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APPEAL PACKET FORM

(Chapter 2.88.050 of Napa County Code)

Please submit original plus two (2) copies of the entire Appeal Packet, including this form.

TO BE COMPLETED BY APPELLANT
(Please type or print legibly)

Appellant's Name: Napa Sierra Club c/o Carol Kunze

Telephone #: (707) 966.5211 **Fax #:** (___) _____

E-Mail Address: ckunze@ix.netcom.com

Mailing Address: 901 Cape Cod Ct (No. Street) Napa (City) CA (State) 94558 (Zip)

Status of Appellant's Interest in Property: conservation non-profit
project applicant, adjacent property owner, other (describe)

Action Being Appealed: Planning Director's Decision to Certify and Approve the EIR for the Walt Ranch Vineyard Conversion and associated Erosion Control Plan, File No. P11-00205-ECPA

Permittee Name: Hall Brambletree Associates, LP, c/o Mike Reynolds

Permittee Address: 401 St. Helena Hwy So, St. Helena, CA 94574

Permit Number: File No. P11-00205-ECPA **Date of Decision:** August 6, 2016

Nature of Permit or Decision: Erosion Control Plan for conversion to vineyards

Reason for Appeal (Be Specific - If the basis of the appeal will be, in whole or in part, that there was a prejudicial abuse of discretion on the part of the approving authority, that there was a lack of a fair and impartial hearing, or that no facts were presented to the approving authority that support the decision, **factual or legal basis for such grounds of appeal must be expressly stated or they are waived.** ***(attach additional sheet if necessary)***: Our appeal is based upon issues raised during the planning process, including but not limited to: letter of Mark Wolfe, dated November 21, 2914 (copy attached), letters from Napa Sierra Club, dated Nov. 21, 2014, and two dated April 4, 2016 (copies attached), and joint and individual letters from the Center for Biological Diversity and the Sierra Club submitted to the County in CBD's 8.22.2016 Appeal (joint ltrs - Nov. 21, 2014, April 1, 2016, and CBD letter: August 22, 2016)

Project Site Address/Location: Walt Ranch, Napa County, 94558 (Street, City, State, Zip)

Assessor's Parcel No.: APNs: 032-120-028, 032-480-007 - 008, 011 - 024, 027 - 028, 032-490-004 - 006, 008 - 020

If the decision appealed from involves real property, the Appellant must also submit the original and two copies of 1) Title Insurance Report and 2) Assessor's Map Book Pages pursuant to County Code Section 2.88.050(B).

Signature of Appellant	Date	Print Name
	August 25, 2016	Nancy Tamarisk

TO BE COMPLETED BY CLERK OF THE BOARD

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Received by: _____ Date: 8-26-16

m | r | wolfe
& associates, p.c.
attorneys-at-law

November 21, 2014

Via E-Mail

Kelli Cahill, Project Planner
Planning, Building, & Environmental Services Department
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559
Email: kelli.cahill@countyofnapa.org

Re: Draft Environmental Impact Report for Walt Ranch Erosion Control Plan Application #P11-00205-ECPA

Dear Ms. Cahill:

On behalf of the Sierra Club, Napa Group, please accept the following comments on the Draft Environmental Impact Report ("DEIR") for the Walt Ranch Vineyard Conversion Project ("Project") referenced above. The Napa Group is part of the Sierra Club's Redwood Chapter, and includes several residents and property-owners who will be directly affected by any adverse unmitigated environmental impacts associated with the construction and long-term operation of the Project.

We have reviewed the DEIR, its technical appendices, as well as various ancillary reference materials, including those cited in the DEIR itself. We have also coordinated with technical experts in the areas of biological resources, groundwater hydrology, surface water quality, greenhouse gas emissions, and noise, as well as with other individuals, organizations and agencies concerned about the Project's impacts on these areas of the environment. The County will be receiving comments from these individuals and organizations under separate cover.

Based this coordinated review, we conclude that the DEIR's disclosure, analysis, discussion, and mitigation of several potentially significant Project impacts in the EIR is fundamentally deficient as a matter of law. As a result, the DEIR fails as an informational document under CEQA, and the County may not properly rely on it to approve any entitlements for the Project. We urge the County to prepare a revised Draft EIR that corrects the analytic flaws described below, and to recirculate it for an additional public comment period before taking any action to consider or approve the Project.

I. Introduction

"CEQA's fundamental goal [is] fostering informed decision-making." *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 402. "An EIR is an 'environmental alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.'" *Id.* at 392. "'[T]he requirement of a detailed statement helps insure the integrity of the process of decision by precluding stubborn problems or serious criticism from being swept under the rug.'" *Sutter Sensible Planning, Inc. v. Board of Supervisors* (1981) 122 Cal.App.3d 813, 820. It also ensures "the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of any contemplated action and have an appropriate voice in the formulation of any decision." *Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354.

