mandate, filed by Petitioners is granted in part as to the following EIR issue: to ensure that the greenhouse gas (“GHG”) emissions associated with the project, as mitigated, constitute a less-than-significant impact. As set forth in Section II.F of the Opinion, substantial evidence does not support the County of Napa’s (the “County’s”) conclusion that the conservation easement that the Project must provide will provide sufficient mitigation to reduce the Project’s GHG emissions to less-than-significant levels.

2. In all other respects, the petition is denied.

(Attachment 21, p. 9.)

Based on the Court of Appeals opinion, even the analysis of the impact of the project with respect to GHG emissions is conclusively resolved. The EIR estimated that installing the vineyard would result in GHG emissions totaling 105,753 metric tons of carbon dioxide equivalent (“MTCO_{2e}”). The EIR also concluded that these emissions would not result in a significant impact if they were offset by reductions in GHG emissions by 26 percent. This translates to a reduction in GHG emissions of 27,496 MTCO_{2e}. The Court also did not question the County’s conclusion in the EIR that preserving 248 acres of woodlands would result in a reduction of the GHG impact by 27,528 MTCO_{2e}, provided the appropriate woodland could be identified. This

conclusion was based on estimates generated by the California Emissions Estimator Model (“CalEEMod”), which was developed by the California Air Pollution Officers Association in collaboration with the California air districts, including the Bay Area Air Quality Management District (“BAAQMD”). The methodology was deemed appropriate.

On July 14, 2020, pursuant to the judgment, the Napa County Board of Supervisors adopted Resolution No. 2020-98 (Attachment 20), which vacated and set aside the finding in Attachment A to Resolution No. 2016-184 regarding Impact 6-1 and directed staff to file a return to the peremptory writ of mandate informing the Court that the Board had adopted this resolution.

The proposed project approved by the Director consists of an amendment to Mitigation Measure 6-1, which, as previously approved, required the applicant to place into permanent protection no less than 248 acres of oak woodland habitat to offset 27,528 MTCO_{2e} of the project’s GHG emissions. The proposed project would amend Mitigation Measure 6-1 to combine a smaller conservation easement area with a substantial tree-planting program. The proposed revision to Mitigation Measure 6-1 would require permanent protection of no less than 124 acres of woodland habitat, which must be located on slopes less than 30 percent and outside any other preservation areas required by the EIR, and the planting of no less than 16,790 native oak trees, as further described in project documents. An Addendum to the EIR in accordance with the CEQA Guidelines, Section 15164, has been prepared, which analyzes the amendment to Mitigation Measure 6-1 and provides further details. (Attachment 17.)

Since the filing of the appeal, the Applicant submitted a revised proposal, which would substantiate the original mitigation measure requiring conservation of 248 acres of woodland habitat. (Attachments 2 and 3.) The revised proposal identifies 292.6 acres of woodland habitat on the Property, from which the Applicant would be required to conserve 248 acres. The proposal includes detailed mapping to show that the land identified: (1) consists of mapped woodland habitat; (2) is located on slopes less than 30 percent; (3) is located outside the Milliken Reservoir watershed; (4) is located outside required setbacks for riparian corridors; (5) does not overlap with land to be converted to other uses as part of the project; and (6) is not designated for preservation under adopted mitigation measures to protect other resources on the Property. The revised proposal would revise the previously adopted Mitigation Measure 6-1 to reflect the change and to incorporate the accountability and oversight provisions of the Biological Resources Management Plan (“BRMP.”)

Code Compliance:

There are no active code violations at the project site.

Public Process:

Erosion Control Plans are subject to review and approval by the Director of the Department of Planning, Building and Environmental Services (the “Director”), pursuant to Napa County Code section 18.108.070. While no specific process is provided for approval of a revision to a mitigation measure for an approved project with a certified EIR, the County sought to provide an opportunity for public review and input. To that end, the

Director issued a tentative decision on September 21, 2021, providing for a comment period of at least 10 days before the decision became final. The tentative decision stated that the final decision would be made on October 1, 2021.

In response to the tentative decision, the County received approximately 60 comments from the public, including a letter submitted by the Appellant, CBD, on October 1, 2021 (Attachment 11, Exhibit 2). The Director reviewed each comment and, on October 6, 2021, issued a final decision approving the revision to Mitigation Measure 6-1 (Attachment 15).

Findings:

The writ of mandate issued on May 6, 2020, required the County to vacate and set aside its findings regarding the impact of the Project on GHG emissions. The Board, by resolution passed on July 14, 2020, set aside the following finding, which was previously adopted in Resolution 2016-184:

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

The Director reviewed the proposal from the Applicants (Attachment 19), the report from Ascent Environmental (Attachment 19), the Addendum to the FEIR (Attachment 17), and other documents and information in the record and found that substantial evidence supported the conclusion that “the revised Mitigation Measure 6-1 will reduce the impact of the Project on Greenhouse Gas emissions to a less than significant level, in accordance with the Superior Court judgment.” (See Attachment 15.)

Appeal:

On November 5, 2021, Appellant Center for Biological Diversity filed a timely Appeal Packet (the Appeal) challenging the approval of the amendment to Mitigation Measure 6-1 in the Walt Ranch Vineyards Agricultural Erosion Control Plan and EIR documents. (Attachment 11.)

Pursuant to the County’s appeals ordinance (Napa County Code Chapter 2.88) a public hearing on an appeal must be scheduled not less than 25 days nor more than 90 calendar days from submittal of an appeal. The County scheduled the hearing for December 14, 2021, and the parties confirmed their availability for that date.

The Board held the hearing on December 14, 2021, and, after all presentations and public comment were received, adopted a tentative action. After the hearing and before the final action on the matter, however, the County became aware of allegations of a potential conflict of interest of one supervisor who voted in the majority for the tentative action taken at the December 14, 2021, hearing. On March 1, 2022, the Board considered whether to adopt the findings of fact as presented after the tentative action, or to reconsider the matter without the participation by the supervisor. Out of an abundance of caution, and at staff's recommendation, the Board decided by a 4-0 vote (with one supervisor recused) to re-set the hearing on the appeal to April 19, 2022, with a new prehearing conference to be presided over by the new chair.

Pre-Hearing Conference:

To clarify the County's procedural requirements and expectations regarding land use appeals, the County requires the parties to attend a pre-hearing conference with the Chair of the Board to discuss estimates on presentation lengths, scope of evidence, and testimony to be presented, together with witness lists. Any witness not appearing on a witness list at the pre-hearing conference is treated as an ordinary member of the public and allotted the usual three minutes of speaking time.

A pre-hearing conference was held on March 17, 2022, with the Chair and representatives of the Appellant, the Applicant, and a Deputy County Counsel. At the conference, Appellant and Applicant agreed to provide a list of their respective witnesses along with the subject matter of testimony and time estimates in advance of the hearing. The Chair informed the Appellant and the Applicant that each side is allotted a maximum of 20 minutes for their presentation, allocated at their discretion. The witness information that was provided by Appellant and the Applicant is provided in Attachment 7.

Additionally, following the pre-hearing conference, the parties submitted requests to augment the record. The Applicant requested the addition of the revised proposal and accompanying documents, and the Appellant requested the inclusion of a substantive response to the revised proposal. (Attachments 8 and 9, respectively.)

The Chair determined that good cause exists for the inclusion of this additional evidence in the record on appeal. (Attachment 10.) The parties did not request reconsideration of the Chair's decision before the whole Board.

Appeal Hearing Public Comments:

Public notice of this appeal hearing was mailed and provided to all parties who received notice of the Director's decision on April 1, 2022. The notice ran in the Napa Valley Register on Friday April 1, 2022.

GROUND OF APPEAL

On March 8, 2022, the Applicant submitted a revised proposal, which responds to concerns raised in the appeal by returning to, and substantiating, the original content of Mitigation Measure 6-1. This proposal was further revised in a letter on March 29, 2022. These letters are contained in Attachments 2 and 3.

On March 29, 2022, the Appellant submitted a substantive response to the revised proposal setting forth arguments against the approval of the revised proposal, which Staff considers new ground of appeal. This

response is included as Attachment 4.

For convenience, the specific grounds of appeal and Staff's response to these grounds are set forth in Attachment 1.

BOARD CONSIDERATIONS AND STAFF RECOMMENDATION

The following options are provided for the Board's consideration regarding possible action on the appeal:

- Deny the appeal in its entirety and approve the revised Mitigation Measure 6-1, as contained in Attachment 5.
- Uphold one or more grounds of the appeal, reverse the Director's decision, and reject the revised proposal, describing the basis for such denial.
- Remand the matter to the Director with direction for further consideration.

In Staff's opinion, the revised proposal to substantiate the mitigation set forth in the certified EIR, including the detailed mapping described in the staff report and responses, is supported by substantial evidence and, notwithstanding the arguments in the appeal, is sufficient to reduce the greenhouse gas emissions from the Walt Ranch project to a less-than-significant level. Therefore, Staff recommends that the Board deny the appeal and approve the revised Mitigation Measure 6-1, as reflected in Attachment 5.

Attachment 3

March 29, 2022, Amendment to Revised Proposal

Whitman F. Manley
WManley@rmmenvirolaw.com

March 29, 2022

Via e-mail

Jason M. Dooley
Deputy County Counsel
Office of the Napa County Counsel
1195 Third Street, Suite 301
Napa, CA 94559

Re: Walt Ranch – Appeal of Director Morrison’s approval; Mitigation Measure 6-1

Dear Mr. Dooley:

Pursuant to section 2.88.090(B) of the County Code, and as discussed more fully below, we request that the Board of Supervisors consider the attached materials in considering the appeal filed by the Center for Biological Diversity (“Appellant”) at the hearing on April 19, 2022. The following materials are attached:

- Attachment 1 – Letter from Mike Reynolds to David Morrison, with attachments (March 8, 2022). This letter sets forth Hall Brambletree’s revised proposal to address the project’s GHG emissions.
- Attachment 2 – Revised Figures and Table showing woodland habitat available for conservation as GHG mitigation.
- Attachment 3 – Excerpts of transcript of the Board of Supervisors’ hearing on December 14, 2022.
- Attachment 4 – Excerpt of Appellant’s November 5, 2021, letter setting forth the bases for its appeal.

This letter sets forth the applicant’s showing of good cause to consider these materials.

1. March 8 Letter

Mike Reynolds’ March 8 letter, including its attachments, consists of Hall Brambletree’s revised proposal for Mitigation Measure 6-1. The proposal includes a figure, labeled “Figure 1,” showing +/- 312 acres of woodland habitat suitable as GHG mitigation. The figure was prepared using existing surveys and GIS mapping of the property. The surveys and GIS mapping are the same as those that the County relied upon in preparing the

Final EIR. Figure 1 to this letter portrays this information in ways that we believe will be useful to the Board because it identifies the specific woodland habitat acreage available as mitigation to address GHG impacts. This is the specific information that the Court of Appeal stated is needed to support the County's finding that GHG emissions would be mitigated. The figure thus provides the substantial evidence necessary to support the mitigation measure that the County already adopted when it approved the project. The figure is not based on new or different survey data or GIS mapping. It simply portrays this same data in a way that focuses on the issue at hand.

The March 8 letter also includes proposed revisions to Mitigation Measure 6-1. The revisions reflect the following proposed changes:

- The revised text states that the 248 acres of woodland habitat to be preserved must be located as shown in the figure attached to our March 8 proposal. This is to ensure that the land to be preserved is otherwise developable and thus meets the criteria identified by the Court of Appeal.
- The revised text requires that the BRMP be modified to include the conservation easement required by this measure. This revision strengthens the proposal.

Good cause exists to consider this proposal. The proposal responds directly to the Court of Appeal's decision, eliminates the tree planting program to which the Appellant objected, and provides GHG mitigation in a manner that all parties agree is appropriate.

2. Revisions to March 8 Proposal

We request that the County consider the following modifications to our March 8 proposal. The March 8 proposal states that none of the woodland habitat available as GHG mitigation is located in the Milliken Reservoir watershed. This statement is incorrect. Parcels 24, 25, 26, 29 and 32 straddle the Milliken Reservoir and Capell Creek watersheds. Parcels 27, 28, 30 and 31 are within the Milliken Reservoir watershed. Taken together, these parcels contain 19.4 acres of available woodland habitat within the Milliken Reservoir watershed.

The woodland habitat in the Milliken Reservoir watershed is available as GHG mitigation because this habitat can be converted to other uses, so long as at least 60% of the canopy cover is retained. (Napa County Code, § 18.108.027(b).)¹ Even if the woodland habitat acreage on Parcels 24 – 32 shown on our March 8 proposal were converted, over 60% of the canopy cover (indeed, over 70% of the canopy cover) would be retained. Because the County Code does not prohibit converting this woodland habitat, it could be converted to other uses and is therefore available as GHG mitigation.

¹ The 60% required canopy cover is the standard that existed at the time the County approved the Walt Ranch ECP. The County since increased the required canopy cover to 70%. The change is not relevant here; Walt Ranch retains over 70% of the canopy cover in the Milliken Creek watershed.

We nevertheless wish to revise our proposal to eliminate all woodland habitat in the Milliken Reservoir watershed. Our reasoning is straightforward: we want to make our proposal as simple as possible. Moreover, we do not need the woodland habitat in the Milliken Reservoir watershed to provide the requisite 248 acres of woodland habitat conservation. If the woodland habitat in the Milliken Reservoir watershed is excluded from our proposal, then 292.6 acres of suitable woodland habitat remain available as suitable conservation for GHG mitigation.

A revised figure, entitled “Walt Ranch GHG Mitigation (March 29, 2022),” appears at Attachment 2. This figure shows, shaded in green, the +/- 292.6 acres of woodland habitat that is eligible as GHG mitigation. The green-shaded area is identical to the figure attached to our March 8 letter, except that the woodland habitat in the Milliken Reservoir has been excluded.

We also include in Attachment 2 a revised spreadsheet breaking down the acreage of woodland habitat by parcel. The figure and table are identical to those we submitted on March 8, except that the woodland habitat acreage in the Milliken Reservoir watershed has been excluded from our proposal.

We also include in Attachment 2 an additional figure. This figure shows the same +/- 292.6 acres of woodland habitat eligible as GHG mitigation. This figure also shows, shaded in grey, all the areas on the property that are not considered available for conservation as GHG mitigation. The reasons why these areas are not considered available as GHG mitigation are: (1) they are within approved vineyard clearing limits, (2) they are within the Milliken Reservoir watershed, (3) they are protected under other, adopted mitigation (e.g., for biological resources), (4) they are within required stream setbacks, or (5) they consist of areas with slopes in excess of 30%. The areas shaded in grey are therefore considered “off the table” as woodland habitat potentially available for conservation to mitigate the project’s GHG emissions.

Good cause exists to consider these materials. They revise our proposal to eliminate potential confusion regarding whether woodland habitat in the Milliken Reservoir watershed is available as suitable GHG mitigation. The figures and table also provide greater specificity regarding the location of the 248 acres of woodland habitat to be conserved.

The second figure is particularly helpful because it shows that there is no overlap between the areas shaded grey and those shaded green. Thus, all the +/- 292.6 acres meets the criteria necessary to serve as GHG mitigation, because (absent the conservation easement required by Mitigation Measure 6-1), this acreage is developable under County policy.

