

**PROJECT REVISION STATEMENT**  
**Kenzo Estate: Phase 9 Vineyard Conversion**  
**Agricultural Erosion Control Plan #P21-00086-ECPA**

I hereby revise the Kenzo Estate: Phase 9 Vineyard Conversion Agricultural Erosion Control Plan (ECPA) #P21-00086-ECPA to implement the clearing of vegetation, earthmoving, and installation and maintenance of erosion control measures associated with the development of approximately 13.5 gross acres of vineyard (i.e., development area or proposed clearing limits) with approximately 11 net planted acres, within two vineyard blocks located on three parcels that comprise approximately 359 acres of the subject property (i.e., project site). (Assessor's Parcel Numbers 033-190-014, -015 & 033-130-046: 8999 Wild Horse Valley Road, Napa, California) to include the following four (4) measures specified below:

**Mitigation Measure BR-1** - The owner/permittee shall revise Erosion Control Plan #P21-00086-ECPA prior to approval to include the following measures to minimize impacts associated with the potential loss and disturbance of bats. A Qualified Biologist (defined as having demonstrable qualifications and experience with the particular species for which they are surveying) shall conduct a habitat assessment in order to identify suitable bat habitat in focal trees specifically identified (WRA, July 2021 - **Exhibit B-2**) and the project area(s) generally, no more than 6 months and no less than 14 days in advance of the planned tree removal. If the habitat assessment determines that trees proposed for removal contain suitable bat habitat, the following shall apply to potential bat habitat trees:

- a. Tree trimming and/or tree removal shall only be conducted during seasonal periods of bat activity (August 31 through October 15, when young would be self-sufficiently volant and prior to hibernation, and March 1 to April 15 to avoid hibernating bats and prior to formation of maternity colonies), under supervision of a qualified biologist, unless the Measure b., below, is implemented. Note that these windows may shift with atypical temperatures or rainfall if a qualified biologist determines that bats are likely to still be active based on seasonal conditions. Trees shall be trimmed and/or removed in a two-phased removal system conducted over two consecutive days. The first day (in the afternoon), limbs and branches shall be removed by a tree cutter using chainsaws only, under the supervision of a qualified biologist who has demonstrable experience with supervising tree removal for bats using this technique. Limbs with cavities, crevices and deep bark fissures shall be avoided, and only branches or limbs without those features shall be removed. On the second day, the entire tree shall be removed.
- b. If removal of bat habitat trees must occur outside the seasonal activities identified above (between October 16 and February 28/29 of the following year or between April 16 and August 30), a qualified biologist shall conduct pre-construction survey of all potential bat habitat trees within 14 days of project initiation and/or removal to determine absence/presence of bat species. Survey methods, timing, duration, and species shall be provided for review and approval by Napa County prior to conducting pre-construction surveys. A copy of the survey shall be provided to the County Conservation Division and CDFW for review and acceptance prior to commencement of work. If bats are not present, removal can proceed without using the two-phased removal method. If bats are found to be present, the qualified biologist shall determine if a maternity colony of winter torpor bats are present. If roosting bats are present but there are no maternity colonies or winter torpor bats, the tree shall be removed using the two-phased removal method outlined in Measure a., above. If the qualified biologist determines that maternity colonies or winter torpor bats are present, or they cannot confidently determine absence of maternity colonies or winter torpor bats, then tree removal shall be delayed until during the seasonal periods of bat activity outlined in Measure a. Irrespective of time of year, once felled, the focal trees should remain on the ground for at least 24 hours prior to chipping, off-site removal or other processing to allow any bats present within the felled trees to escape.