In order to fulfill these functions, the EIR must "provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." Pub. Resources Code, § 21061. The analysis must be specific and detailed, and must also be supported by empirical or experimental data, scientific authorities or explanatory information, including comparative and quantitative evaluation. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 724; *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397; *People v. County of Kern* (1974) 39 Cal.App.3d 830. Emphasis added.

As outlined in the following sections, much of this DEIR's discussion is perfunctory, conclusory, or otherwise insufficiently supported by facts, data, or meaningful technical analysis. As a result, not only does the DEIR fall short of CEQA's information disclosure requirements, its ultimate conclusion that the Project will have no significant unmitigated impacts of any kind is simply not supported by substantial evidence.

II. The DEIR's Analysis Of Regional Air Quality Impacts Is Deficient.

The DEIR concludes that neither construction nor operation of the Project will cause significant air quality impacts with regard to emissions of criteria air pollutants. The DEIR reaches this conclusion by comparing modeled daily emissions of these pollutants with significance thresholds contained in the Bay Area Air Quality Management District ("BAAQMD")'s CEQA Guidance document.

Specifically, the DEIR states:

> "the County has determined that the following BAAQMD CEQA significance thresholds for pollutants of concern shall be utilized to evaluate project related impacts (BAAQMD, 2012). For construction and operational related emissions of criteria air pollutants, the 2010 BAAQMD CEQA Guidelines provide a 54-pounds per-day threshold for nitrogen oxide (NOx), PM2.5, and reactive organic gases (ROG) and an 82-pounds-per-day threshold for PM10." DEIR p. 4.1-11.

The DEIR concludes that with implementation of certain basic construction mitigation measures set forth in the BAAQMD CEQA Guidelines, Project construction emissions of ROG, NOx, PM10 and PM2.5 would fall below the foregoing pounds-per-day significance thresholds, and the Project would accordingly have no significant air quality impacts relating to regional air pollution. DEIR p. 4.1-16.

This conclusion is inchoate. The DEIR reports that the Project will be constructed over a least a four-year period, with a six-month per year construction schedule. DEIR p. 3-8. Yet despite this, the DEIR focuses its air quality impact analysis solely on daily emissions, while failing to analyze and disclose the Project's annual emissions of ROG, NOx, PM10 and PM2.5. Without such additional information, the DEIR's regional emissions analysis is incomplete, and its conclusion that Project construction would not cause a significant air quality impact is not supported by substantial evidence.

This failure to consider annual emissions likewise negates the DEIR's conclusion that because the Project would not individually exceed daily regional emissions operational thresholds, the Project would not have a significant cumulative impact relating to consistency with the Clean Air Plan ("CAP"). In this regard, the DEIR states:

> "Any project that supports these goals would be considered consistent with the CAP; therefore, if a project does not result in significant and unavoidable air quality impacts, after the application of feasible mitigation, the project may be considered consistent with the 2010 Clean Air Plan." DEIR p. 4.1-12.

As described above, the DEIR contains insufficient information concerning the Project's annual emissions of criteria air pollutants to support this overarching conclusion that the Project's contribution to regional emissions is less than significant. Therefore, the DEIR's finding that the Project is consistent with the 2010 Clean Air Plan is correspondingly not supported by substantial evidence.

III. The DEIR Fails To Address Potential Health Effects To Nearby Sensitive Receptors From Emissions of Diesel Particulate Matter During Project Construction And Operation.

The DEIR is entirely silent on the potential cumulative health effects to nearby residents resulting from exposure to toxic air contaminants ("TACs"), namely diesel exhaust from diesel-fueled construction equipment, over the multi-year schedule for earthmoving and other construction-related activities, as well as from any diesel-fueled equipment used during Project operations over time. This is a material omission.

While much of the larger region's air pollutant problem stems from smog-producing contaminants known as "criteria air pollutants" regulated under the Federal Clean Air Act (see generally, DEIR, 4.1-2, et seq.), other pollutants that directly impact human health are also significant contributors. These pollutants, referred to as Hazardous Air Pollutants ("HAPs") by U.S. EPA and as Toxic Air Contaminants ("TACs") by the California Air Resources Board ("CARB"), are pollutants either known or suspected to cause cancer, serious illness, birth defects, or death. Of all the various TACs that have been identified, the one most responsible for the vast majority of increased cancer risk in California's urban area is particulate matter from diesel vehicle exhaust, or "diesel particulate matter" ("DPM").[1] Emissions of these particles account about two-thirds of the total cancer risk from TACs in the state. *Id.*

The DEIR acknowledges that there are sensitive air pollutant receptors (*i.e.*, children and the elderly) living in the Circle Oaks residential area immediately adjacent to the Project site. Some receptors live as close as 30 feet away from the Project boundary, and 120 feet away from closest vineyard block. There are also several other residences "scattered in vicinity" of the Project in addition to several residences 0.5 miles to west. DEIR p. 4.1-1, 4.1-2.