This figure presents only information that is already in the record and that was before Director Morrison when he approved the May 5, 2021, proposal. The figure presents, on a single map, information that currently appears in different figures addressing various resource areas. Because the information is presented in a way that focuses on the issue at

hand, we believe this figure will be useful to the Board. We therefore believe that good cause exists to consider this figure.

3. Excerpts of testimony before Board of Supervisors (December 14, 2021)

Attachment 3 consists of excerpts of the transcript of the Board's December 14, 2021, hearing. At that hearing, Appellant opposed our previous proposal to revise Mitigation Measure 6-1. Our previous proposal consisted of preserving 124 acres of woodland habitat, plus implementing a tree planting program. At the Board's hearing, Appellant attacked the tree planting program, and argued that we should instead preserve 248 acres of woodland habitat. Here is what Appellant's representative stated:

We recognize the narrowness of this appeal. We have no illusions about that.... [¶]

The last time [Hall] stood before the Board, they promised to preserve 248 acres of woodland. Now they're coming back and they want to cut that in half. The County should hold them to their initial promise.

Effective mitigation in this case would be to identify 248 acres of otherwise developable woodland that is on the project site, and to protect it in perpetuity. Sometimes the most obvious option is also the best.

We shouldn't complicate things here. There has been no demonstration that 248 acres of developable land cannot be preserved. That is what the County should require. [¶] ... Preservation of developable land must be the priority. [¶] Preservation is not just sound policy. In this case, it's the only legally viable option because the planting program does not meet CEQA's requirements for mitigation.

* * *

There [are] a lot of reasons for the County to not leave anything up to chance. There is a lot of chance involved in the planting program. But there's already a pathway on the table that can lead to successful mitigation – identifying land that would otherwise be developable on the project site and require that that be set aside in a conservation easement – 248 acres.

[¶]

So what we're urging for you to do is to send this to – back to staff, and let's have a demonstration of what is available, what is developable, and what can be set aside in a conservation easement. . . . That is what the science demands and it's what your citizens demand.

(Transcript, Napa County Board of Supervisors Public Hearing on Walt Ranch Appeal (December 14, 2021), pp. 26–29, 114–116.)

Attachment 4 is an excerpt of the transcript from this hearing. Good cause exists to consider this excerpt because it reflects Appellant’s position concerning the efficacy of the mitigation that we now propose. Because Appellant made these statements to the Board at a public hearing, there is no basis for disputing whether these statements reflect Appellant’s position.

4. Excerpts from Appellant’s appeal (November 5, 2021)

On November 5, 2021, Appellant filed a packet setting forth the reasons why it opposed our previous proposal. As its first ground of appeal, Appellant states:

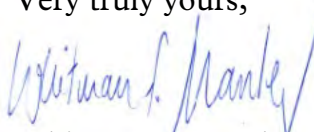
The County’s original approval of the Project required extensive oak woodland preservation as mitigation for both biological resources and GHG impacts. (Addendum at 2.) The Court of Appeal did not invalidate the practice of preserving existing oak woodlands as a viable means of mitigation, it simply held that the County’s failure to identify the areas to be preserved made it impossible to determine whether or not the mitigation was additive. (Court of Appeal Decision at 52.) The logical fix for the EIR’s shortcomings would be to identify 248 acres of oak woodland that would otherwise be developable, because the areas have slopes under 30% and are outside stream setbacks and permanently protect those lands through conservation easement.

(Letter from Ross Middlemiss, Center for Biological Diversity, to Napa County Board of Supervisors (November 5, 2021), p. 3.)

Attachment 4 is an excerpt of this letter. Good cause exists to consider this excerpt because it reflects Appellant’s position concerning the efficacy of conserving woodland habitat that is less than 30% slope and outside of stream setbacks. In addition, the letter is already part of the County’s record for this proceeding.

Thank you for the opportunity to submit this information. Please do not hesitate to contact us if you would like additional information or have any questions about this request. Thank you for your attention.

Very truly yours,



Whitman F. Manley

cc (with attachments): Ross Middlemiss
 Aruna Prabhala

Letter to Jason M. Dooley
Attachment 1

Hall Brambletree Associates
401 St. Helena Highway South
St. Helena, CA 94574

March 8, 2022

David Morrison
Director
Planning, Building & Environmental Services
Napa County
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: Walt Ranch ECP – GHG Mitigation

Dear Mr. Morrison:

This letter sets forth Hall Brambletree's revised proposal to address the greenhouse gas emissions from the Walt Ranch Erosion Control Plan ("ECP").

As approved, Mitigation Measure 6-1 requires Hall to "place in permanent protection no less than 248 acres of woodland habitat." The Court of Appeal held that the requirement to place 248 acres of woodland habitat in a conservation easement was appropriate mitigation. The Court also held, however, that, because the EIR did not identify the specific acreage, there was insufficient evidence to show that such habitat could be converted to other uses. (Slip op., pp. 51-53.) Simply put, the Court said: show the County the acreage; and show that the woodland habitat could otherwise be converted.

With this revised proposal, we have done that. We have mapped +/- 312 acres of woodland habitat that could be converted to other uses under County policy. The location of this habitat is shown and described on the attached map and spread sheet. This information is based on the same surveys and mapping that was performed as part of the environmental review process. We encourage the County to review the mapping and data to confirm its accuracy.

We propose to place a conservation easement on not less than 248 acres out of the total of 312 acres. The difference between these numbers will provide Hall and the land trust flexibility to adjust the boundaries of the easement to account for roads or other features that would diminish a particular location's suitability as preserved woodland habitat. The final boundaries of the 248 acres of woodland habitat designated for protection will be subject to review and approval by the County. The essential point here, however, is that there is ample woodland habitat available on the site to meet the concerns expressed by the Court of Appeal. Specifically, the 312 acres shown and described on the attached map and spreadsheet meet the following criteria:

- They are all mapped as woodland habitat.
- They are not located on slopes of 30% or greater.
- They are not located in the Milliken Reservoir watershed.

- They are not located within required setbacks from riparian corridors.
- There is no overlap with the land to be converted to other uses as part of the project.
- They are not designated for preservation under adopted mitigation measures requiring the protection of other resources on the property (e.g., sensitive plants or habitats or cultural resources), as set forth in the approved Biological Resources Management Plan.

Thus, absent Mitigation Measure 6-1, 248 acres of this woodland habitat would be available for conversion to other uses. The 248 acres to be preserved are entirely additive and are on top of the acreage that will already be protected for other purposes.

In May 2021, we proposed that the County revise Mitigation Measure 6-1 to require preservation of 124 acres of identified woodland habitat. We also proposed an extensive tree planting program to accompany the 124-acre easement requirement. We thought this proposal made sense because it provided an opportunity restore the property in the wake of wildland fires in 2017 and 2020. To our surprise, our proposal met with resistance. We therefore propose to simply address, directly, the Court of Appeal's concern. This proposal also addresses the appellant's objections to our original proposal.

This is the same mitigation that the County approved unanimously in December 2016. The only difference is that now we are identifying the woodland habitat to be conserved. This is what the Court of Appeal asked us to do, and we are now doing it. We have also responded to the appellant's objections. There are no valid reasons why our proposal should be rejected.

We note that the information upon which this revised proposal is based is not new. The woodland habitat on the property was mapped as part of the EIR process, based on extensive surveys. The proposal is based on the same GIS data that the County relied upon in mapping biological resources and habitats on the property. This same data has been used to prepare the attached figure showing the location of woodland habitat available for conservation, meeting the criteria outlined above.

We request that the County revise Mitigation Measure 6-1 as shown in the attached document. These modifications are to make clear that the woodland habitat to be protected meets the criteria established by the Court of Appeal. We also wish to incorporate modifications to Mitigation Measure 6-1 made in response to our May 2021 proposal that we believe strengthen the mitigation.

We appreciate your consideration of this request. Please let us know if you would like additional information or have any questions. We look forward to hearing from you.

Very truly yours,



Mike Reynolds
Hall Brambletree Associates

Attachments:

Figure 1 – location of conservation easement for woodland habitat for GHG mitigation

Attachment 1 – spreadsheet identifying woodland habitat for GHG mitigation

Attachment 2 – proposed revisions to Mitigation Measure 6-1

Guide to Assessor Parcel Numbers

- | | |
|-----------------|-----------------|
| 1. 032-120-028 | 18. 032-480-027 |
| 2. 032-480-007 | 19. 032-480-028 |
| 3. 032-480-008 | 20. 032-490-004 |
| 4. 032-480-011 | 21. 032-490-005 |
| 5. 032-480-012 | 22. 032-490-006 |
| 6. 032-480-013 | 23. 032-490-008 |
| 7. 032-480-014 | 24. 032-490-009 |
| 8. 032-480-015 | 25. 032-490-010 |
| 9. 032-480-016 | 26. 032-490-011 |
| 10. 032-480-017 | 27. 032-490-012 |
| 11. 032-480-018 | 28. 032-490-013 |
| 12. 032-480-019 | 29. 032-490-014 |
| 13. 032-480-020 | 30. 032-490-015 |
| 14. 032-480-021 | 31. 032-490-016 |
| 15. 032-480-022 | 32. 032-490-017 |
| 16. 032-480-023 | 33. 032-490-018 |
| 17. 032-480-024 | 34. 032-490-019 |
| | 35. 032-490-020 |

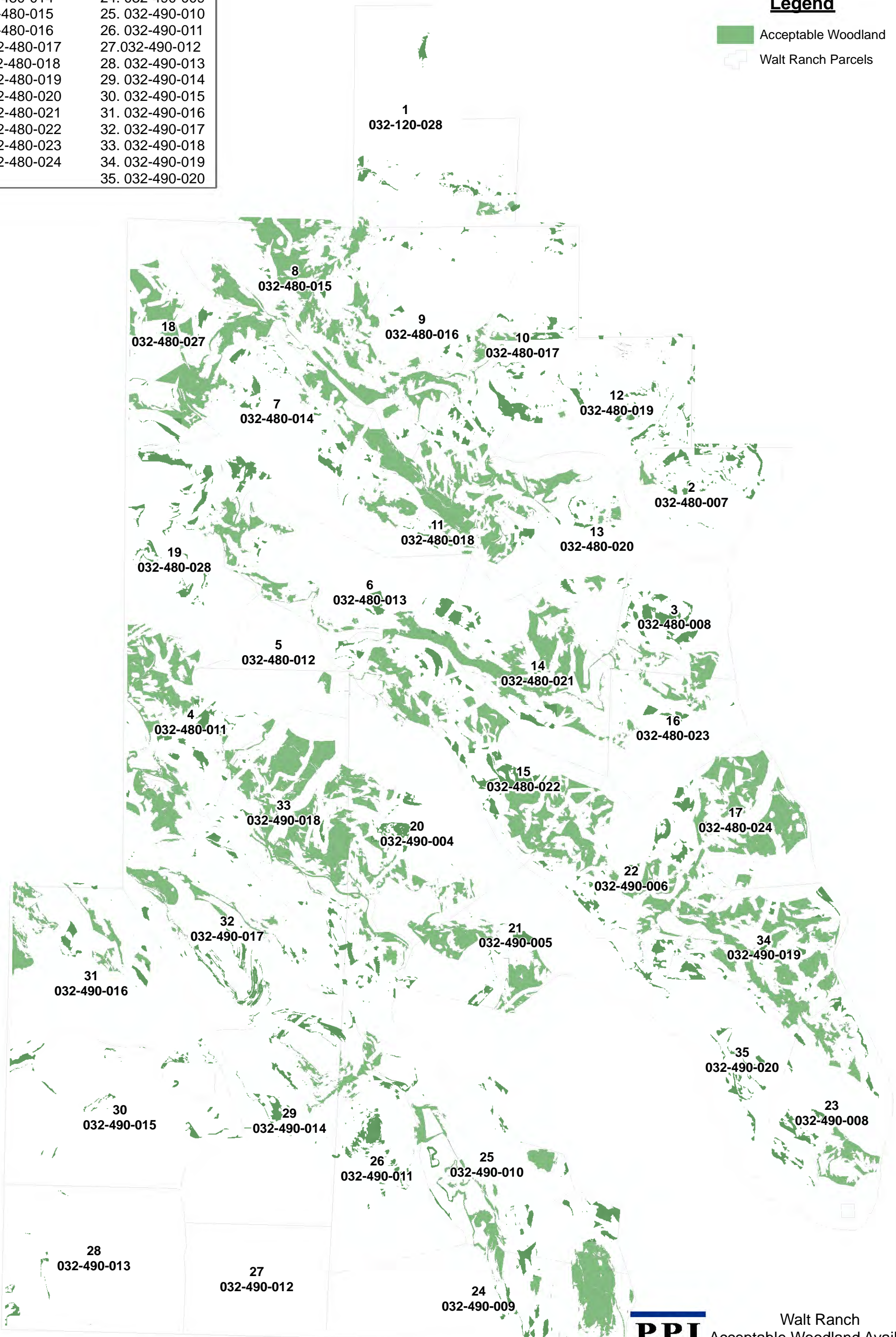
Figure 1



0 550 1,100 2,200 Feet

Legend

- Acceptable Woodland
- Walt Ranch Parcels



8:52:13 AM 2/17/2022 \\ppi-dc-2\ranches\KHW\WAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-02-14 Acceptable Woodland by Parcel for Mike\2022-02-14 Woodland by Parcel.mxd



Walt Ranch
Acceptable Woodland Available
for Conservation Easement
February 17, 2022

Attachment 1

Label	APN	GHG Acceptable Woodland (acres)
1	032-120-028	2.6
2	032-480-007	2.9
3	032-480-008	5.5
4	032-480-011	8.5
5	032-480-012	0.0
6	032-480-013	7.9
7	032-480-014	10.7
8	032-480-015	17.5
9	032-480-016	9.0
10	032-480-017	10.1
11	032-480-018	13.1
12	032-480-019	2.8
13	032-480-020	7.1
14	032-480-021	14.9
15	032-480-022	21.5
16	032-480-023	3.1
17	032-480-024	16.6
18	032-480-027	10.5
19	032-480-028	11.8
20	032-490-004	9.1
21	032-490-005	8.7
22	032-490-006	14.0
23	032-490-008	7.5
24	032-490-009	9.9
25	032-490-010	15.0
26	032-490-011	4.7
27	032-490-012	0.0
28	032-490-013	0.5
29	032-490-014	3.8
30	032-490-015	0.9
31	032-490-016	7.0
32	032-490-017	12.5
33	032-490-018	21.7
34	032-490-019	17.6
35	032-490-020	3.2
Total (acres):		312.3

Attachment 2

Proposed Revisions to Adopted Mitigation Measure 6-1 (new text underlined)

6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place in permanent protection no less than 248 acres of woodland habitat. The 248 acres to be protected shall be provided from the woodland habitat depicted in the map and spreadsheet attached to this measure. All acreage designated for preservation shall be identified as such in a conservation easement with an accredited land trust organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. The conservation easement shall be prepared in a form acceptable to County Counsel and entered into and recorded with the Napa County Recorder's office prior to any ground disturbing activities, grading or vegetation removal, or within 12 months of project approval, or whichever occurs first.

Any request by the permittee for an extension of time to record the conservation easement shall be considered by the Planning Director and shall be submitted to Napa County prior to the 12 month deadline, and shall provide sufficient justification for the extension.

Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture, residential, or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County.

The Biological Resource Management Plan and MMRP shall be revised to incorporate the conservation easement required by this mitigation measure, including the map and spreadsheet attached hereto.

