

PROJECT REVISION STATEMENT
Miller: Erosion Control Plan
Agricultural Erosion Control Plan #P22-00153-ECPA

I hereby revise the Miller Vineyard Agricultural Erosion Control Plan (ECPA) #P22-00153-ECPA to implement the clearing of vegetation, earthmoving, and installation and maintenance of erosion control measures associated with the development of approximately 7.0 gross acres of vineyard (i.e., development area or proposed clearing limits) with approximately 5.6 net planted acres (4.6 new vine acres and legalization of 1.0 acre of existing vineyard), within four (4) vineyard blocks (3 new and 1 existing) located on an approximately 27.76-acre parcel (i.e., project site). (Assessor's Parcel Number 021-030-006-000, 3906 Silverado Trail North, Calistoga, California) to include the following measures specified below:

1. **Mitigation Measure BIO-1:** The Permittee shall include in #P22-00153-ECPA the following measures to minimize impacts associated with the loss and disturbance of nesting birds and raptors, including northern spotted owl, consistent with and pursuant to 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. *A qualified biologist shall perform pre-construction spot check surveys for northern spotted owl in accordance with the U.S. Fish and Wildlife Service's (USFWS) Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (Revised January 9, 2021). If northern spotted owls are detected during pre-construction spot check surveys, CDFW and the USFWS shall be consulted with regarding avoidance and minimization measures prior to beginning project activities. If take of northern spotted owl may occur, the Permittee shall obtain a CESA Incidental Take Permit prior to starting project construction. If northern spotted owl are observed during construction activities, all construction shall cease immediately and CDFW and the USFWS shall be consulted. In this event, construction activities shall not resume without CDFW's written permission.*
 - b. For earth-disturbing activities occurring between February 1 and August 31, (which coincides with the grading season of April 1 through October 15 – Napa County Code (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.

- c. 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.
- d. 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.
- e. 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.*
- f. 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.

2. Mitigation Measure BIO-2: The owner/permittee shall include in Erosion Control Plan #P22-00153-ECPA the following measures to minimize impacts associated with the potential loss and disturbance of special-status bat species:

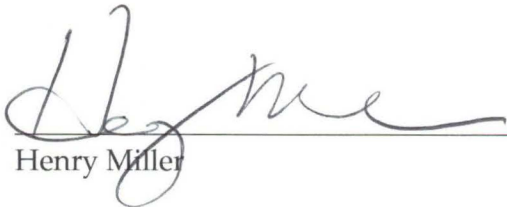
- a. August 31 through October 15, and March 1 to April 15: Under the supervision of a qualified biologist (defined as having demonstrable qualifications and experience with the particular species for which they are surveying), bat habitat trees shall be removed or trimmed in a two-phased system conducted over two consecutive days. The first day (in the afternoon), limbs and branches will be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices and deep bark fissures will be avoided, and only branches or limbs without those features will be removed. On the second day, the entire tree will be removed. All felled trees shall remain on the ground for at least 24 hours prior to disposal to allow any present bats within the trees to escape.

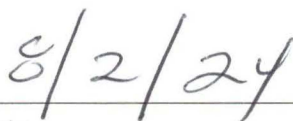
- b. Bat habitat tree removal or trimming between October 16 and February 28/29 of the following year or between April 16 and August 30: A qualified biologist shall conduct pre-construction survey within 14 days of project initiation to determine absence or presence of special-status bat species. A copy of the survey results shall be provided to the County Planning Division and to CDFW prior to commencement of work. If special-status bat species are not present, removal can proceed as prescribed. If bats are found to be present, a plan for removal or exclusion will be developed by a qualified biologist in conjunction with the County Planning Division and CDFW. The removal or exclusion plan shall be reviewed and authorized by the County Planning Division and implemented prior to commencement of the ECPA.
3. Tree Replanting Plan – Condition of Approval: The Owner/Permittee shall implement the Tree Replanting Plan as detailed in Exhibit B.1 Tree Planting Plan (TPP) prepared by Environmental Resource Management (2023) and shall adhere to all goals, plan requirements, maintenance specifications, monitoring and success criteria detailed therein and shall consist of 2.4 acres of Douglas-fir and 1.0 acre of native oaks, for a total replant area of 3.4 acres.
4. Permanent Preservation – Condition of Approval: The Owner/Permittee shall record a permanent preservation area to achieve consistency with the Napa County Conservation Regulations Section 18.108.020.E:
 - a. A Vegetation Canopy Cover Preservation Area (consistent with NCC Section 18.108.020(E) and Policy CON-24) consisting of 16.2 acres of vegetation canopy cover, located outside of the boundaries of the existing and proposed developed area shall be designated as such in a deed restriction or conservation easement or other means of permanent protection. Land placed in protection shall be restricted from development and other uses that would degrade the quality of the 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 open space conservation easement prior to construction or within 90 days of project approval. The area to be preserved shall be of like kind and quality to the oak woodland being impacted as a result of the proposed project, as follows: areas to be preserved shall take into account the type of vegetation being removed, and species diversity and species that are limited within the project property and Napa County; the acreage included in the preservation area should be selected in a manner that minimizes fragmentation of forest within the project property, protects special-status species; and the preservation area should not include portions of the property already subject to development restrictions (i.e., within creek setbacks or on slopes over 50%). The area to be preserved shall be determined by a qualified biologist with knowledge of the habitat and species and shall obtain final approval from Napa County.

- b. In accordance with Napa 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 #P22-00153-ECPA shall be replaced on-site with fifteen-gallon trees at a ratio of 2:1 at locations approved by the planning director. A replacement plan shall be prepared for county review and approval, that includes at a minimum, the locations where replacement trees will be planted, success criteria of at least 80%, and monitoring activities for the replacement trees. The replacement plan shall be implemented before vineyard planting activities. Any replaced trees shall be monitored for at least three years to ensure an 80 percent survival rate. Replacement trees shall be installed and documented that they are in good health prior to completion and finalization of the erosion control plan.

The Property Owner (Henry Miller Trust) 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 (Henry Miller Trust) 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.


Henry Miller


Date