The cancer-related health impacts associated with exposure to TACs, including DPM, are measured in terms of increased cancer risk. Such risk is expressed as the number of additional people in a population of one million who might be expected to get cancer over a 70-year lifetime as a result of exposure to TAC emissions. According to CARB, much of Napa County now experiences elevated health risks from TAC emissions.

Given the multi-year construction schedule, there is a strong potential for cancer-causing emissions of DPM from diesel-powered construction equipment to

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[1] *See* CARB, "Report on Diesel Exhaust" (1998), available at: http://www.arb.ca.gov/toxics/dieseltac/de-fnds.htm.

impact sensitive receptors living in the homes nearby. This problem will be aggravated to the extent vineyard operations continue to rely on diesel equipment over time.

The DEIR should be revised and recirculated to provide an assessment of the incremental health risk to sensitive receptors in the Circle Oaks residential subdivision from exposure to DPM/TACs emitted during the four-year construction period for the Project. The assessment should examine not only the Project's individual impacts to the health of nearby sensitive receptors, but should consider the cumulative impact, i.e., whether its TAC emissions combined with those from other past, present, and foreseeable future sources in the same area would result in a significant health risk. If the results show exceedances of applicable significance criteria, then mitigation will be required.

IV. The DEIR's Approach To Mitigation For Loss of Sensitive Habitat Areas Is Legally Flawed.

As the DEIR correctly notes, Napa County General Policy CON-24 calls for the maintenance and improvement of oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures. These measures require preservation of existing oak woodland resources whenever "feasible," with mitigation in the form of replacement habitat permissible only upon a factual showing of infeasibility.

For example, Policy CON-24 sets forth the following mandatory policies:

> "a) Preserve, to the extent feasible, oak trees and other significant vegetation that occur near the heads of drainages or depressions to maintain diversity of vegetation type and wildlife habitat as part of agricultural projects.
>
> b) Comply with the Oak Woodlands Preservation Act (PRC Section 21083.4) regarding oak woodland preservation to conserve the integrity and diversity of oak woodlands, and retain, to the maximum extent feasible, existing oak woodland and chaparral communities and other significant vegetation as part of residential, commercial, and industrial approvals.
>
> c) Provide replacement of lost oak woodlands or preservation of like habitat at a 2:1 ratio when retention of existing vegetation is found to be infeasible. Removal of oak species limited in distribution shall be avoided to the maximum extent feasible.
>
> . . .

> e) Maintain, to the extent feasible, a mixture of oak species which is needed to ensure acorn production. Black, canyon, live, and brewer oaks as well as blue, white, scrub, and live oaks are common associations." DEIR p. 4.2-75,76. Emphasis added throughout.

Likewise, General Plan Policy CON-17 mandates no net loss of native grasslands, serpentine grasslands, mixed serpentine chaparral, and other sensitive biotic communities, as well as habitats of limited distribution, through avoidance, restoration, or replacement where feasible. Where avoidance, restoration, or replacement is not feasible, preservation of like habitat at a 2:1 ratio or greater is required. DEIR p. 4.2-81. General Plan Policy CON-2 requires, too, that: "existing significant vegetation be retained and incorporated into agricultural projects to reduce soil erosion and to retain wildlife habitat. When retention is found to be infeasible, replanting of native or non-invasive vegetation shall be required."

Taken together, all these General Plan provisions plainly reflect the County's unambiguous policy that removal of oak woodland, native grasslands, and other sensitive habitats for purposes of project development is permissible if and only if there exists no feasible means of avoiding or preserving the habitat *in situ*. Under CEQA, feasibility is assessed in terms of several factors, including (but not limited to) economic viability as documented by financial analysis and evidence.

The DEIR discloses that with certain identified avoidance measures, namely relocation of access roads, the Project would "preserve" 8.65 acres of native grasslands on the Walt Ranch property, while 1.15 acres would be lost. The DEIR states that: "[t]he direct impact of 1.15 acres of native grasslands shall be mitigated by preserving the remainder of the native grasslands mapped onsite and enhancing existing non-native grassland to in-kind native reference grasslands at a 2:1 ratio (2.30 acres)." Mitigation Measure 4.2-1.

The DEIR repeats this approach with regard to Project-caused losses of Black Oak and Blue Oak Alliance habitat. According to the DEIR, the Project would impact 38.35 acres (12.08 percent) of Black Oak Alliance habitat on the property. It then states, without support, that: "[g]iven the extent of this habitat type on the property (317.51 acres), it does not require full avoidance." DEIR p. 4.2-88, emphasis added.[2] Accordingly, the DEIR proposes to avoid only 2.5 acres of Black Oak Alliance habitat, with the remaining habitat loss "mitigated" by on-site preservation. As for Blue Oak Alliance habitat, the DEIR reports the Project would

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[2] Nothing in the General Plan would appear to allow a Project to bypass the habitat loss-avoidance policies simply because the habitat was "extensive" on the property.

impact 6.26 acres (33.86 percent), with approximately 3.6 acres of that being avoided, with the remaining loss 2.6 acres mitigated by on-site preservation.