Letter to Jason M. Dooley
Attachment 2

Guide to Assessor Parcel Numbers

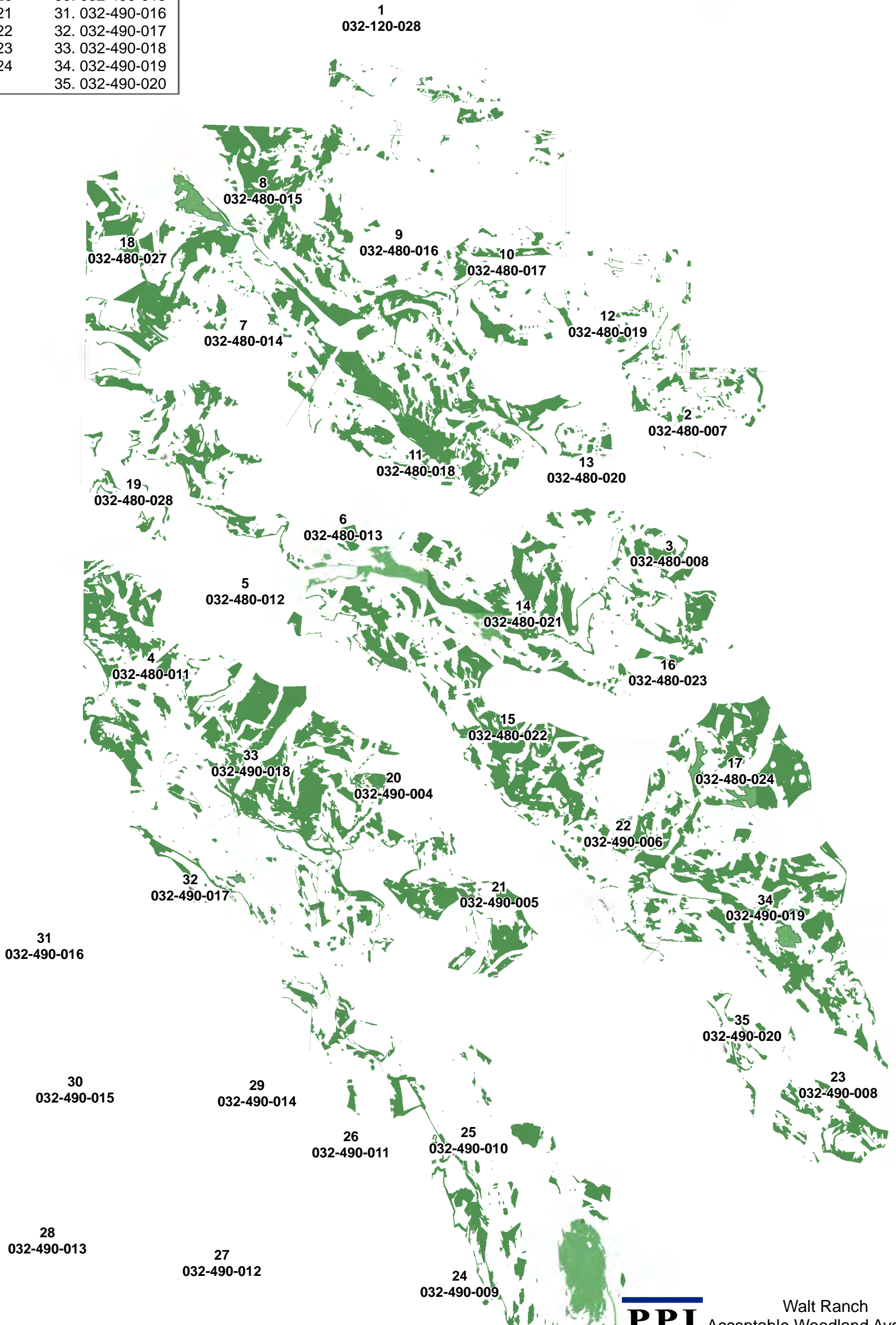
- | | |
|-----------------|-----------------|
| 1. 032-120-028 | 18. 032-480-027 |
| 2. 032-480-007 | 19. 032-480-028 |
| 3. 032-480-008 | 20. 032-490-004 |
| 4. 032-480-011 | 21. 032-490-005 |
| 5. 032-480-012 | 22. 032-490-006 |
| 6. 032-480-013 | 23. 032-490-008 |
| 7. 032-480-014 | 24. 032-490-009 |
| 8. 032-480-015 | 25. 032-490-010 |
| 9. 032-480-016 | 26. 032-490-011 |
| 10. 032-480-017 | 27. 032-490-012 |
| 11. 032-480-018 | 28. 032-490-013 |
| 12. 032-480-019 | 29. 032-490-014 |
| 13. 032-480-020 | 30. 032-490-015 |
| 14. 032-480-021 | 31. 032-490-016 |
| 15. 032-480-022 | 32. 032-490-017 |
| 16. 032-480-023 | 33. 032-490-018 |
| 17. 032-480-024 | 34. 032-490-019 |
| | 35. 032-490-020 |



0 550 1,100 2,200 Feet

Legend

- Acceptable Woodland
- Walt Ranch Parcels



11:35:54 AM 3/29/2022 R:\KHW\WAL\IMAGES\000 Post-Approval maps\Conservation Easement\2022-03-29 GHG Mitigation outside Milliken Watershed\2022-03-29 Acceptable Woodland by Parcel.mxd



Walt Ranch
Acceptable Woodland Available
for Conservation Easement
March 29, 2022





Label	APN	GHG Acceptable Woodland (acres)
1	032-120-028	2.6
2	032-480-007	2.9
3	032-480-008	5.5
4	032-480-011	8.5
5	032-480-012	0.0
6	032-480-013	7.9
7	032-480-014	10.7
8	032-480-015	17.5
9	032-480-016	9.0
10	032-480-017	10.1
11	032-480-018	13.1
12	032-480-019	2.8
13	032-480-020	7.1
14	032-480-021	14.9
15	032-480-022	21.5
16	032-480-023	3.1
17	032-480-024	16.6
18	032-480-027	10.5
19	032-480-028	11.8
20	032-490-004	9.1
21	032-490-005	8.7
22	032-490-006	14.0
23	032-490-008	7.5
24	032-490-009	9.9
25	032-490-010	14.3
26	032-490-011	2.0
27	032-490-012	0.0
28	032-490-013	0.0
29	032-490-014	0.6
30	032-490-015	0.0
31	032-490-016	0.0
32	032-490-017	5.8
33	032-490-018	21.7
34	032-490-019	17.6
35	032-490-020	3.2
N/A*	N/A	2.1
Total (acres):		292.6

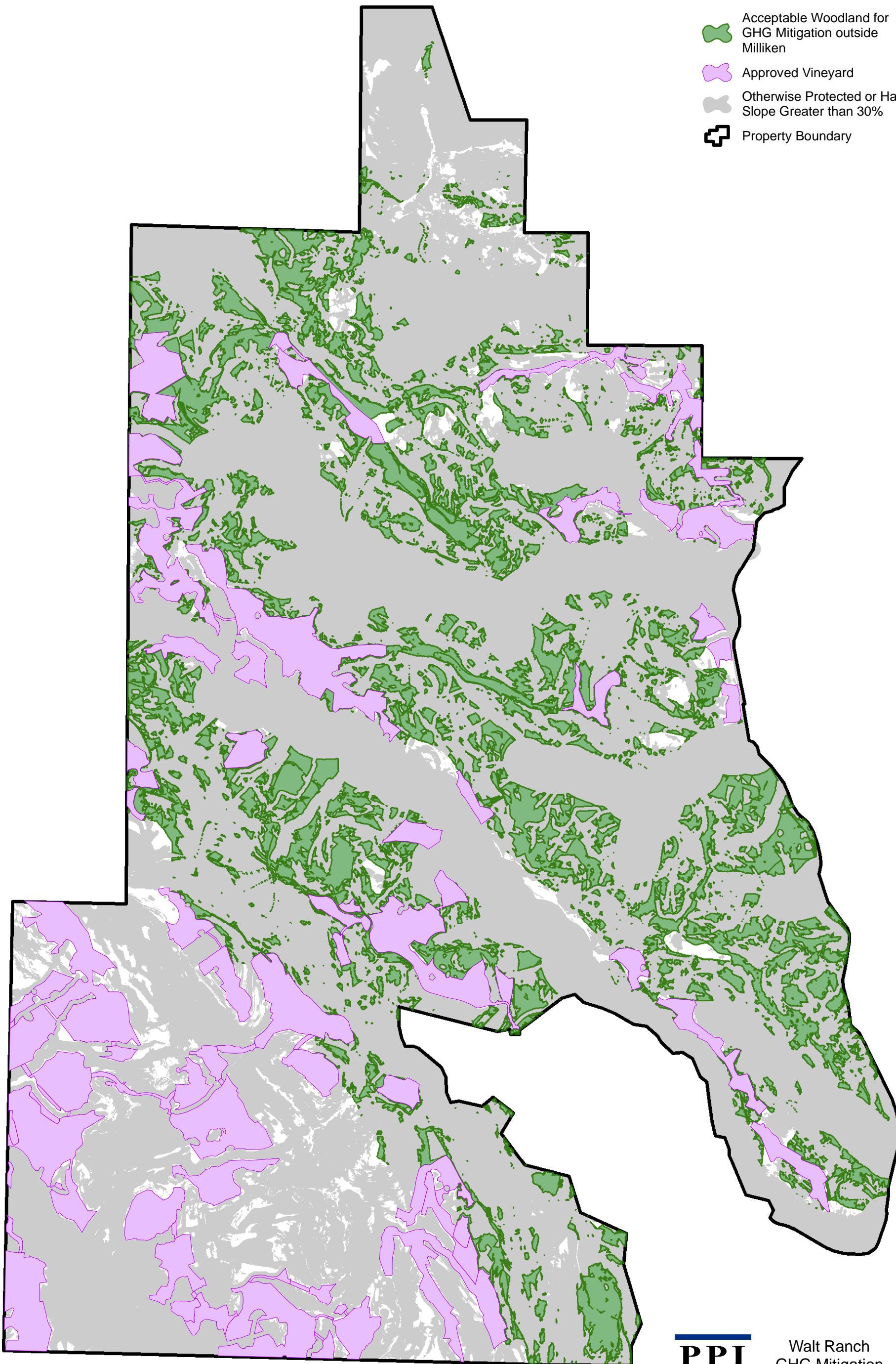
*Note: Due to differences in GIS data for the internal parcel splits and outer property boundary, there are 2.1 acres of acceptable woodland within the surveyed outer property boundary that are not accounted for in the breakdown of individual parcels.



0 550 1,100 2,200 Feet

Legend

-  Acceptable Woodland for GHG Mitigation outside Milliken
-  Approved Vineyard
-  Otherwise Protected or Has Slope Greater than 30%
-  Property Boundary



9:17:29 AM 3/29/2022 R:\KHW\WAL\IMAGES\0000 Post-Approval maps\Conservation Easement\2022-03-29 GHG Mitigation outside Milliken Watershed\2022-03-29 Walt Ranch GHG Mitigation.mxd

Letter to Jason M. Dooley
Attachment 3

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Napa County Board of Supervisors

December 14, 2021

PUBLIC HEARING 2:00 P.M.

Walt Ranch Appeal

21-1269

1 On the second challenge, the court
 2 upheld the County's reliance on the Bay Area Air
 3 Quality Management District guidelines used to
 4 calculate greenhouse gas emissions. Neither the
 5 calculation of carbon sequestration loss or
 6 greenhouse gas emissions are before the Board of
 7 Supervisors today.

8 Those issues have been decided by the
 9 Court. On the third challenge, the court found
 10 that under the US Forest Protocols, conservation
 11 easements can only be used to mitigate carbon
 12 sequestration only if the forest being protected
 13 is under significant threat of conversion.

14 Because the EIR did not specify the
 15 location of the easements, and because it may
 16 have included development on 30 percent slopes,
 17 the court found the County did not provide
 18 substantial evidence to show that the land
 19 proposed for conservation is subject to the
 20 threat of development.

21 Therefore, consistent with the
 22 direction of the Appellate Court and the order of
 23 the Superior Court, the recommended mitigation
 24 measure before you today has removed all
 25 conservation easements on slopes of more than 30

Page 22

1 percent, and specifies location of the easement,
 2 as you saw in this slide earlier.

3 The mitigation measure's also been
 4 revised and recommended by staff to incorporate
 5 the Biological Resource Management Plan, which
 6 includes detailed monitoring and reporting
 7 criteria to ensure and enforce that the measure
 8 is fully implemented.

9 I would like to reiterate real -- very
 10 briefly in their May 6th, 2020 decision, the
 11 Appellate Court issued Judgment 3.b, which stated
 12 the County shall not consider -- I'm sorry -- the
 13 County shall not reconsider whether it adopts
 14 such findings unless and until they are supported
 15 by substantial evidence in the record, emphasis
 16 without making changes to other aspects of the
 17 project and our EIR that have been approved and
 18 are not subject to the partial (indiscernible)
 19 mandate.

20 What that means is, that the County has
 21 already vacated Measure 6.1. They have to
 22 approve another Mitigation Measure 6.1 that is
 23 consistent with a court order. But you have to
 24 do that without changing substantially the
 25 project or the EIR.

Page 23

1 So as Mr. Dooley indicated, this is a
 2 very, very narrow scope within which the Board is
 3 being asked to operate today. Consistent with
 4 that very narrow scope of the court order, staff
 5 has the following options provided for the
 6 Board's consideration -- deny the appeal in its
 7 entirety and uphold the approval of the revised
 8 mitigation Measure 6.1 with or without
 9 modification, uphold one or more grounds of the
 10 appeal and reverse the decision, or remand the
 11 matter back to the Planning and Building and
 12 Environmental Services Department with direction
 13 for further consideration.

14 In staff's opinion, the revisions to
 15 Mitigation Measure 6.1, including the
 16 modifications recommended are supported by
 17 substantial evidence and notwithstanding the
 18 arguments in the appeal are sufficient to reduce
 19 the greenhouse gas emissions to a less than
 20 significant level.

21 We recommend that the Board deny the
 22 appeal and uphold the approval of the revised
 23 Mitigation Measure 6.1 as shown in Attachment 8.
 24 And that concludes staff's presentation. Both
 25 Mr. Dooley and Mr. Bordone and myself and the

Page 24

1 Ascent team are all available for any questions
 2 that the Board may have.

3 CHAIR ALFREDO PEDROZA: Thank you,
 4 Director Morrison. Board, is there any initial
 5 questions? I don't see any. I'm officially
 6 going to open up the public hearing and invite
 7 the Appellant to provide their testimony.

8 Mr. Middlemiss and Ms. Yap, you have 30
 9 minutes. We'll remind you at 15 minutes. And
 10 again, if you want to preserve any time for
 11 rebuttal, that's for you to manage your time. Go
 12 ahead. And we won't start the clock, Mr.
 13 Middlemiss, until we load up your PowerPoint.

14 ROSS MIDDLEMISS: Thank you. And Mr.
 15 Dooley, if I ask you to change slides?

16 CHAIR ALFREDO PEDROZA: We can give you
 17 a clicker, (indiscernible). Ms. Hoskins, as soon
 18 as they start, you can go ahead and start the
 19 timer, please.

20 ROSS MIDDLEMISS: All right. Thank
 21 you, Chair Pedroza, Supervisors. My name is Ross
 22 Middlemiss, an attorney with Appellant Center for
 23 Biological Diversity. I'm joined today by my
 24 colleague, Dr. Tiffany Yap, Senior Scientist with
 25 the Center, who will speak shortly after myself.

