

**PROJECT REVISION STATEMENT**  
**Dry Creek LLC Vineyard Conversion**  
**Agricultural Erosion Control Plan #P22-00408-ECPA**

I hereby revise the Dry Creek Vineyard Agricultural Erosion Control Plan (ECPA) #P22-00408-ECPA to implement the clearing of vegetation, earthmoving, and installation and maintenance of erosion control measures associated with the development of approximately 1.7 gross acres of new vineyard (i.e., development area, proposed clearing limits; 1.2 net acres of new vines) within one vineyard block, located on one parcel totaling approximately 25.7 acres (i.e., project site) (Assessor's Parcel No. 027-070-036: 7111 Dry Creek Road, Napa, California), to include the following three (3) measures specified below:

**Mitigation Measure BR-1 - Northern Spotted Owl:** The owner/permittee shall revise Erosion Control Plan #P22-00408-ECPA prior to approval to include the following measures to avoid potentially significant impacts to the northern spotted owl:

- a. To the extent feasible, construction activities shall be scheduled to avoid the spotted owl nesting season (generally March to July). If construction activities are scheduled to take place outside the nesting season, indirect impacts to spotted owl nests would be avoided.
- b. If construction activities cannot avoid the spotted owl nesting season, a six-visit survey over a one-year period (March 1 - August 31) shall be conducted by a qualified biologist within suitable habitat within 0.25 miles of the project site, following USFWS's Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (USFWS 2012). Per this protocol, at least three surveys shall be completed by June of Year 1. If no owls are detected during the survey period, the project can take place until the start of the next breeding season. If project construction is not completed by year two, three spot check survey visits each year should occur in years two and three OR a two-year, six visits per year survey protocol. Spot checks are prescribed to detect spotted owls that may have moved into the project area subsequent to completion of general surveys. Consistent with the survey protocol, surveys should incorporate night-time call surveys during good weather conditions (e.g., not during inclement weather). If a spotted owl nest is detected during the breeding season, no ground disturbing activities shall be conducted until the end of the breeding season. The results of the surveys shall be provided to the County for review prior to project initiation.

**Mitigation Measure BR-2:** The Permittee shall include in #P22-00408-ECPA the following measures to minimize impacts associated with the loss and disturbance of nesting birds and raptors consistent with and pursuant 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 October 15 – NCC Section 18.108.070.L, and bird breeding and nesting seasons), a qualified biologist (defined as knowledgeable and experienced in the biology and natural history of local avian resources with 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 Permittee shall cease all work in the vicinity of the nest and the qualified biologist shall consult CDFW 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:** The owner/permittee shall revise Erosion Control Plan #P22-00408-ECPA prior to approval to include the following measures to minimize impacts to the American badger:

- a. A qualified biologist shall conduct a pre-construction survey for the American badger within the project area and adjacent habitat within a minimum of 50 feet from the project area. The preconstruction survey shall be conducted no earlier than 14 days prior to when vegetation removal and ground disturbing activities are to commence. A copy of the survey results shall be provided to the County Planning Division prior to commencement of work. Should ground disturbance commence more than 14 days from the survey date, surveys shall be repeated.
- b. If any occupied burrows are discovered the project area, the owner/permittee shall implement an appropriate buffer from the burrow(s), as determined by a qualified biologist and approved in writing by the County in collaboration with 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.

**The Property Owners (Dry Creek LLC)** 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 Owners (Dry Creek LLC)** 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.



Tom Gamble for Dry Creek LLC

09.05.2023

Date