There are two fundamental problems with the DEIR's approach to disclosure and mitigation of impacts stemming from the permanent loss of these sensitive habitat types. First, the DEIR provides no evidence or information whatsoever showing that avoidance of all the potentially affected grassland areas is in fact truly infeasible. In order to ensure consistency with governing mandatory policies of the General Plan, *i.e.,* to allow for any loss of such habitat, whether mitigated or not, the County must first make an affirmative finding that avoidance is infeasible. Under CEQA, that a finding must be based on substantial evidence, which in turn requires meaningful disclosure of facts and analysis in an EIR.

Second, the DEIR cites no authority for the proposition that preserving habitat on-site, even at a 2:1 ratio, constitutes adequate mitigation for the permanent loss of the acreage identified.[3] If any of the on-site "mitigation" habitat is currently incapable of being developed for any reason, whether due to legal/regulatory constraints, or physical constraints such as slope, topography, water supply/drainage, etc., then "preservation" of such habitat via deed restriction, conservation easement or otherwise cannot count as actual mitigation.

Accordingly, the County should provide the following information, preferably in a revised Draft EIR circulated for further public comment:

- An explanation, based on facts and reasoned analysis, of why complete avoidance of native grasslands, Black Oak Alliance and Blue Oak Alliance habitat is infeasible economically. The explanation should include financial information sufficient so show the Project would not and could not possibly be profitable if the losses to these habitat areas identified in the DEIR were avoided.

- An explanation of the legal, regulatory, or factual basis for the DEIR's statement that "[g]iven the extent of [Black Oak Alliance] habitat type on the property (317.51 acres), it does not require full avoidance." DEIR p. 4.2-88.

- A factual and legal showing that the on-site acreage of Black Oak Alliance, Blue Oak Alliance, and native grasslands that the DEIR identifies for preservation as mitigation for associated habitat losses constitutes actual, adequate mitigation under CEQA. This showing should provide facts and

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[3] The DEIR repeats this error in its discussion of climate change impacts relating to carbon sequestration. *See* discussion, below.

evidence showing, at a minimum, that all of the preserved acreage could be feasibly developed in the future, both from a legal/regulatory standpoint as well as a topography/resource constraint standpoint.

V. The DEIR Is Deficient In Its Analysis And Its Proposed Mitigation Of The Project's Climate Change Impacts.

Preliminarily, we note that although the DEIR's Air Quality section discusses the current regulatory framework for addressing global climate change impacts at the project level, the discussion of this Project's potential impacts from construction and operational emissions of greenhouse gasses ("GHGs") does not appear until the DEIR's subsequent discussion of cumulative air quality impacts. DEIR p. 6-13 *ff.* While this choice may seem immaterial, it likely is not. Under CEQA: "The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone." Emphasis added. In other words, by choosing to place the discussion of climate change impacts in the chapter on cumulative impacts, the DEIR preparers have nominally avoided evaluating these impacts with the appropriate level of detail. Given the analytic omissions identified below, this choice contributed to an unsubstantiated finding that the Project would have no significant climate change impacts.

For the Project's operational GHG emissions, the DEIR cites and adopts the BAAQMD significance threshold of 1,100 metric tons per year of CO_2 equivalent. For construction emissions, the DEIR cites and adopts Solano County's approved Climate Action Plan ("CAP") for regulatory guidance, according to which an agricultural project's GHG emissions may be found to reduce GHG emissions by 26 percent, hence to less-than-significant levels, if the project adheres to certain enumerated best management practices ("BMPs"). DEIR p. 6-15.

The DEIR goes on to disclose that the Project's GHG emissions from construction activities, combined with those from tree removal, total 105,849 metric tons of CO_2e. The DEIR then states that preservation of 248 acres of woodland on-site would result in carbon sequestration of 27,528 MT of CO_2e, based on the California Emissions Estimator Model's emission factor of 111 MT of CO2e per acre of "trees," which would comprise a 26 percent reduction in the Project's GHG emissions, leading to a finding of less-than-significance. DEIR p. 6-17.

This approach to mitigation of the Project's GHG emissions-related impacts is flawed in several material respects. First, on-site conservation easements are not acceptable as full mitigation, since they only serve to limit the amount of damage done by the Project, not mitigate that damage. Any claimed sequestration benefit

from preserving 248 acres of woodland on the property is illusory, since under current baseline conditions that same degree of sequestration is already occurring and would continue to occur, with or without the Project. Regardless, there is insufficient information in the DEIR from which to assess the claim that the 248 acres of "preserved" woodland would truly be at risk from development. Even after accounting for the referenced tree canopy retention and steep slope development restriction policies (DEIR p. 6-18), it is highly probable, if not virtually certain, that existing watershed protection polices, water system and utility constraints, and growth control measures render these 248 acres functionally undevelopable.[4] As a result, there is no substantial evidence in the DEIR to support the claim that preserving 248 acres of woodland on the property constitutes valid mitigation for the Project's carbon-sequestration impacts.