**Mitigation Measure BR-2:** The owner/permittee shall revise Erosion Control Plan #P21-00086-ECPA prior to approval to include the following measures to minimize impacts associated with the potential loss and disturbance of special-status and nesting birds and raptors consistent with and pursuant to California Fish and Game Code Sections 3503 and 3503.5 and the California Endangered Species Act found in Fish and Game Code Section 2050 et seq.:

- a. For earth-disturbing activities occurring between February 1 and August 31, (which coincides with the grading season of April 1 through September 15 – NCC Section 18.108.027(C), and bird breeding and nesting seasons), a qualified biologist (defined as knowledgeable and experienced in the biology and natural history of local avian resources with potential to occur at the project site) shall conduct preconstruction surveys for nesting birds and raptors within all suitable habitat in the project area, and within a minimum of 500 feet of all project areas. The preconstruction survey shall be conducted no earlier

than 7 days prior to vegetation removal and ground disturbing activities are to commence. Should ground disturbance commence later than 7 days from the survey date, surveys shall be repeated. A copy of the survey results shall be provided to the Napa County Conservation Division and the CDFW prior to commencement of work.

- b. After commencement of work, if there is a period of no work activity of 5 days or longer during the bird breeding season, surveys shall be repeated to ensure birds have not established nests during inactivity.
- c. In the event that nesting birds are found, a qualified biologist shall identify appropriate avoidance methods and exclusion buffers in consultation with the County Conservation Division and the U.S. Fish and Wildlife Service (USFWS) and/or CDFW prior to initiation of project activities. Exclusion buffers may vary in size, depending on habitat characteristics, project activities/disturbance levels, and species as determined by a qualified biologist in consultation with County Conservation Division and the USFWS and/or CDFW.
- d. Exclusion buffers shall be fenced with temporary construction fencing (or the like), the installation of which shall be verified by Napa County prior to the commencement of any earthmoving and/or development activities. Exclusion buffers shall remain in effect until the young have fledged or nest(s) are otherwise determined inactive by a qualified biologist. Additionally, a qualified biologist shall monitor all active nests each day during construction for the first week, and weekly thereafter, to ensure that the exclusion buffers are adequate and that construction activities are not causing nest-disturbance. If the qualified biologist observes birds displaying potential nest-disturbance behavior, the qualified biologist shall cease all work in the vicinity of the nest and CDFW shall be consulted about appropriate avoidance and minimization measures for nesting birds prior to construction activities resuming. In this event, construction activities shall not resume without CDFW's written approval.
- e. Alternative methods aimed at flushing out nesting birds prior to pre-construction surveys, whether physical (i.e., removing or disturbing nests by physically disturbing trees with construction equipment), audible (i.e., utilizing sirens or bird cannons), or chemical (i.e., spraying nesting birds or their habitats) shall be prohibited.

**Mitigation Measure BR-3 – Fencing:** The Owner/Permittee shall revise the vineyard fencing plan associated with #P21-00086-ECPA prior to its approval to include the following components:

- a. New permanent wildlife exclusion fencing shall enclose each vineyard block individually, such that west-east access by wildlife to the wetland area and through the project site from west of Wild Horse Valley Road and into the uphill oak woodland is maintained.
- b. New fencing shall use a design that has 6-inch square gaps at the base (instead of the typical 3-inch by 6-inch rectangular openings) to allow small mammals to move through the fence.
- c. Exit gates shall be installed at the corners of wildlife exclusion fencing to allow trapped wildlife to escape. Smooth wire instead of barbed wire shall be utilized to top wildlife exclusion fencing to prevent entanglement.
- d. Any modifications to the location of wildlife exclusion fencing as specified in Erosion Control Plan #P21-00086-ECPA as revised pursuant to this measure shall be strictly prohibited, and would require County review and approval to ensure the modified wildlife exclusion fencing location/plan would not result in potential impacts to wildlife movement.