Page 25

<p>1 I appreciate Staff's presentation. 2 Thank you for laying out the background and the 3 history. Taking a step back, I'd like to say, 4 you know, since the moment the Center began our 5 work in Napa, particularly with this project a 6 number of years ago, our goal has been simple. 7 It is to maximize conservation benefits, to 8 protect the ecosystems and the unique 9 biodiversity that makes Napa such a beautiful and 10 cherished place for its residents and visitors 11 alike. 12 Those same goals have brought us to 13 file this appeal, to maximize conservation 14 outcomes and environmental benefit. No matter 15 how inevitable project approval may seem, we will 16 always push for scientifically guided decision 17 making that complies with the law. 18 We brought this appeal because the 19 revised mitigation measure as approved is neither 20 scientifically nor legally acceptable. We 21 brought this appeal because we are in a climate 22 crisis, and the County has a legal and moral 23 obligation to mitigate the destructive projects 24 that it approves. 25 We recognize the narrowness of this</p> <p style="text-align: right;">Page 26</p>	<p>1 CEQA are not met, and Dr. Yap will follow by 2 showing that the program is not capable of 3 achieving the sequestration that's claimed by the 4 Applicant and the County's consultants. 5 Before addressing the specific grounds 6 of our appeal, I think it's important to take a 7 step back and discuss why we're here and what 8 options are presented to the County. 9 The key question for the Applicant and 10 the County is how to make up for the destruction 11 of over 14,000 trees that will forever change the 12 character and nature of the beautiful property 13 that's at stake here. 14 The last time the Holl stood before the 15 Board, they promised to preserve 248 acres of 16 woodland. Now they're coming back and they want 17 to cut that in half. The County should hold them 18 to their initial promise. 19 Effective mitigation in this case would 20 be to identify 248 acres of otherwise developable 21 woodland that is on the project site, and to 22 protect it in perpetuity. Sometimes the most 23 obvious option is also the best. 24 We shouldn't complicate things here. 25 There has been no demonstration that 248 acres of</p> <p style="text-align: right;">Page 28</p>
<p>1 appeal. We have no illusions about that. But 2 properly mitigating the destruction of over 3 14,000 trees is of critical importance. 4 The revised mitigation has two parts -- 5 the preservation of over -- or of 124 acres of 6 woodland that is otherwise developable, and the 7 planting program, which will plant 16,790 oak 8 saplings. 9 Our appeal focuses on the planting 10 program. Those two parts together must address 11 the -- or must sequester enough carbon to offset 12 the project's impacts over its 30 year lifespan - 13 - 27,528 metric tons of carbon equivalent. 14 And because of the flawed planting 15 program, which we will detail throughout our 16 presentation, the math simply does not add up. 17 In the past, the post approval appeal or -- 18 sorry. The post approval revisions suggested by 19 the Applicant and the recently added information 20 from the County and the County's consultants 21 don't change this reality. 22 Dr. Yap and I will demonstrate why the 23 planting program falls short, both legally, 24 scientifically and informationally. Also, this 25 is my portion on why the legal requirements of</p> <p style="text-align: right;">Page 27</p>	<p>1 developable land cannot be preserved. That is 2 what the County should require. 3 Because even with some fixes to the 4 glaring issues in the planting program, which 5 we'll lay out, it may still not be enough. 6 Preservation of developable land must be the 7 priority. 8 Preservation is not just sound policy. 9 In this case, it's the only legally viable option 10 because the planting program does not meet CEQA's 11 requirements for mitigation. 12 There are four main issues with the 13 planting program. The carbon calculations are 14 misleading, 80 percent survival rate is 15 unrealistic and unsupported, current site 16 conditions are misrepresented, and there's a lack 17 of enforcement and unclear funding of the 18 program. 19 Again, I will touch on the CEQA 20 violations and why the requirements for 21 mitigation are not met, and Dr. Yap will talk 22 about how the factual and scientific shortcomings 23 undermine the mitigation's effectiveness. 24 CEQA was enacted to prioritize 25 environmental protection. It pursues this goal</p> <p style="text-align: right;">Page 29</p>

1 the way it is for a reason. That's how nature
 2 evolved and adapted.
 3 There aren't more trees for various
 4 reasons, and some -- the young trees don't always
 5 survive. We should let nature, you know, let it
 6 be. We should stop thinking that we can go in
 7 and change everything just because we say we'll
 8 reach 80 percent.
 9 And beyond that, it -- for the purposes
 10 of this mitigation, it doesn't matter what
 11 happens after 30 years. The scope of this EIR is
 12 30 years. After that, the County doesn't have
 13 control over this anymore.
 14 We need those mitigation measures now.
 15 We need that mitigation to occur now. Your
 16 community has demanded as much of you. You've
 17 heard today in the emails, in the public comment.
 18 This is urgent.
 19 There is a lot of reasons for the
 20 County to not leave anything up to chance. There
 21 is a lot of chance involved in the planting
 22 program. But there's already a pathway on the
 23 table that can lead to successful mitigation --
 24 identifying land that would otherwise be
 25 developable on the project site and require that

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1 that be set aside in a conservation easement --
 2 248 acres.
 3 And if that isn't feasible, then make
 4 that known and we'll go from there. But don't
 5 just jump straight to a speculative uncertain
 6 planting program, where there's not been a
 7 demonstration that will be effective.
 8 And again, just addressing a few other
 9 points about our appeal. We haven't asked for
 10 the GHG emissions calculations to be changed. We
 11 acknowledged that what was in the EIR is the
 12 universe within which our appeal operates, just
 13 to clarify that.
 14 So you know, I'll finish with, again,
 15 what we're asking for. We understand, Mr. Manley
 16 put it well, we don't like the project. We don't
 17 like that this is a common occurrence in Napa.
 18 But again, CEQA has certain requirements and it
 19 doesn't prohibit the approval of vineyard
 20 development projects. That's the reality.
 21 What CEQA does require is effective
 22 mitigation and a clear demonstration to the
 23 public and decision makers that mitigation can
 24 occur and that will be followed through. There
 25 are clear methods that are available to

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1 demonstrate that we can achieve that mitigation.
 2 So what we're urging for you to do is
 3 to send this to -- back to staff, and let's have
 4 a demonstration of what is available, what is
 5 developable, and what can be set aside in a
 6 conservation easement. Okay. That is what the
 7 science demands and it's what your citizens
 8 demand.
 9 CHAIR ALFREDO PEDROZA: You have less
 10 than a minute, Mr. Middlemiss.
 11 ROSS MIDDLEMISS: Thank you. So again,
 12 we urge you to prioritize the preservation of
 13 existing woodland that would otherwise be cut
 14 down. Don't allow the Applicant to hold aside
 15 some lands with the slope below 30 percent to
 16 develop at a later date and rely on this
 17 uncertain planting plan. Thank you.
 18 CHAIR ALFREDO PEDROZA: Thank you, Mr.
 19 Middlemiss and Dr. Yap as well, for your
 20 presentation. So at this point, we're going to
 21 take a quick break and we'll be back at 4:45.
 22 And then the Board will start our deliberation
 23 and ask any questions of all parties. So again,
 24 we'll be back at 4:45. Thank you all.
 25 AUTOMATED VOICE: Recording stopped.

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1 (Recess)
 2 AUTOMATED VOICE: Progress.
 3 CHAIR ALFREDO PEDROZA: All right. We
 4 are back from our short break. Thank you to the
 5 public. So now, we've heard from the Appellant.
 6 We've heard from the public. We've heard from
 7 the Applicant. At this time, I'll bring it back
 8 to the Board to initiate some initial questions
 9 we may have for staff. Supervisor Ramos?
 10 VICE CHAIR BELIA RAMOS: Thank you.
 11 Thank you to the Applicants, Appellants and to
 12 all of the public who contributed to this
 13 dialogue today. I have two questions, possibly
 14 three, depending on your answers specifically.
 15 One is, the survival rate of 80 percent
 16 that is in the assumptions by Ascent has been
 17 mentioned many times as not attainable, and
 18 therefore, does not meet the requirement of CEQA.
 19 Can someone, maybe at Ascent, speak to whether
 20 that -- what science was used to determine the 80
 21 percent survivability of the tree planting
 22 program? Do you want me to keep adding questions
 23 or do you want me to let you do one?
 24 JASON DOOLEY: Is Josh available on our
 25 panel? Or Brenda?

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Letter to Jason M. Dooley
Attachment 4

6. Require a minimum 7-year monitoring program for plantings with specific, measurable, performance criteria and adaptive management strategies to accommodate climate change conditions (e.g., extended drought, increased wildfire frequency) and ensure an 80% success rate 16,790 of planted seedlings surviving to maturity.
7. Provide a clear definition of how tree planting survival is determined.

I. Preservation of Existing Oak Woodland Must be Prioritized

The County's original approval of the Project required extensive oak woodland preservation as mitigation for both biological resources and GHG impacts. (Addendum at 2.) The Court of Appeals did not invalidate the practice of preserving existing oak woodlands as a viable means of mitigation, it simply held that the County's failure to identify the areas to be preserved made it impossible to determine whether or not the mitigation was additive. (Court of Appeals Decision at 52.) The logical fix for the EIR's shortcoming would be to identify 248 acres of oak woodland that would otherwise be developable, because the areas have slopes under 30% and are outside stream setbacks and permanently protect those lands through a conservation easement. County policy demonstrates a preference for preserving existing habitat, and the Board should not depart from this scientifically-backed approach now.

Instead of the preservation route set forth in the EIR, Applicants proposed, and the County approved, a revised measure that halves the preserved acreage and commits to planting 16,790 oak seedlings. (Addendum at 3.) There is no discussion of why this approach is favored now, nor is there discussion of why preserving 248 developable acres within the project site is infeasible. The Center urges the County to reconsider this approach, and instead follow the science and prioritize the preservation of existing oak woodland, either within or outside the Project site, over the uncertain and risky tree planting proposal. As discussed more fully below, unless the County can provide substantial evidence demonstrating the effectiveness and adequacy of the tree planting program, the County should require the conservation of existing habitats to mitigate the Project's GHG emissions as required by CEQA. (*Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1027.)

The amendment is also unclear regarding the locations of the different land uses planned for the Project in relation to the GHG mitigation lands. The failure to include the revised project footprint and the areas of undevelopable land (including the 525 acres the letters refer to) precludes a determination of whether or not development will occur within the proposed easement area or the available acceptable woodland area, or that 124 acres of oak woodland that is outside riparian setbacks on slopes less than 30% will be protected. The original project footprint provided in the FEIR appears to show a substantial amount of project footprint within and adjacent to the proposed easement area (FEIR at Figure 3-4), which would have direct and indirect impacts to the proposed mitigation. The amendment should be revised to provide more information so that the public can determine that at least 124 acres of oak woodlands outside riparian setbacks on slopes under 30% will be avoided for the purposes of GHG mitigation.

Attachment 19

May 5, 2021, Mitigation Proposal from Applicant
And Ascent Report

Hall Brambletree Associates
401 St. Helena Highway South
St. Helena, CA 94574

May 5, 2021

David Morrison
Director
Planning, Building & Environmental Services
Napa County
1195 Third Street, 2nd Floor
Napa, CA 94559

Re: Walt Ranch ECP – GHG Mitigation

Dear Mr. Morrison:

This letter is to provide Napa County with Hall Brambletree's proposal to address the greenhouse gas emissions from the Walt Ranch Erosion Control Plan ("ECP"). This letter is accompanied by a report prepared by Ascent Environmental quantifying the GHG emission reductions associated with this proposal. This proposal is intended to address the Court of Appeal's opinion concerning the project's GHG mitigation, and the trial court's subsequent issuance of a writ of mandate to the County.

BACKGROUND

The County certified the Environmental Impact Report ("EIR") and approved the Walt Ranch ECP in December 2016. The EIR concluded that the conversion of a portion of the property to vineyards would result in the emission of 27,528 metric tons of carbon dioxide equivalent ("MTCO_{2e}"). Virtually all of these emissions were attributable to the removal of 28,616 trees to make way for the vineyard blocks. (Final EIR, Table 6-2.)

The GHG emissions from the ECP will be a small fraction of the EIR's estimate. There are two reasons why this is true:

- (1) The EIR based its estimate on the removal of 28,616 trees. This estimate is based on a tree survey report conducted in 2013 that assumed 507 acres would be cleared to accommodate the vineyards. Thereafter, the project shrank. As approved, the project encompasses clearing 316 acres. The County's EIR consultant estimated that the smaller, approved project would result in removing 14,281 trees, a reduction of approximately 50%. This reduction in the project's size warrants a comparable decrease in the project's GHG emissions.
- (2) The project site has burned twice, in 2017 and again in 2020. In one or the other fire, roughly 2,200 acres – approximately 97% of the property – burned. Some areas burned in both fires. The burn areas are shown on Figure 1 of the Ascent report. For these reasons, the inventory of trees and sequestered carbon on the property is a tiny fraction of what it was in 2016. Most of the sequestered carbon that would be emitted by clearing trees and planting vines is already in the atmosphere.

Although both of these factors would justify revising the EIR's estimate of the project's GHG emissions, we do not ask the County to do that. The Court of Appeal upheld the EIR's estimate of the project's GHG emissions; the Court's sole qualm was with the GHG mitigation adopted by the County. The EIR's estimate of GHG emissions is therefore final and beyond legal attack. If we were to revisit those calculations – which would clearly result in lowering them dramatically – then no matter how

conservative, those new calculations could be subject to further scrutiny and legal review, which we do not believe is necessary given the current circumstances. In addition, the fires have scarred the landscape, and we welcome the opportunity to use the Walt Ranch GHG mitigation as an opportunity to help repair it. Our proposal therefore continues to assume that the project must offset its GHG emissions totaling 27,528 MTCO₂e.

PROPOSED GHG MITIGATION

Hall's proposed GHG mitigation has two components. First, as before, Hall will record a conservation easement on a portion of the property. Second, Hall will implement a tree planting program. Each component is described below.

Conservation Easement

In approving the project, the County adopted Mitigation Measure 6-1. This measure requires Hall to "place into permanent protection no less than 248 acres of woodland habitat." The Court of Appeal held that there was insufficient evidence to show that recording an easement on 248 acres of such habitat would mitigate the project's GHG emissions. That was because the EIR did not identify the woodland habitat to be preserved, and because there was insufficient evidence that such habitat could be converted under existing County policy. (Slip op., pp. 51-53.)

Hall proposes to place a conservation easement on not less than 124 acres of developable woodland habitat on the Walt Ranch property. Hall is already required to place a conservation easement on 525 acres of the property to address the County's conservation policies. The 124 acres of developable woodland habitat is in *addition* to the 525 acres that will already be conserved. Taken together, a total of a minimum of 649 acres will be placed in conservation easements, an area that is well over double the size of the project footprint of 316 acres.

The additional acres of conservation of woodland habitat will generally be located within the area shown on Figure 1 attached to this letter; woodland habitat suitable for conservation is identified in Figure 1. Within the parcels shown on Figure 1, we estimate there will be at least 110 acres of woodland habitat that will be subject to the easement (note that 124 acres of woodland habitat exist there now).

Hall has identified additional acreage suitable for conservation that is located outside the parcels shown on Figure 1. This additional acreage will also consist of woodland habitat suitable for conservation. A total of over 35 acres of such suitable woodland habitat is available; this habitat is shown on Figure 2.