Second, the DEIR contains no analysis of the CO_2e emissions that will result if the downed trees are burned, left to decompose, or disposed of by some other means. The quantity of emissions may vary considerably depending on the disposal method used. The DEIR reports simply that the Project would "minimize the burning of trees and wood removed for vineyard development, and conduct any burning within BAAQMD guidelines." DEIR p. 6-20. The DEIR should be updated to include an estimate of emissions from downed trees based on the anticipated method of disposal.

Third, there is insufficient evidence in the DEIR to assess the quantitative extent of the carbon sequestration loss resulting from the Project. It is well established that the rate of carbon sequestration depends on the growth characteristics of the tree species, the conditions for growth where the tree is planted, the age of the tree, and the density of the tree's wood. *See* N. L. Stephenson, et al., "Rate of Tree Carbonization Increases Continuously With Tree Size," in *Nature*, No. 507 (March, 2014). The DEIR's assumption that every acre of trees on this Project's site will sequester 111 MT of CO_2e per year regardless of species mix, tree age, wood density, etc., is simply not supported by substantial evidence. Accordingly, the County should provide, in a revised Draft EIR, a reasonable inventory of the species mix, tree count, tree age, etc., for both the 248 acres of woodland proposed for "preservation" on the site, together with appropriate, correlated carbon sequestration capacity information.

VI. The DEIR's Approach To Cumulative Impact Analysis In General Is Legally Flawed.

In addition the specific deficiencies previously discussed, we find the DEIR's overall approach to evaluating the Project's cumulative impacts to be legally incorrect.

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[4] *See* further comments below re: Oak Woodland habitat mitigation.

This is mainly due to the fact that the DEIR concludes, for many impact categories, that simply because the Project's individual impacts are (allegedly) less than significant, its cumulative impacts must therefore be as well. As explained below, this approach is inconsistent with the CEQA-prescribed methodology for evaluating a project's cumulative impacts.

The CEQA Guidelines define "cumulative impacts" as the combined change in the environment resulting from a proposed project in combination with other "past," "present" (i.e., existing) and foreseeable "future" projects:

> "'Cumulative impacts' refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. [¶] (a) The individual effects may be changes resulting from a single project or a number of separate projects. [¶] (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." Guidelines, § 15355, emphasis added.

The Guidelines in turn set forth a lead agency's obligations for evaluating a project's cumulative impacts in an EIR. Section 15130(a) in pertinent part provides:

> "An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3). Where a lead agency is examining a project with an incremental effect that is not 'cumulatively considerable,' a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable."

Cumulative impact analysis is, accordingly, a two-step process that requires an agency to make the following determinations: (1) whether the impacts of the project in combination with those from other projects are cumulatively significant, and (2) if so, whether the project's own effect is a considerable contribution. Guidelines, § 15130(a); see Kostka and Zischke, *Practice Under the California Environmental Quality Act* (2nd Ed., 2011 Update), §§ 13.39. 15.52; Remy, Thomas, et al, *Guide to CEQA* (11th Ed., 2007), pp. 474-475. Thus, in **step one** of the two-step analysis, the agency must determine whether the combined effect of the project and other past, present and/or future projects "when considered together" is significant, because those impacts may be "individually minor but collectively significant." *Communities for a Better Environment v. California Resources Agency* ("*CBE*") (2002) 103 Cal.App.4th 98, 119-120.

In **step two,** if there is a significant combined effect, the agency must then separately consider whether the project's contribution to that effect is itself considerable, i.e., "whether 'any additional amount' of effect should be considered significant in the context of the existing cumulative effect." *CBE* at 119. Thus, "the lead agency shall consider whether the cumulative impact is significant and whether the proposed project's incremental effects are cumulatively considerable." *CBE* at 120, emphasis added. Importantly, the analysis must consider all sources of "related impacts," including past, present, and potential future projects. Guidelines, § 15130(a)(1), (b).

Finally, "[t]the requirement for cumulative impact analysis must be interpreted so as to afford the fullest possible protection of the environment . . ." because de-emphasizing cumulative impacts "impedes meaningful public discussion and skews the decision maker's perspective . . . ." *Citizens to Preserve the Ojai, supra,* 176 Cal.App.3d at 431-432. Conclusory analysis is not sufficient; reasoned analysis is required. *Whitman v. Bd. of Supervisors* (1979) 88 Cal.App.3d 397, 411.

Here the DEIR's analyses of cumulative impacts on biological resources, water supply and hydrology, and climate change all conclude, in essence, that because the Project would not have a significant individual impact in these areas, it *ipso facto* will not have a significant cumulative impact. As the foregoing statement of the law should confirm, the DEIR reached this conclusion without adhering to the two-step methodology required under CEQA. On the contrary, the DEIR articulated the step-two conclusion (the Project's contribution would not be cumulatively considerable) without first performing step-one of the analysis (determining whether there the Project will contribute to existing cumulatively significant problem).