**Mitigation Measure BR-4:** The owner/permittee, prior to approval, shall revise #P21-00086-ECPA to include the following provisions to reduce potential impacts to oak woodland and associated vegetation cover, and to achieve consistency with the NCC Conservation Regulations Chapter 18.108:

- a. Vegetation Preservation Areas located outside of the boundaries of the existing and proposed developed area shall be designated as such in a perpetual deed restriction or conservation mitigation easement or other means of permanent protection, as listed below. Land placed in protection shall be restricted from development and other uses that would degrade the quality of the habitat (including, but not limited to conversion to other land uses such as agriculture or urban development and excessive off-road vehicle use that increases erosion) and should be otherwise restricted by the existing goals and policies of Napa County. The Owner/Permittee shall record the deed restriction or conservation mitigation easement prior to construction or within 90 days of project

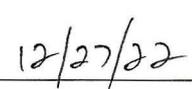
approval, whichever comes first. The areas to be preserved shall be of like kind and quality to the vegetation types being impacted as a result of the proposed project, as follows: areas to be preserved shall take into account the type of vegetation being removed, and species diversity and species that are limited within the project property and Napa County; the acreage included in the preservation areas should be selected in a manner that minimizes fragmentation of habitat within the project property, protects special-status species, and The area to be preserved shall be determined by a qualified biologist with knowledge of the habitat and species and shall obtain final approval from Napa County.

- i) Oak Woodland Preservation Area totaling 4.5 acres on APN 033-130-046 and 5.1 acres on APN 033-130-015 of vegetation cover canopy located on portions of the property that are not already subject to development restrictions (i.e., within creek setbacks or on slopes over 30-50%), consistent with NCC Section 18.108.020(D).
  - ii) Tree Canopy Preservation Areas that include, at minimum, a total of 70.6 acres on the contiguous parcels that contribute to the 70% tree canopy retention requirement found in NCC Section 18.108.027(B). The Tree Canopy and Oak Woodland Preservation Areas may overlap.
  - iii) Grass/Brush Preservation Areas that include, at minimum, a total of 72 acres on the contiguous parcels that contribute to the 40% grass/brush cover retention requirement found in NCC Section 18.108.027(B).
- b. Prior to any earthmoving activities temporary fencing shall be placed at the edge of the dripline of trees to be retained that are located adjacent to the development area (typically within approximately 50-feet of the development area). The precise locations of said fences shall be inspected and approved by the Planning Division prior to the commencement of any earthmoving activities. No disturbance, including grading, placement of fill material, storage of equipment, etc. shall occur within the designated protection areas for the duration of erosion control plan and vineyard installation.
  - c. The owner/permittee shall refrain from severely trimming the trees (typically no more than 1/3<sup>rd</sup> of the canopy) and vegetation to be retained adjacent to the vineyard conversion area.
  - d. In accordance with County Code Section 18.108.100 (Erosion hazard areas – Vegetation preservation and replacement) trees that are inadvertently removed that are not within the boundary of the project and/or not identified for removal as part of #P21-00086-ECPA shall be replaced on-site with fifteen-gallon trees at a ratio of 2:1 at locations approved by the planning director. A replacement plan shall be prepared for County review and approval that includes at a minimum, the locations where replacement trees will be planted, success criteria of at least 80%, and monitoring activities for the replacement trees. The replacement plan shall be implemented before vineyard planting activities. Any replaced trees shall be monitored for at least three years to ensure an 80% survival rate. Replacement trees shall be installed and documented that they are in good health prior to completion and finalization of the erosion control plan.

**The Property Owner (Kenzo Estate Inc.)** further commit themselves and successors-in-interest to (a) inform any future purchasers of the property of the above commitments; (b) include in all property leases a provision that informs the lessee of these restrictions and binds them to adhere to them, and (c) inform in writing all persons doing work on this property of these limitations.

**The Property Owner (Kenzo Estate Inc.)** understand and explicitly agree that with regards to all California Environmental Quality Act and Permit Streamlining Act (Government Code Sections 63920-63962) deadlines, this revised application will be treated as a new project. The new date on which said application will be considered complete is the date on which an executed copy of this project revision statement is received by the Napa County Department of Planning, Building and Environmental Services.

  
\_\_\_\_\_  
Marc Nanes  
On behalf of Kenzo Estate Inc.

  
\_\_\_\_\_  
Date