Taken together, the easement will encompass not less than 124 acres of suitable woodland habitat. All this acreage – both within the parcels identified in Figure 1, and those identified in Figure 2 parcels elsewhere on the property – provide appropriate mitigation for the project's GHG emissions, considering the concerns expressed by the Court of Appeal's opinion. Specifically:

- These acres are all mapped as woodland habitat.
- None of these acres are on slopes of 30% or greater.
- None of these acres are located in the Milliken Creek watershed.

Placing a conservation easement on not less than 124 acres of suitable woodland habitat land will therefore provide appropriate mitigation for the project's GHG emissions, even under the stringent standards established by the Court of Appeal's opinion.

Mitigation Measure 6-1 called for placing 248 acres in an easement. Hall now proposes to place not less than 124 acres of developable woodland habitat in an easement as GHG mitigation. Hall therefore requests that the County revise Mitigation Measure 6-1 to reflect this proposal. Specific edits to Mitigation Measure 6-1 are shown later in this letter.

Hall's proposed woodland habitat easement encompasses less acreage than the 248 acres originally included in Mitigation Measure 6-1. The current proposal – not less than 124 acres – represents 50% of Mitigation Measure 6-1. The balance will be mitigated by the tree planting program described below.

Hall has taken this approach because Walt Ranch is a complex mosaic of different landscapes and habitats. Identifying 248 acres of woodland habitat that is not otherwise restricted due to steep slopes, watersheds, or the existing easement requirement is possible, but it would result in a patchwork of small “blobs” of habitat scattered throughout the property. Hall's proposal instead focuses primarily on a large contiguous area that can be better-preserved, monitored and enforced through conservation easements. That is how Hall arrived at the not-less-than-124-acre proposal.

The balance of required mitigation can be provided by implementing a tree planting program, as described below.

Tree Planting

Hall retained Ascent to investigate whether a tree planting program could serve to mitigate the project's GHG emissions, as an alternative to the recordation of a conservation easement. This approach appears to present significant opportunities because it has the potential to result in real-world, measurable sequestration of GHG emissions, as regulatory agencies have recognized.

We directed Ascent to identify the tree planting program that would be required to compensate for 27,528 MTCO_{2e} of emissions. We did not ask Ascent to reduce the project's mitigation obligations due to its smaller size or to the effects of 2017 and 2020 wildfires. We also did not ask Ascent to account for the mitigation that would be provided by the conservation easement described above. Instead, we asked Ascent to identify the number of trees that would need to be planted in order to offset the entire 27,528 MTCO_{2e} in emissions. Ascent's report is attached. The report concludes that 16,790 oak trees (as seedlings) would need to be planted and managed so as to ensure an 80 percent survival rate. The report also identifies areas on the property that would be appropriate for this program. The report concludes that there is more than enough suitable habitat on the property to carry out this program. Figure 2 of Ascent's report shows eligible planting areas.

As Ascent notes, the number of trees necessary to offset the GHG emissions may be considerably less than this total. We do not propose, however, to adjust downward this target. We are instead proposing to commit to a program requiring planting 16,790 oak trees.

As Ascent notes, the project entails removing 14,281 trees (assuming that the trees were still present, and that many of them were not consumed by fire in intervening years). Carrying out this replanting program would therefore result in a net increase of 2,509 trees.

We have contacted regulatory agencies and non-profits to assist us in determining the feasibility of this program. Through these discussions, we have learned that planting oak seedlings in this area can be successfully accomplished. Both Cal-Fire and the Putah Creek Council have offered technical expertise. They also manage tree nurseries that can provide appropriate seedlings for replanting on the property.

The replanting program will mitigate fully the project's GHG emissions. On top of that, the program will assist in stabilizing soils and reducing soil erosion in areas scarred by recent wildfires.

Based on Ascent's report, we could forego conservation easements, and rely exclusively on the replanting program. Hall does not propose to do that. Instead, we propose to do both. We recognize that this approach will result in over-mitigating the project's GHG emissions. We are willing to do that.

Hall also wishes to disincentivize the relentless opposition that has resulted in years of delay. We therefore propose to plant an additional 16,790 trees only if there is no administrative appeal of the Director's decision to the Board of Supervisors, and if no other challenge to this decision is filed with the Court. This would result in total mitigation of 68,820 MTCO₂e, or 250% of the required mitigation as outlined in the EIR.

We therefore request that the County revise Mitigation Measure 6-1 as follows. Deleted text is shown in overstrike; new text is underlined. These revisions also include Hall's proposal concerning conservation easements, as described above.

Mitigation Measure 6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place into permanent protection no less than ~~248~~ 124 acres of woodland habitat. The land to be protected under this measure shall consist of not less than 110 acres of suitable woodland habitat located within the parcels shown in Figure 1, attached to the Applicant's May 5, 2021, letter to the County, and not less than 35 acres of suitable woodland habitat located elsewhere on the property. To be suitable, the area within the easement shall be mapped woodland habitat, less than 30% slope, and outside of Milliken Creek watershed. All acreage designated for preservation shall be identified as such in a deed restriction, open space easement with an organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture 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.

In addition, the Applicant shall plant not less than 32,580 oak tree seedlings on the property. The tree planting program shall be carried out as described in the *Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report* (Ascent Environmental, April 2021). The trees shall be monitored and replanted as necessary to show a survival rate of not less than 80% after five years. The trees shall not be removed during the life of the project,

The measures set forth above shall apply in the event the County adopts this measure, and no administrative appeal of the Director's decision is filed, and no opposition or challenge to this decision is filed with the Court. In the event of such an appeal, opposition or challenge, then the measures set forth above shall still be carried out, subject to the following revision: The number of oak tree seedlings to be planted shall not less than 16,790 trees.

These reductions reflect the fact that the project, as approved, will result in removing half as many trees as the number to be removed when the County formulated Mitigation Measure 6-1.

These measures, as revised, still provide well more than full mitigation of the project's GHG emissions. The tree planting program alone would mitigate fully the project's impacts in light of its reduced size. Note, however, that even under this approach, Hall would *both* record an easement on woodland

habitat *and* implement the tree planting program. Even under this scenario, therefore, Hall would over-mitigate the project's GHG emissions.

We propose that the County prepare an addendum to the certified Final EIR for Walt Ranch to evaluate the environmental impacts associated with revising Mitigation Measure 6-1 as outlined above. Such an addendum need not be certified. Instead, under CEQA Guidelines section 15164, subdivision (d), the decision-maker – in this case, the Director – must “consider” the addendum together with the EIR that it supplements. We recommend that the addendum not revisit the analysis of the project's GHG emissions, or the estimate of GHG emissions generated by the project; all those aspects of the EIR have been upheld by the Court of Appeal, and the EIR remains certified. The sole issue to be addressed in the addendum is determining whether Mitigation Measure 6-1, as revised above, will provide sufficient mitigation for the project's GHG emissions. In fact, our proposal provides overwhelming mitigation. The addendum could note further that the tree planting program would have multiple beneficial effects, in that it would help revegetate the property following the 2017 and 2020 fires and would thereby reduce erosion and enhance water quality.

We appreciate your consideration of this request. Please let us know if you would like additional information or have any questions. We look forward to hearing from you.

Very truly yours,



Mike Reynolds
Hall Brambletree Associates

Attachments:

Figure 1 – location of conservation easement for woodland habitat for GHG mitigation






Figure 2 – additional acreage available for conservation easement for woodland habitat

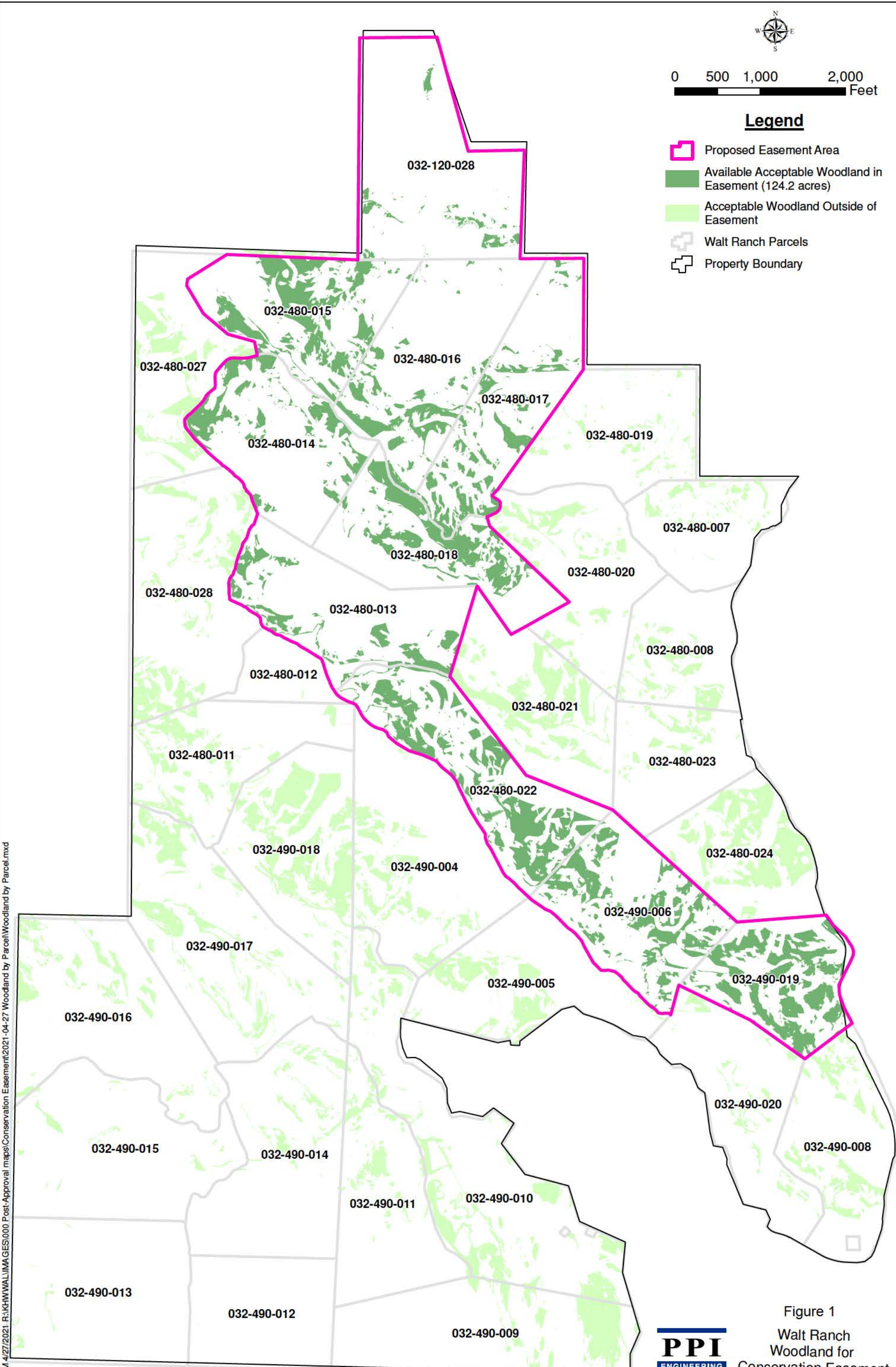
Memorandum from Brenda Hom, Hannah Kornfeld and Honey Walters, Ascent Environmental, to Mike Reynolds, Hall Brambletree Associates, *Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report* (April 28, 2021)



0 500 1,000 2,000 Feet

Legend

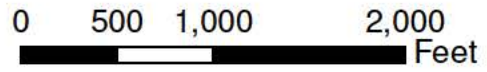
-  Proposed Easement Area
-  Available Acceptable Woodland in Easement (124.2 acres)
-  Acceptable Woodland Outside of Easement
-  Walt Ranch Parcels
-  Property Boundary



2:16:50 PM 4/27/2021 R:\KHW\WAL\IMAGES\000 Post-Approval maps\Conservation Easement\2021-04-27 Woodland by Parcel.mxd

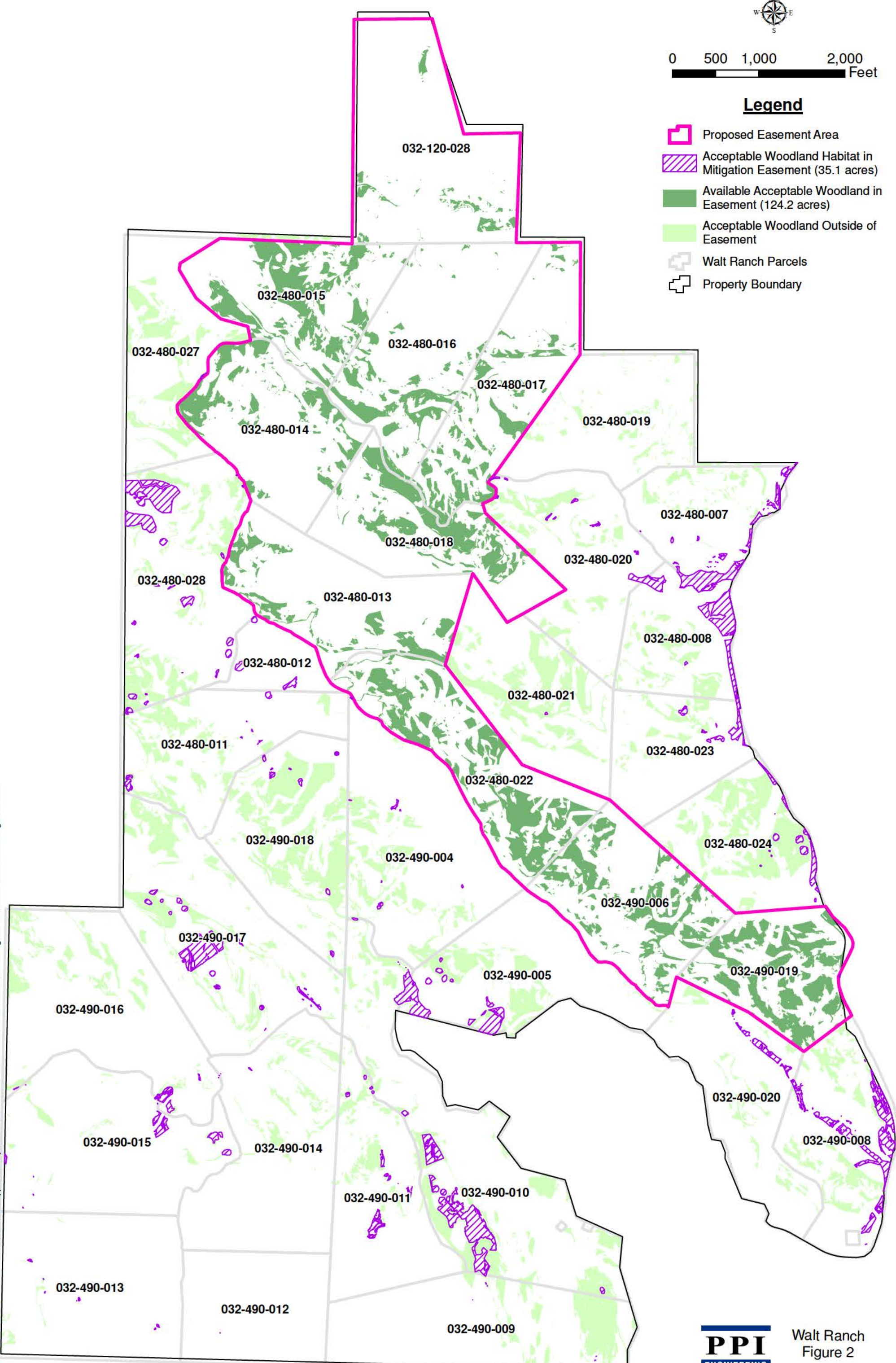


Figure 1
Walt Ranch
Woodland for
Conservation Easement
April 27, 2021



Legend

- Proposed Easement Area
- Acceptable Woodland Habitat in Mitigation Easement (35.1 acres)
- Available Acceptable Woodland in Easement (124.2 acres)
- Acceptable Woodland Outside of Easement
- Walt Ranch Parcels
- Property Boundary



1:10:36 PM 5/3/2021 R:\KH\WAL\IMAGES\000 Post-Approval maps\Conservation Easement\2021-05-03 Woodland in Mitigation Easement\2021-05-03 Figure 2.mxd



Walt Ranch
Figure 2
May 3, 2021

Memo



455 Capitol Mall, Suite 300
Sacramento, CA 95814
916.444.7301

Date: April 28, 2021

To: Mike Reynolds (Hall Brambletree Associates)

From: Brenda Hom, Hannah Kornfeld, and Honey Walters (Ascent)

Cc: Whit Manley (Remy Moose Manley)

Subject: **Walt Ranch Erosion Control Plan: Greenhouse Gas Mitigation Report**

INTRODUCTION

The County of Napa (County) approved a vineyard-conversion project at Walt Ranch (project), a 2,300-acre site located within the Howell Mountains of Napa Valley, approximately 7 miles northeast of the City of Napa. The project proposed the development of 356 net vineyard acres within 507 gross acres, including the development of 65 vineyard blocks on sloped terrain, which required an Erosion Control Plan (ECP) from the County. The Final Environmental Impact Report (FEIR) of the ECP was certified in 2016 (County of Napa 2016a).