This approach is precisely what the courts have discountenanced. The cases are clear that an EIR may not conclude a cumulative impact is insignificant merely because the project's individual contribution to an unacceptable existing condition is, by itself, relatively small. *LAUSD, supra,* 58 Cal.App.4th at 1025-1026 (rejecting EIR's reasoning that because noise levels around schools already exceeded governing standards, new noise source would have insignificant impact); *CBE, supra*, 103 Cal.App.4th 98, 117-118, 121 (invalidating CEQA Guidelines provision that *de minimis* impacts are necessarily less than considerable); *see also Kings County Farm Bureau, supra,* 221 Cal.App.3d at 718. Indeed, "the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant." *CBE*, supra, 103 Cal.App.4th at 120. Thus, even if a given project has only an "individually minor" impact, its contribution to an existing environmental problem may nevertheless be "cumulatively considerable," hence significant, and hence requiring mitigation measures under CEQA. *CBE* at 120; *see also* Guidelines, §§ 15355(b), 15065(a)(3); *LAUSD*, *supra*, 58 Cal.App.4th at

1024-25 (individually insignificant noise increase may nonetheless be cumulatively considerable).

The County should prepare a revised DEIR that includes a legally adequate, two-step analysis of the Project's cumulative impacts in all relevant topic areas.

VII. The DEIR Improperly Ignores The Project's Potential Growth-Inducing Impacts

Under CEQA, an EIR must describe any growth-inducing impacts of a proposed project. Pub. Resources Code § 21100(b)(5); Guidelines, § 15126(d). An EIR must discuss "the ways in which the project could directly or indirectly foster economic or population or the construction of new housing in the surrounding environment. Guidelines, § 15126.2(d). Specifically, and most relevant here, the discussion must also describe growth-accommodating features of the project that may remove obstacles to population growth. Characteristics of the project that may encourage and facilitate other activities that could have a significant effect on the environment, either individually or cumulatively, should also be discussed. An EIR must discuss growth-inducing effects even though those effects will result only indirectly from the project. *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* 92001) 91 Cal.App.4th 342, 368. *See* Kostka & Zischke, *Practice Under the California Environmental Quality Act* (2d ed, 3/14 update), § 13.55.

Here, the DEIR concludes the Project has no potential at all to cause growth inducing impacts:

> "No growth inducement is expected to be generated from installation of #P11-00205-ECPA. As discussed in Section 1.0 Introduction, the Proposed Project would not result in new homes, businesses, or public roads and would not increase demand for public services, infrastructure, or utility service systems. The project is consistent with Napa County General Plan and zoning agricultural designations for the site. No induced population growth would occur directly or indirectly." DEIR p. 6-31.

This conclusion is belied by the DEIR's Project Description, which states that the Project includes conversion of 356 acres to vineyard use, with a total of 65 vineyard blocks proposed on 35 parcels that together comprise the 2,300 Walt Ranch property. DEIR p. 3-1. The Project also includes::

> "Improvement and maintenance of approximately 21 miles of existing roads for year round access to the property. Select existing road segments would be realigned, requiring limited new road construction in select locations. Access

> roads between vineyard blocks would be constructed in select locations within the 507 gross acres, resulting in the construction or realignment of approximately 5.6 miles of new roads;" DEIR p. 3-7.

Given that the property comprises 35 discrete, pre-existing parcels, and that the Project involves the improvement and maintenance of 21 miles of existing roads plus the construction/realignment of 5.6 miles of new roads, it is foreseeable that the Project could induce future population growth from the sale of individual parcels and associated vineyard blocks for "vineyard estate"-type residential development. The DEIR should therefore disclose and evaluate the potential individual and cumulative impacts of potential future population growth resulting from residential development induced by the road construction component of the Project in tandem with the existence of 35 pre-existing parcels. In particular, the DEIR should examine the potential impacts to traffic, water supply, biological resources, and public services.

Please note that if the Project proponent/developer asserts that it has no intention of selling or developing the individual parcels in this manner, such that no discussion of growth-inducing impacts in the DEIR is necessary, then the County should craft a condition of approval to ensure this does not occur. If the Project proponent is unwilling to accept such a condition, then the DEIR must include the appropriate disclosure, analysis, and mitigation of growth-inducing impacts.

VIII. Conclusion

We submit that the DEIR is simply not certifiable in its current form. The County should therefore prepare a revised draft EIR that addresses these and any other deficiencies brought to its attention by others, and circulate it for further public review and comment before taking any action to approve the Project.

Thank you for your consideration of these comments and concerns.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

Mark R. Wolfe
On behalf of the Sierra Club, Napa Group.

MRW:am

SIERRA CLUB
FOUNDED 1892

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Nov 21, 2014

Kelli Cahill, Project Planner
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Hand-Delivered (paper copy and CD)

Re: Comments on DEIR, Walt Ranch ECPA #P11-00205-ECPA

Dear Ms Cahill:

Thank you for the opportunity to comment on the DEIR for the Walt Ranch ECPA. I would also like to express appreciation for the prompt, courteous and professional help the Planning Department staff has provided throughout this complicated process.

I am submitting these comments on behalf of the Napa Group of the Sierra Club. In addition to our broad concern for the project's environmental impacts, we have a number of members, including the undersigned, who are homeowners in the Circle Oaks community and collectively and individually face personal negative impacts from this project. As you are aware, Sierra Club is submitting other comments via our attorney and expert consultants, and we have been exchanging information with other individuals and experts concerned with this project.

1. Rock Crushing

Per the DEIR, rock generated from the vineyard ground clearance activities will be crushed on-site and used for a number of purposes, including:

> 4.4-21 9.6 miles of roads on the project site will be upgraded to Level I roads, which are primary year-round access roads to the vineyard blocks and contain a number of erosion control features and are entirely maintained with crushed rock;
>
> 3.0 3-20. Headcut repair, proposed block 52; Gravel shall be crushed rock generated onsite...
>
> 3-22. Rock would be generated from the Proposed Project. Some of the rock generated would be used to construct erosion control features such as rock energy dissipaters, and rock sediment basins, gravity outlets, and a rock-lined swale. In addition, some of the rock would be used to create rock-filled avenues on the outslopes of some blocks (Figure 3-4), and some would beused to fill depressions in Block 31 and Block 37.
>
> 3.4 1-4 Pipe level spreaders would be installed at the ends of some pipelines as shown in Figure 3-8.....The spreader would be placed in a shallow trench lined with crushed rock, and end caps will be fastened to the ends of the pipe as detailed in Figure 3-8.

Section 4.1, Air Quality: rock crushing

Rock crushing operations generate airborne particulate matter, which as the DEIR references....

> Air Quality
> 4.1.2-2] Pollutants of Concern
>
> **Particulate Matter (PM_{10} and $PM_{2.5}$)**
>
> Particle pollution is a mixture of microscopic solids and liquid droplets suspended in air. This pollution, also known as particulate matter, is made up of a number of components, including acids (such as nitrates and sulfates), organic chemicals, metals, soil or dust particles, and allergens (such as fragments of pollen or mold spores). The size of particles is directly linked to their potential for causing health problems. Small particles less than 10 micrometers (μm) in diameter pose the greatest problems, because they can travel deep into lungs (PM10) and the bloodstream ($PM_{2.5}$). Exposure to such particles can affect the lungs and heart. Larger particles are of less concern, although they can irritate the eyes, nose, and throat.

The effects of particulate matter on employee health in rock crushing facilities is of such concern that OSHA regulates such operations tightly, including in some circumstances requiring the use of filter masks or respirators.

In addition, the project site is known to include deposits of serpentine rock, which contains asbestos, a well-established cause of mesothelioma, an incurable lung cancer. Crushing serpentine rock releases asbestos fibers into the atmosphere, posing a danger to the health of workers or other people in the vicinity. Serpentine is so dangerous that the law forbids its incorporation into road beds, because it would continue to release asbestos into the future as vehicles drive over it. The Napa County General Plan addresses serpentine soils and construction projects as follows:

> Policy CON-83: The County shall prepare and disseminate maps showing areas where soils are known to contain naturally occurring asbestos and shall require enhanced dust suppression measures for grading and construction projects in these areas consistent with BAAQMD requirements.

The DEIR fails to assess particulate matter air and asbestos particle air produced by rock crushing operations on the site.

Question:
How will particulate matter released by the rock crushing operations affect air quality?
How will workers and local residents be protected from airborne particulate pollution from rock crushing?

Question:
How will the project avoid crushing serpentine rock, and avoid its incorporation into roadbeds and erosion control features? Will the project adhere to the BAAQMD standards for dust protection, as required in Napa Policy Con-83?

Section 4.8: Noise, rock crushing

Section 4.8 3-4 of the DEIR deals with the impacts and mitigations of construction noise. However the DEIR fails to evaluate the impacts of noise generated by rock crushing operations, which should be substantial. The nearest "sensitive receptor" to the project is 30 feet.

Question:
Where on the project will the rock be crushed? What is the level of noise expected to be generated by rock crushing operations? How loud will it be, and what will be its estimated duration?

The DEIR fails to analyze the cumulative impact of noise from the 4-year construction phase of this project.

The Walt Project almost completely surrounds the Circle Oaks community. There are also human neighbors along Atlas Peak and Monticello Roads. The nearest "sensitive receptor" is cited at 30 feet in the DEIR. Significant noise from the project includes blasting, grading, soil ripping, cutting down trees, and rock crushing. In Circle Oaks, it also includes heavy vehicle traffic on the steep grades of Circle Oaks Drive.

2. Sediment Production Analysis

DEIR 4.4-1 mitigation concludes that the project will produce a less than significant impact to sediment production. Section 4.43-2, table 4.4-2, states that Vineyard blocks in the Milliken watershed will reduce soil loss by 43.61% over current conditions, while blocks in the Capell watershed will reduce soil loss by 13.11%. This seems counterintuitive. One would expect that woodlands, with their deeper and more extensive root systems, and denser canopies would hold soils better than vines.