Table 6-2 of the FEIR estimated that greenhouse gas (GHG) emissions would result from construction activities and the loss of carbon sequestration through tree removal, shown in Table 1 below. The FEIR assumed 28,616 trees would be removed to accommodate the vineyard blocks. Mitigation Measure 6-1 proposed to conserve 248 acres of woodland to reduce the project's emissions to a less-than-significant level. The estimated reduction in GHG emissions needed to mitigate to a less-than-significant level was 27,528 metric tons of carbon dioxide equivalent (MTCO_{2e}). Mitigation Measure 6-1 from the FEIR is included below for reference.

Mitigation Measure 6-1: In order to offset the construction emissions from development of the Proposed Project, the Applicant shall place into permanent protection no less than 248 acres of woodland habitat. All acreage designated for preservation shall be identified as such in a deed restriction, open space easement with an organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture 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.

Table 1: Walt Ranch Greenhouse Gas Construction Emissions (Table 6-2 of FEIR)

Proposed Project	GHG Emissions (MTCO _{2e})
Construction Activities	732
Tree Removal	105,021 ¹
<i>Total Construction GHG Emissions</i>	<i>105,753</i>
GHG Emission Reduction Measures	
Preservation of 248 acres of Woodland	27,528 ²
<i>Construction GHG Emissions after Woodland Preservation Measures</i>	<i>78,225</i>
Percent Reduction from Total Construction Emissions	26%

Notes: FEIR = Final Environmental Impact Report; GHG = greenhouse gas; MTCO_{2e} = metric tons of carbon dioxide equivalent.

¹ Based on CalEEMod emissions factor for sequestration loss of 0.0367 MTCO_{2e}/tree over 100 year for 28,616 trees.

² Based on CalEEMod emissions factor for land use change of 111 MTCO_{2e}/acre for an estimated 248 acres.

Source: County of Napa 2016a:6-17

In January 2017, three petitions for writ of mandate were filed in the trial court. The trial court denied all three petitions, but all three petitioners appealed. In September 2019, the First District Court of Appeal affirmed the trial court’s decision, with one exception. The Court of Appeal ruled that Napa County’s finding regarding the project’s GHG impact, with the adoption of Mitigation Measure 6-1, was not supported by substantial evidence. This mitigation measure was deemed inadequate by the Court of Appeal because the measure did not identify the acreage to be conserved, or otherwise show that the land to be conserved could be converted to other uses under County policy. The Court of Appeal noted that roughly 40 percent of the property cannot be converted to other uses without a use permit or other authorization because slopes exceed 30 percent, and because a portion of the property is in the Milliken Reservoir watershed. In May 2020, the trial court directed the County to reconsider the less-than-significant finding. The EIR remains certified, and the project remains approved. Under the trial court’s judgment, however, the project cannot go forward unless and until the County reconsiders this finding.

Since the EIR was certified in 2016, two major wildfire events, the Atlas and Hennessey Fires, have occurred on the project area in 2017 and 2020, burning approximately 2,200 acres or 97 percent of the project area. Approximately 40 percent of the burned areas burned in both wildfire events. These events were not a result of the project and thus, new plantings on these burn areas can count toward the GHG mitigation in the EIR.

The County supports mitigating the project’s GHG emissions through reforestation of areas burned in the recent wildfires. This memorandum presents a path for the project applicant to meet the GHG reduction equivalent previously attributed to preservation of woodlands in Mitigation Measure 6-1 (i.e., 27,528 MTCO_{2e}).

DATA, METHODS, AND ASSUMPTIONS

The Biological Resources Management Plan (BRMP) for the ERC recommends that any replanting efforts on the project site should follow the original dominant species (County of Napa 2016b). Ascent reviewed the acres of burned areas and estimated the number of oak trees destroyed in the wildfires, using average

oak woodland tree densities by species type, which dominated the original land cover. Ascent also reviewed the acreage of grassland destroyed in the wildfires. Oak woodlands accounted for over 87 percent of the burned area. Although other tree, grassland, and shrub species were also affected by the wildfires and could be considered for general replanting efforts, carbon sequestration rates and tree densities representative of these biomes within the project area were not available. The exclusion of these minority biomes results in a conservative carbon sequestration assessment as additional, though marginal, sequestration opportunities could result from replanting of non-oak woodland vegetation. Thus, only oak woodlands were evaluated as part of this analysis for the purposes of carbon sequestration to meet the necessary reductions under Mitigation Measure 6-1. The carbon sequestration rates for the oak tree plantings were calculated from the U.S. Department of Agriculture Forest Service's i-Tree Planting calculator (i-Tree) (Version 2.1.2) (USDA Forest Service 2020).

For the purposes of establishing a representative "tree" from which to estimate carbon sequestration potentials, Ascent evaluated the distribution of oak tree species in the areas affected by the Hennessey wildfire in 2020. The vegetated areas solely affected by the Atlas Fire in 2017 were not evaluated due to the regrowth already occurring on that land. Ascent overlaid the original vegetative cover data on the project site with the areas burned in the Hennessey Fire in 2020. The spatial data for the burn areas and original vegetative habitats were developed by PPI Engineering and available from the BRMP, respectively (PPI Engineering 2020, County of Napa 2016b). The cross section of these datasets was then further limited to vegetative land cover outside the identified conservation areas and planned vineyard development, which are areas unsuitable for new tree plantings. The results of this analysis are shown in Table 2 and Figures 1 through 3, and detailed in Appendix A.

Table 2: Burned Areas by Original Vegetation Types

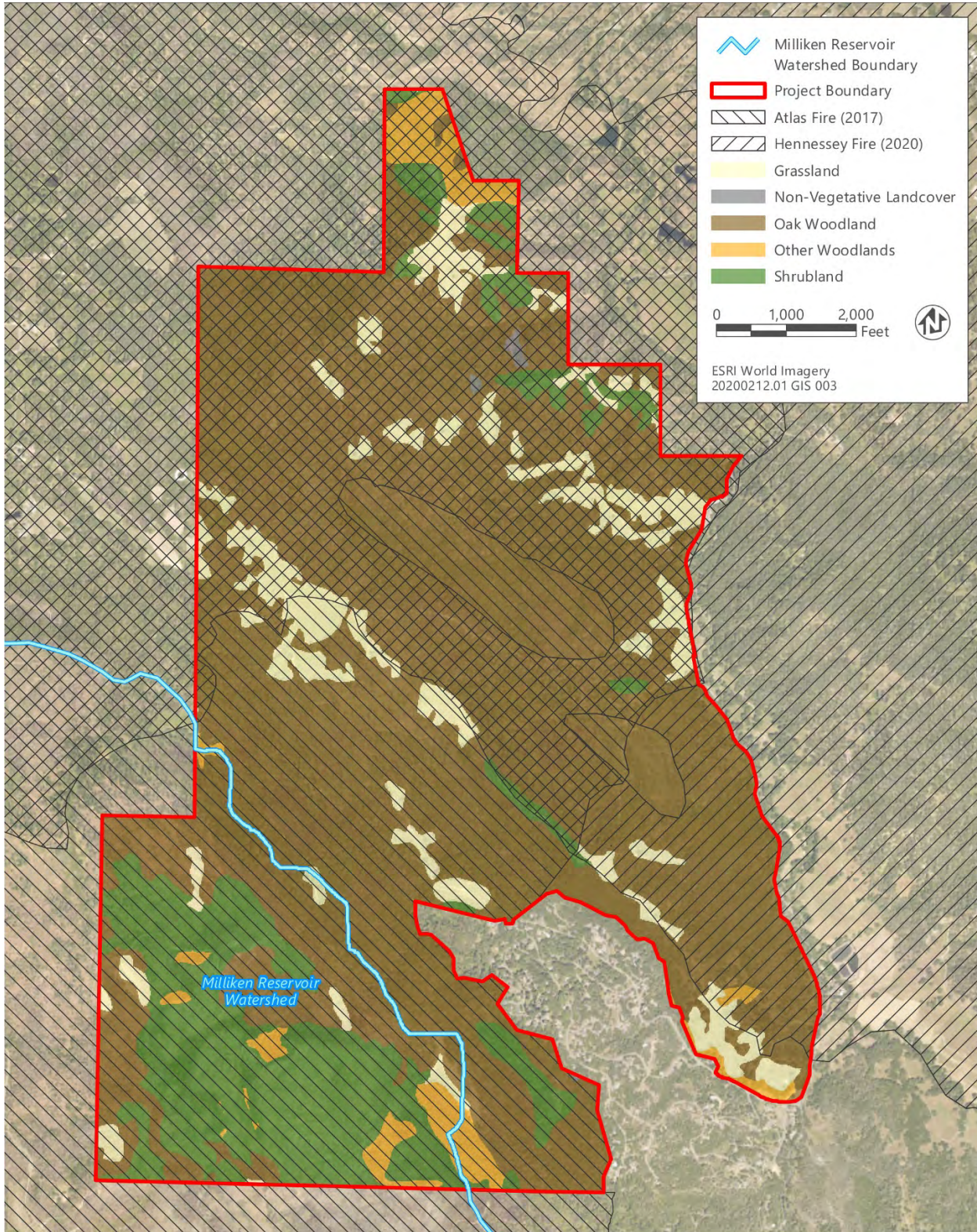
Original Landcover	Area Burned in the Hennessey Fire (2020)		Burn Areas Eligible for Planting ²	
	Acres	Percent of Total	Acres	Percent of Total
Oak Woodland	954.30	85%	900.72	68%
<i>Coast Live Oak</i>	318.19	28%	302.02	17%
<i>Mixed Oak</i>	302.50	27%	282.15	32%
<i>Blue Oak</i>	241.10	21%	226.74	13%
<i>Black Oak</i>	56.32	5%	55.29	3%
<i>Valley Oak</i>	29.20	3%	27.65	2%
<i>Interior Live Oak</i>	6.99	1%	6.88	0%
Shrubland and Grassland	165.52	15%	122.44	32%
<i>Shrubland</i>	51.31	5%	45.98	19%
<i>Grassland</i>	114.21	10%	76.46	13%
Non-Vegetative Landcover	2.65	<1%	0	0%
<i>Rock Outcrop</i>	2.65	<1%	0	0%
<i>Urban</i>	0.32	<1%	0	0%
Total	1,122.47	100%	1,023.16	100%

Notes:

¹ A mix of oak and non-oak tree species,

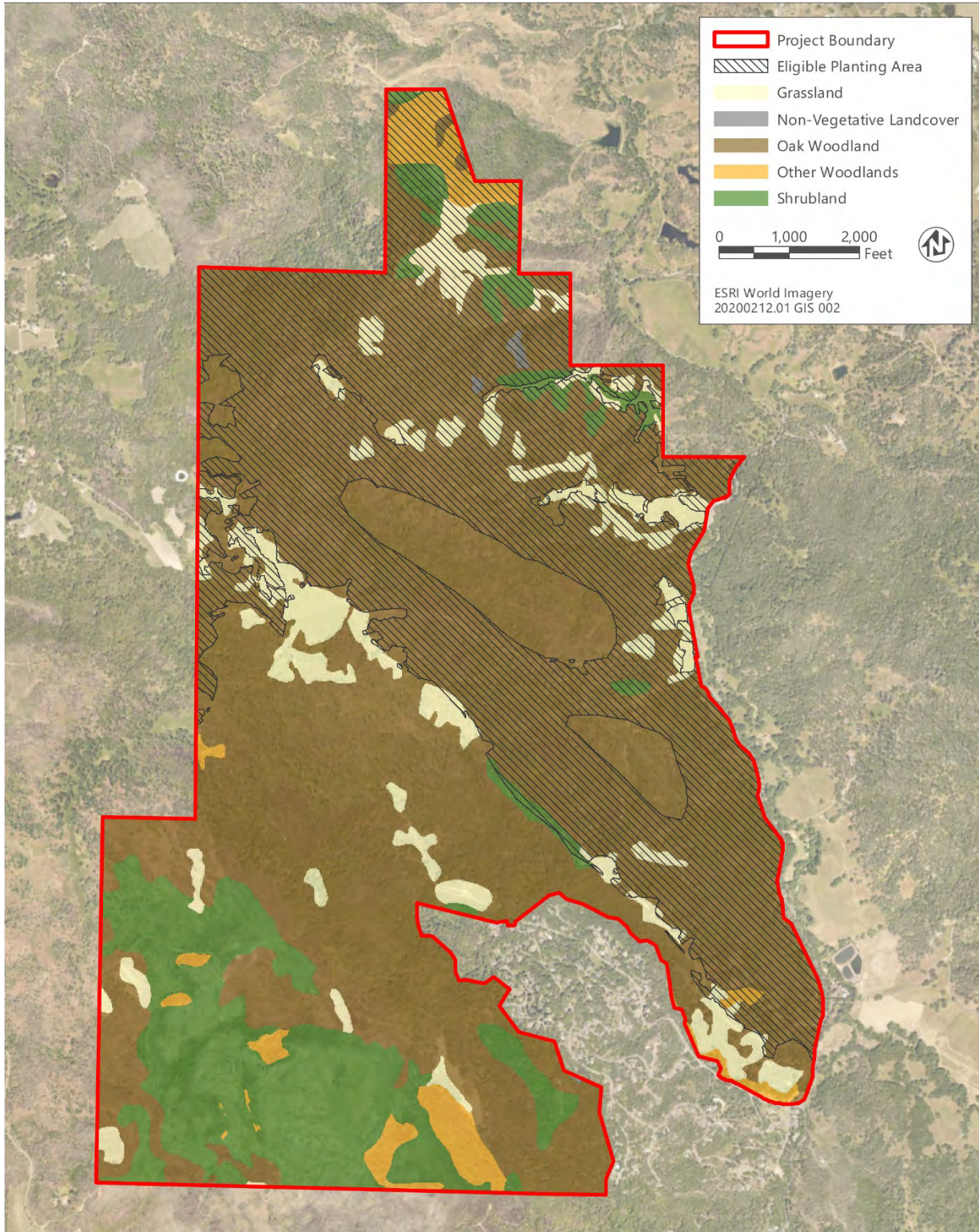
² Excludes areas within planned conservation areas, proposed vineyard development, and non-vegetative landcover.

Source: Data compiled by Ascent Environmental in 2021 using data from County of Napa 2016b and PPI Engineering 2020



Source: Data received from County of Napa and PPI Engineering in 2020; adapted by Ascent Environmental in 2021

Figure 1 Burned Areas



Source: Data received from County of Napa and PPI Engineering in 2020; adapted by Ascent Environmental in 2021

Note: Eligible planting areas exclude conservation areas.

Figure 2 Eligible Planting Areas

Oak woodlands accounted for 85 percent of the burned area and 68 percent of the burned area eligible for planting. Oak woodland species consisted of black oak, blue oak, coast live oak, interior live oak, and valley oak species. The original tree populations were estimated using oak woodland tree densities from a ground-based survey study published by the California Oak Foundation (California Oak Foundation 2006). The relevant tree densities and resulting tree loss estimates from the study are shown in Table 3.

Table 3: Oak Woodland Tree Densities and Estimate of Trees Lost

Oak Tree Species	Trees per acre ^{1,2}	Trees Lost in the Hennessey Fire	Trees Lost in Eligible Planting Area ³
Coast Live Oak	698	178,738	169,795
Mixed Oak	432	130,680	121,889
Blue Oak	311	118,343	111,526
Black Oak	1281	72,144	70,826
Valley Oak	156	4,555	4,313
Interior Live Oak	674	4,710	4,637
Total	NA	509,170	482,987

Notes: NA = not applicable.

¹ Includes oak trees of all sizes, including seedlings.

² California Oak Foundation 2006: Appendix B

³ Excludes areas within the Milliken Reservoir watershed and proposed vineyard areas.

Source: Data compiled by Ascent Environmental in 2021 using data from County of Napa 2016b and PPI Engineering 2020

The identified list of tree species shown in Table 3 were input into i-Tree to estimate the average annual carbon sequestration rates (MTCO_{2e} per tree per year) associated with plantings of oak seedlings. For a given planting project location, i-Tree estimates the total carbon sequestration potential for a list of given tree species over the lifetime of a project, depending on the size of the tree at planting. i-Tree's applicable list of oak species that matches the list in Table 3 is limited to "California Black Oaks," "Coastal Live Oaks," and "Oaks." Thus, oak species other than black and coastal live oaks were assumed to have the carbon sequestration rates of "Oaks" category. The BRMP states that all tree species would be best propagated from seed in tree tubes (County of Napa 2016b:79). As such, Ascent's i-Tree model inputs assumed the planted trees would start as seedlings with a stem diameter of 1/8th of an inch (0.125 inches). The model inputs also assumed a 20 percent mortality rate and a project lifetime of 99 years (maximum allowed by the model), consistent with the target survival rate and 100-year lifetime identified in the BMRP (County of Napa 2016b:79). These carbon sequestration rates are shown in Table 4. i-Tree inputs are provided in Appendix A.

Table 4: Oak Tree Carbon Sequestration Rates

Oak Tree Species	Carbon Sequestration Rate (kg CO ₂ e/tree/year)
Black Oak	84
Blue Oak ¹	46
Mixed Oak ¹	46
Coast Live Oak	51
Interior Live Oak ¹	46
Valley Oak ¹	46
Average for Walt Ranch ²	54.7

Notes: kg CO₂e = kilograms of carbon dioxide equivalent

¹This specific tree species was not available in i-Tree. Sequestration rate based on the general "Oaks" tree category in i-Tree.

² Weighted average based on population distribution of the listed oak tree species in the eligible planting area, as shown in Table 3.

Source: Data modeled by Ascent Environmental in i-Tree Planting calculator (Version 2.1.2) in 2021.

Based on the distribution of tree species in the eligible planting areas, the project would need to plant at least 16,790 oak trees (as seedlings) to sequester a total of 27,528 MTCO₂e over a 30-year project lifetime, accounting for the 80 percent survival rate. This represents 3 percent of the trees burned in the Hennessey fire. As shown in Table 3, the total number of trees lost on areas eligible for planting is 482,987, which is far greater than the number of tree plantings needed to meet the GHG reduction target. Therefore, there is ample space on the project site to plant the number of oak trees needed to demonstrate compliance with Mitigation Measure 6-1.

The number of tree plantings needed to meet the annual carbon sequestration target is highly dependent on the types of trees being planted. The actual tree species planted will depend on recommendations from registered professional foresters, consistent with the BRMP. For example, if the profile of trees burned on lands affected by both the Atlas and Hennessey fires were considered, the average carbon sequestration rate would be 54.7 kg CO₂e/tree/year, and 16,473 trees would be needed to be planted. Considering that areas outside the project could be considered for replanting, especially those also affected by recent wildfires, and considering that foresters generally recommend replacing lost native species with the same species, the final average carbon sequestration rate of trees replanted under this effort could vary considerably from the estimates in this memorandum. Thus, Ascent recommends the applicant establish a tree replanting target of 16,790 trees to meet its carbon sequestration target of 27,528 MTCO₂e. The target may be adjusted pending further coordination with nearby partnering landowners and evaluation of the tree species profile on their lands.

As was discussed in the FEIR, it was estimated that 28,616 trees would be removed to accommodate the vineyard blocks. This estimate was based on a tree survey report conducted in 2013 that assumed 507 acres would need to be cleared to accommodate the project. The project at Walt Ranch that was approved by the Napa County Board of Supervisors in December 2016 reduced the project's intensity such that it would remove 316 acres. The estimated trees associated with the 316 acres for the approved project is 14,281. Therefore, the estimated trees to be replanted from compliance with Mitigation Measure 6-1 would result in a net increase of 2,509 trees.

The estimated break down of carbon sequestration by land cover type for the eligible planting areas in oak woodlands is shown in Table 5.

Table 5 - Annual Carbon Sequestration from Replanting of Oaks in Eligible Planting Areas

Original Landcover Type	MTCO ₂ e/year	Percent of Target
Oak Woodland		
<i>Coast Live Oak</i>	11,169	41%
<i>Mixed Oak</i>	3,992	15%
<i>Blue Oak</i>	3,464	13%
<i>Black Oak</i>	4,796	17%
<i>Valley Oak</i>	56	<1%
<i>Interior Live Oak</i>	169	1%
Total	23,646	86%
Target Carbon Sequestration Rate	27,528	100%
Remaining Carbon Sequestration Needed	3,882	14%

Notes: MT CO₂e = metric tons of carbon dioxide equivalent

Source: Data compiled by Ascent Environmental in 2021.

In summary, the project would need to plant a minimum of 16,790 oak seedlings (or the carbon sequestration equivalent) to meet the requirements under Mitigation Measure 6-1. Based on average tree densities, this planting target can be fulfilled entirely on the project site through the replanting of oak woodlands in the areas eligible for planting, as shown in Figure 1.

VEGETATION PLANTING PROGRAM

All planting efforts should follow the replanting techniques and guidelines established by a registered professional forester familiar with oak woodland habitat similar to the ones on the project site, using the BRMP as a guide and resource. The recommendations between the BRMP and the registered professional forester may differ in areas, such as recommended tree densities. For example, the BRMP recommends that the density of plantings be determined by a qualified botanist, horticulturalist, or forester and similar to the density of the original landcover (County of Napa 2016b:80). However, the Napa Resource Conservation District's Forestry Program Manager and the California Native Plant Society's Fire Recovery Guide recommend that new plantings in burn areas consider planting at lower densities to facilitate fire resilience by lowering a forest's fuel content (Benton, pers. comm., 2021, California Native Plant Society 2019). The BRMP was written in 2016, prior to the Atlas and Hennessey Fires, and may not be considering the latest fire management guidance with respect to replanting woodlands affected by wildfire. Where the recommendations differ between the forester and BRMP in other non-fire-related subjects (e.g., tree planting size, protection of new plantings, planting schedules), the applicant shall discuss with the forester what the best recommended approach should be.

As the actual densities determined by the qualified specialist may differ from the average tree densities shown in Table 3, the applicant should prioritize planting trees within the eligible planting areas and identify if all required trees can be planted within the eligible planting area or if other planting areas need

to be considered. The applicant may consider working with the County to plant trees in the burned areas of the Milliken Reservoir Watershed or other local areas affected by wildfires to help with regional reforestation efforts such that the GHG reduction meets the requirements of Mitigation Measure 6-1 (i.e., 27,528 MTCO₂e).

Ascent recommends that the applicant work with a registered professional forester and community organizations (e.g., Putah Creek Council) to develop a plan for replanting. This could involve volunteer assistance and educational opportunities for the community. For example, the Napa County Resource Conservation District organizes the "Acorn to Oaks" community volunteer planting days.

With respect to the timing of replanting, replanting can occur over a period of a few years, or shorter depending on the level of participation from partners (Liner, pers. comm., 2021).

CONSERVATION EASEMENTS

Establishing conservation easements on all eligible planting areas will ensure the longevity of the replanted trees and that the carbon sequestered in those trees will not be displaced by future development. As shown in Table 2 and Figure 2, the total area of eligible planting areas is 1,025 acres, 901 acres of which were originally oak woodlands prior to the recent wildfires and would be eligible for planting new oaks. Conservation of these areas, especially the replanted oak woodlands, will ensure that sufficient carbon can be sequestered such that the provisions of Mitigation Measure 6-1 of the FEIR are met. Areas within the Milliken Reservoir watershed are already conserved under the County Code. A large portion of the potential planting area is located on land not developable due to County Code (i.e., slopes greater than 30 percent and riparian setbacks). Because these areas cannot be converted to other uses under County policy, a conservation easement is not needed to protect trees planted in these areas.

REFERENCES

Benton, Amanda. Forestry Program Manager of the Napa Resource Conservation District. February 26, 2021.—Call with Hannah Kornfeld and Brenda Hom of Ascent Environmental regarding tree replanting efforts on the Walt Ranch site.

California Native Plant Society. 2019. Fire Recovery Guide. Available: <https://nature.berkeley.edu/matteolab/wp-content/uploads/2019/10/CNPS-fire-recovery-guide-LR-040618.pdf>. Accessed March 29, 2021.

County of Napa. 2016a (March). Walt Ranch Final Environmental Impact Report. Prepared by Analytical Environmental Services. #P11-00205-ECPA.

_____. 2016b (July). Biological Resources Master Plan. Walt Ranch P11-00205-ECPA. Prepared by Analytical Environmental Services.

Liner, Kenny. Executive Director of the Putah Creek Council.—Call with Hannah Kornfeld of Ascent Environmental regarding tree replanting efforts on the Walt Ranch site.

US Department of Agriculture Forest Service. 2020. i-Tree Planting. Version 2.1.2. Available: <https://planting.itreetools.org/app/location/>. Accessed February 5, 2021.

PPI Engineering. 2020 (December). Walt Ranch 2017 & 2020 Fires. Napa, CA.

Appendix A

Replanting Ratio 3%

Species/Habitat	Categories	TOTAL acres burned in 2020 eligible for planting [1]	Oaks 2040 Tree Type	Trees per acre [2]	Estimated Number of Trees Lost to Wildfire	Trees to be replanted (based on replanting ratio)	iTree Tree Type	CO2 Sequestered (kg/tree/99 year)[3]	MTCO2 sequestered per year
(Carex spp. - Juncus spp - Wet Meadow Grasses) NFD Super Alliance	Grassland	-							
Black Oak Alliance	Black Oak	55.29	Black Oak	1281	70,826	2,462	California Black Oak	8,299	206
Blue Oak Alliance	Blue Oak	14.79	Blue Oak	311	4,600	160	Oak	4,588	7
California Annual Grasslands Alliance	Grassland	59.00							
California Bay/Coast Live Oak/(Madrone/Black Oak/Big Leaf Maple) M	Mixed Oak	31.70	Mixed Oak	432	13,694	478	Coastal Live Oak/Oak/Madrone /big Leaf Maple	9,36	45
California Buckeye/Poison Oak/Moss Woodland Alliance	Shrubland	-							
Chamise Alliance	Shrubland	41.40							
Chamise Shrubland Alliance	Shrubland	-							
Coast Live Oak - Blue Oak - (Foothill Pine) NFD Association	Coast Live Oak/Blue Oak	423.89	Coast Live Oak/Blue Oak	505	213,853	7,434	Coastal Live Oak/Oak	4,795	360
Coast Live Oak (Foothill Pine)	Coast Live Oak	90.07	Coast Live Oak	698	62,869	2,185	Coastal Live Oak	5,002	110
Common Manzanita Provisional Shrubland Alliance	Shrubland	-							
Madrone Forest Alliance	Pacific Madrone	-	[4]	100	-	-	Madrone	24,724	-
Mixed Manzanita - (Interior Live Oak -California Bay - Chamise) West	Shrubland	4.58							
Mixed Oak (Foothill Pine)	Mixed Oak	250.45	Mixed Oak	432	108,194	3,76	Oak	4,588	174
Rock Outcrop	Rock Outcrop	2.65							
Sclerophyllous Shrubland Formation	Shrubland	-							
Scrub Interior Live Oak - Scrub Oak - (California Bay - Flowering Ash -	Interior Live Oak	6.88	Interior Live Oak	674	4,637	16	Oak	4,588	7
Upland Annual Grasslands & Forbs Formation	Grassland	17.46							
Urban or Built-up	Urban	0.07							
Valley Oak - (California Bay - Coast Live Oak - Walnut - Ash) Riparian F	Valley Oak	27.65	Valley Oak	156	4,313	150	Oak	4,588	7
White Leaf Manzanita - Leather Oak - (Chamise - Ceanothus spp.) Xer	Shrubland	-							
TOTAL		1,025.88			482,987	16,790			918

Source: Target total sequestration 27,528
 Project lifetime (years) 30
 Target annual sequestration 918
 Average Tree Sequestration Rate per year (kg/tree/year) 54.67628021

[1] Burned area outside of Milliken Reservoir and clearing limits of proposed vineyards
 [2] Oaks 2040 (California Oak Foundation) www.californiaoaks.org/Oaks2040
 [3] iTree Planting (https://planting.itreetools.org/app/report/) (Assumes 20 percent mortality rate, consistent with survival target in the BRMP. Trees planted as 0.125 in DBH seedlings)
 [4]http://citeserx.ist.psu.edu/viewdoc/download?doi=10.1.1.395.9217&rep=rep1&type=pdf (In forests categorized as pure madrone, madrone trees make up nearly 90% of the overstory canopy and have the highest densities at 186 trees per acre"

Project Report - i-Tree Planting Calculator^{v2.1.2}



Location: Napa, California 94559

Electricity Emissions Factor: 0.00 kilograms CO2 equivalent/MWh

Fuel Emissions Factor: 0.00 kilograms CO2 equivalent/MMBtu

Lifetime: 99 years

Tree Mortality: 20%

All amounts in the tables are for the full lifetime of the project.

Location		CO ₂ (Carbon Dioxide) Benefits			
Group Identifier	Tree Group Characteristics	CO ₂ (Carbon Dioxide) Avoided (kilograms)	CO ₂ Avoided (\$)	CO ₂ Sequestered (kilograms)	CO ₂ Sequestered (\$)
1	<ul style="list-style-type: none"> (1.0) Oak (Quercus species) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	0.0	\$0.00	4,588.1	\$235.24
2	<ul style="list-style-type: none"> (1.0) Oak, California black (Quercus kelloggii) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	0.0	\$0.00	8,298.7	\$425.50
3	<ul style="list-style-type: none"> (1.0) Oak, Coastal live oak; California live (Quercus agrifolia) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	0.0	\$0.00	5,001.7	\$256.45

Location		Energy Benefits			
Group Identifier	Tree Group Characteristics	Electricity Saved (kWh) (Kilowatt-Hours)	Electricity Saved (\$)	Fuel Saved (MMBtu) (Millions of British Thermal Units)	Fuel Saved (\$)
1	<ul style="list-style-type: none"> (1.0) Oak (Quercus species) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	6,714.0	\$1,374.35	21.7	\$280.78
2	<ul style="list-style-type: none"> (1.0) Oak, California black (Quercus kelloggii) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	6,256.4	\$1,280.69	20.2	\$261.47
3	<ul style="list-style-type: none"> (1.0) Oak, Coastal live oak; California live (Quercus agrifolia) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	8,962.1	\$1,834.54	45.6	\$590.20

Location		Ecosystem Services			
Group Identifier	Tree Group Characteristics	Tree Biomass (tonne)	Rainfall Interception (cubic meters)	Runoff Avoided (cubic meters)	Runoff Avoided (\$)
1	<ul style="list-style-type: none"> (1.0) Oak (Quercus species) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	2.2	606.2	114.2	\$269.51
2	<ul style="list-style-type: none"> (1.0) Oak, California black (Quercus kelloggii) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	4.2	624.1	117.5	\$277.47
3	<ul style="list-style-type: none"> (1.0) Oak, Coastal live oak; California live (Quercus agrifolia) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	2.5	518.6	97.7	\$230.56

Location		Air Benefits							
Group Identifier	Tree Group Characteristics	O ₃ (Ozone) Removed (kilograms)	NO ₂ (Nitrogen Dioxide) Avoided (kilograms)	NO ₂ (Nitrogen Dioxide) Removed (kilograms)	SO ₂ (Sulfur Dioxide) Avoided (kilograms)	SO ₂ (Sulfur Dioxide) Removed (kilograms)	VOC (Volatile Organic Compound) Avoided (kilograms)	PM _{2.5} (Particulate matter smaller than 2.5 micrometers in diameter) Avoided (kilograms)	PM _{2.5} (Particulate matter smaller than 2.5 micrometers in diameter) Removed (kilograms)
1	<ul style="list-style-type: none"> (1.0) Oak (Quercus species) at 0.3175 cm DBH (Diameter at Breast Height). Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	40.9	0.2	4.2	0.8	1.0	1.6	1.0	0.4

2	<ul style="list-style-type: none"> • (1.0) Oak, California black (Quercus kelloggii) at 0.3175 cm <u>DBH</u> (<u>Diameter at Breast Height</u>). • Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. • Trees are in excellent condition and planted in full sun. 	40.5	0.2	4.1	0.7	1.0	1.5	0.9	0.4
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3	<ul style="list-style-type: none"> (1.0) Oak, Coastal live oak; California live (Quercus agrifolia) at 0.3175 cm <u>DBH (Diameter at Breast Height)</u>. Planted 0-6 meters and north (0°) of buildings that were built post-1980 with heat and A/C. Trees are in excellent condition and planted in full sun. 	55.8	0.3	7.7	1.2	1.6	2.1	1.3	1.7
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www.isa-arbor.com
www.caseytrees.org
www.esf.edu
www.northeasternforests.org

*Use of this tool indicates acceptance of the End-User License Agreement (EULA), which can be found at:
<https://help.itreetools.org/eula>*



YOCHA DEHE
CULTURAL RESOURCES

October 21, 2022

County of Napa
Attn: Donald Barrella
1195 Third Street, Suite 210
Napa, CA 94559

RE: Liao Vineyard 3580 Monticello Rd Napa Project YD-04202021-01

Dear Mr. Barrella:

Thank you for the project notification dated September 23, 2022, regarding cultural information on or near the proposed Liao Vineyard 3580 Monticello Rd Napa Project. We appreciate your effort to contact us and wish to respond.

The Cultural Resources Department has reviewed the study and concluded that the project 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, the Tribe has concerns that the project could impact known cultural resources. Yocha Dehe Wintun Nation highly recommends including cultural monitors during development and ground disturbance.

To setup a monitoring agreement, please contact:

Eric Hernandez, Site Protection Manager
Yocha Dehe Wintun Nation
Phone: (530) 723-3313
Email: ehernandez@yochadehe.gov

Please refer to identification number YD-04202021-01 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Sincerely,

DocuSigned by:

8DD0BD089ED6438...

Tribal Historic Preservation Officer





State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 24, 2022

Donald Barrella, Planner III
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559
donald.barrella@countyofnapa.org

Subject: Goldvista Holdings, Liao Vineyard Erosion Control Plan #P21-00066-ECPA,
Mitigated Negative Declaration, SCH No. 2022090431, Napa County

Dear Mr. Barrella:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the County of Napa (County) for the Goldvista Holdings, Liao Vineyard Erosion Control Plan #P21-00066-ECPA Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Angela Liao, Goldvista Holdings LLC

Objective: Develop approximately 9.85 acres of vineyard, including approximately 8.0 net planted acres in three proposed blocks located on a 41.8-acre property. The Project involves the clearing of vegetation, earthmoving, and installation and maintenance of erosion control measures. An estimated 139 trees within approximately 2.75 acres of

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Donald Barrella
County of Napa
October 24, 2022
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oak (*Quercus* sp.) woodland would be removed. New and upgraded wildlife exclusion fencing would be installed and connect with existing fencing on the Project site to enclose the proposed vineyard blocks.

Location: The Project is located at 3580 Monticello Road, Napa, CA, 94558, on Assessor's Parcel Numbers 033-040-057 and 033-040-058.

Timeframe: The Project is proposed for implementation April 1 to October 15 and typical annual operations would occur year-round.

REGULATORY AUTHORITY

Lake and Streambed Alteration

CDFW will require an LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq. for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. **The Project may impact an ephemeral tributary and therefore an LSA Notification may be required, as further described below.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Fully Protected Species

Fully Protected species, such as white-tailed kite (*Elanus leucurus*), may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515) except for collecting these species for necessary scientific research, relocation of the bird species for the protection of livestock, or if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including the below recommendations which are also in the Draft Mitigation, Monitoring and Reporting Program (Attachment), CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.



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Environmental Setting

I. Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: American Badger

Issue: The Project site includes grassland habitat and oak woodland habitat that may be suitable for American badger (*Taxidea taxus*). Badgers range throughout most of California and can dig burrows in a single day; therefore, the species may occupy the Project site and adjacent habitat prior to Project construction (Ministry of Environment Ecosystems 2007 as cited in Brehme et al. 2015). Additionally, the California Wildlife Habitat Relationships Predicted Habitat Suitability for the grassland portions of the site is medium and high-quality suitability.

Specific impacts and why they may occur and be significant: American badger is a California Species of Special Concern (SSC). An SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria: is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role; is listed as Federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not formally been listed; is experiencing, or formerly experienced, serious (nonscyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. The Project may result in injury or mortality to adult or young badgers, or burrow abandonment. Therefore, if American badgers are present on or adjacent to the Project area, Project impacts to American badger would be potentially significant.

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to American badger to less-than-significant, CDFW recommends that the MND include the following mitigation measure.

MM BR-4. American Badger Protection. A qualified biologist shall survey for American badger within the Project site and adjacent habitat within a minimum of 50 feet. If any occupied burrows are discovered the Project shall implement an appropriate buffer from the burrow, as determined by a qualified biologist and approved in writing by CDFW. If the Project cannot avoid impacts to the occupied burrow the Project shall consult with CDFW regarding next steps before proceeding and implement CDFW recommendations such as preparing and implementing an American badger relocation plan.

3.3 cont.

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COMMENT 2: Special-Status Herpetofauna

Issue: Page 13 of the MND and Pages 18-19 of Exhibit B-1 discuss that suitable habitat for western pond turtle (*Emys marmorata*) occurs on the Project site and the species is known to have occurred on the Project site, but also states that the proposed Project would not affect western pond turtle. There are also documented foothill yellow-legged frog (*Rana boylei*) Northwest/North Coast clade and California red-legged frog (*Rana draytonii*) occurrences within five miles of the Project.

Specific impacts and why they may occur and be significant: The Project could impact stream or upland dispersal habitat or refugia for the above special-status herpetofauna through vegetation removal and grading activities, potentially injuring or killing them. Western pond turtles, an SSC, are documented to occur on the Project site according to the California Natural Diversity Database (CNDDDB). The species can move more than four miles up or down stream; therefore, the Project site is within the mobility range of other western pond turtle CNDDDB documented observations (Holland 1994). The species may also survive outside of aquatic habitat for several months in uplands up to several hundred feet from aquatic habitat (Purcell et al. 2017; Zaragoza et al. 2015). Foothill yellow-legged frogs, an SSC, have been documented moving up to 500 feet from the wetted channel of a stream across upland habitat (CDFW 2018). California red-legged frogs, an SSC and federally listed as threatened species, can use upland habitat one to two miles away from breeding ponds, including habitat such as rocks, small mammal burrows, logs, densely vegetated areas, and man-made structures (i.e., culverts, livestock troughs, spring-boxes, and abandoned sheds) (USFWS 2017). Based on the above information, if these special-status herpetofauna occur within the Project area, Project impacts to special-status herpetofauna would be potentially significant.

Recommended Mitigation Measure: To reduce potential impacts to less-than-significant, CDFW recommends including the following mitigation measure in the MND.

MM BR-5: Special-Status Herpetofauna. For all Project activities that occur within 500 feet of stream or wetland habitat, prior to ground-disturbing activities, a qualified biologist shall conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of foothill yellow-legged frog, California red-legged frog, and western pond turtle and their nests. If any of these special-status species are discovered during the survey, Project activities shall not begin until CDFW has been consulted and approved in writing measures to avoid and minimize impacts to special-status species, and the measures have been implemented. If California red-legged frog is encountered, the Project shall consult with USFWS pursuant to the federal Endangered Species Act and obtain any required authorization for impacts.



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II. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT 3: Stream and Riparian Habitat

Issue: Page 14 of the Initial Study/MND states that the ephemeral drainage on the northern portion of the Project site was “confirmed as a constructed drainage ditch, not a stream.” CDFW LSA jurisdiction may include constructed drainages. This drainage appears to be hydrologically connected to the stream along the east side of the property and may constitute a stream under CDFW jurisdiction. If the Project will impact this drainage, the Project may be required to submit an LSA Notification to CDFW.

Recommended Mitigation Measure: If Vineyard Block B will result in permanent or temporary impacts to the ephemeral drainage in the north/northeast corner of the Project site, CDFW recommends including the following mitigation measure in the MND.

MM BR-6 Impacts to Stream and Riparian Habitat. If the Project will impact the bed, bank, channel or associated riparian vegetation of any streams (including ephemeral drainages), the Project shall consult with CDFW to determine if an LSA Notification is required, and if so, shall submit an LSA Notification to CDFW and comply with the LSA Agreement, if issued. Permanent impacts to the stream shall be mitigated at a 3:1 mitigation to impact ratio through on-site or off-site restoration for acreage and linear feet impacted, and temporary impacts shall be restored on-site, unless otherwise approved in writing by CDFW.

Please be advised that the LSA Agreement, if issued, would likely include the above recommended mitigation measures, as applicable, and additional protection measures for species and their habitats, such as restricting work within the stream riparian zone from June 15 to October 15.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES



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The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

3.7

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alicia Bird, Environmental Scientist, at (707) 980-5154 or alicia.bird@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or melanie.day@wildlife.ca.gov.

1.1

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...
Erin Chappell
Regional Manager
Bay Delta Region

Attachment: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022090431)

REFERENCES

Brehme, C.S.; Hathaway, S.A.; Booth, R.; Smith, B.H.; and Fisher, R.N. 2015. Research of American Badgers in Western San Diego County, 2014. Data Summary prepared for California Department of Fish and Wildlife and the San Diego Association of Governments. 24pp. (42pp. with Appendix).

CDFW. 2018. Considerations for Conserving the Foothill Yellow-Legged Frog. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157562&inline>

Holland, Dan C. 1994. The western pond turtle: habitat and history. Unpublished final report, U. S. Dept. of Energy, Portland, Oregon.

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Purcell, Kathryn L.; McGregor, Eric L.; Calderala, Kathryn. 2017. Effects of drought on western pond turtle survival and movement patterns. *Journal of Fish and Wildlife Management*. 8(1): 15-27.

USFWS. 2017. Species Account for California Red-legged frog. December 2017.
https://www.fws.gov/sacramento/es_species/Accounts/Amphibians-Reptiles/ca_red_legged_frog/

Zaragoza, George; Rose, Jonathan P.; Purcell, Kathryn.; Todd, Brian. 2015. Terrestrial habitat use by western pond turtles (*Actinemys marmorata*) in the Sierra Foothills. *Journal of Herpetology*. 49(3): 437-441.

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Attachment

Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM BR-4	<u>MM BR-4: American Badger Protection.</u> A qualified biologist shall survey for American badger within the Project site and adjacent habitat within a minimum of 50 feet. If any occupied burrows are discovered the Project shall implement an appropriate buffer from the burrow, as determined by a qualified biologist and approved in writing by CDFW. If the Project cannot avoid impacts to the occupied burrow the Project shall consult with CDFW regarding next steps before proceeding and implement CDFW recommendations such as preparing and implementing an American badger relocation plan.	Prior to Ground Disturbance	Project Applicant
MM BR-5	<u>MM BR-5: Special-status Herpetofauna Protection.</u> For all Project activities that occur within 500 feet of stream or wetland habitat, prior to ground-disturbing activities, a qualified biologist shall conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of foothill yellow-legged frog, California red-legged frog, and western pond turtle and their nests. If any of these special-status species are discovered during the survey, Project activities shall not begin until CDFW has been consulted and approved in writing measures to avoid and minimize impacts to special-status species, and the measures have been implemented. If California red-legged frog is encountered, the Project shall consult with USFWS pursuant to the federal Endangered Species Act and obtain any required authorization for impacts.	Prior to Ground Disturbance and continuing over the course of the Project	Project Applicant

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MM BR-6	<u>MM BR-6: Impacts to Stream and Riparian Habitat.</u> If the Project will impact the bed, bank, channel or associated riparian vegetation of any streams (including ephemeral drainages), the Project shall consult with CDFW to determine if an LSA Notification is required, and if so, shall submit an LSA Notification to CDFW and comply with the LSA Agreement, if issued. Permanent impacts to the stream shall be mitigated at a 3:1 mitigation to impact ratio through on-site or off-site restoration for acreage and linear feet impacted, and temporary impacts shall be restored on-site, unless otherwise approved in writing by CDFW.	Prior to Ground Disturbance	Project Applicant
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