Indeed, according to the Napa County Baseline Data Report (BDR), more than half of the sediment delivered to stream channels in the Napa River basin comes from vineyard, grazing, and roads (Napa County, 2005). Notable amounts of sheetwash and rilling may also occur during large magnitude storms due to the hydrologic effects of wildfires or vegetation removal. Large rainstorms that sweep across the Napa River watershed periodically induce both shallow and deep-seated landsliding (Dietrich, 2002).

Only 10 – 20% of the Napa watershed is developed, but per the BDR those vineyards, pastures and roads account for over 50% of sediment. It seems that natural landscapes shed less sediment per acre than vineyards, pastures, and roads.

The DEIR is in error in its calculations which purport to show decrease in soil loss when the land is converted to vineyard.

USLE Calculations

In Napa County, soil loss calculations are primary derived from the use of the Universal Soil Loss Equation, (USLE). Properly applied, the USLE has proven to be an excellent comparison tool to examine the impacts of land conversion/ development, as it pertains to the before and after development condition. Using the "A" factor as an overall litmus test of effectiveness, the USLE has been carefully studied and adjusted over the past several decades to assess 1) before development and post-development conditions, and 2) to provide a realistic assessment of whether post-development soil loss or lack thereof is sustainable in terms of the land's ability to maintain overall soil productivity. Napa County has generally accepted that the use of the USLE with a "T+2" tolerance factor is sufficient to judge whether soil loss calculations meet acceptable soil loss targets. The Napa County RCD has very effectively and advised the county with a high degree of competence in providing recommendations as to the effectiveness of hillside vineyard development since the inception of the Napa County Conservation Regulations in 1991.

The hydrologic analysis particularly as it pertains to use of TR-55 runoff curve number selection. The TR-55 equation, created decades ago by the Soil Conservation Service, (now the Natural Resources Conservation Service) has been effectively used in Napa County to compare pre-development land conditions with post-development conditions. The County of Napa has set a target of "no net increase in runoff" and TR-55 has played a central role as an accepted assessment tool. Runoff curve number selection is a key element in determining storm peak discharge volume, factoring in significantly in the overall hydrologic impacts created by developing a natural landscape into a managed landscape such as farmland or urban build up.

The Walt Ranch DEIR has in great detail utilized the USLE and TR-55 to assess the potential impacts of vineyard development on the natural landscape and associated watersheds and sub-watersheds of the Milliken Creek and Capell Creek catchment basins. This very large document has been very difficult to navigate, with various development, farming, soils, watershed areas, and USLE/ TR-55 factors, supporting documents, and calculations spread about in various appendixes and areas of the overall document. The layout of the DEIR almost seems crafted to make it difficult for even a technical expert to search and bring together the various factors and rationale that went into the document, and to assess the many times overly optimistic use of information has led to erroneous "less-than-significant" report conclusions.

The Walt Ranch proposed vineyard development setting lies in a non-homogenous mixture of soil and vegetation types. With the exception of the rather limited Aiken soil series, which is mapped mostly along the south western edge of the property, most of the land that has been selected for development occurs in relatively steep, shallow, and erosive soils. For that reason, (particularly slope steepness) most selected vineyard locations occur near small valleys or ridgelines. Much of the rest of the land is either too steep or too remote to accommodate practical development.

Hall-Brambletree has selected a general vine spacing that consists of 7 foot wide rows and 4 foot vine spacings within the rows. For the vast majority of the project vineyards, no-till cover crop management is proposed as the primary mode of soil loss management and prevention. Most vineyards would use either a 1.5 foot wide herbicide control strip, or a 1.0 foot wide herbicide control strip to manage weeds around the vines. Where herbicides are used, contact sprays are selected, to be applied mostly after February 15 of each year. The DEIR notes that 75% to 80% overall cover can be achieved with these spray strips.

Over a much smaller area of vineyard, herbicide "spot spraying" is proposed only immediately around the vine, with the option of using "hand-hoeing" techniques to achieve weed suppression in lieu of herbicide. The DEIR states that an effective target of 85 to 90% cover can be achieved with this mode of weed management.

In estimating soil loss, the DEIR has over-estimated the degree of ground cover that can realistically be achieved. Indeed, should a 1.5 foot wide control strip be used in a 7 foot row spacing, perhaps a 79% rate of cover could be achieved, assuming that a cover crop can effectively cover the remaining ground, . . . perfectly. Given the fact that most of the vineyard plantings are in relatively thin soils and steeper slope gradients, it is highly unlikely that this can be achieved. Mechanical farm implements and tractors are not conducive to maintaining consistently high rates of ground cover. Indeed, as farming of the land proceeds, not only equipment usage but also rodent activity and periodic drought conditions will diminish cover below a factor of 80%. Granted, the USLE uses overall annual cover conditions to calculate soil loss, but an estimation of 80% + cover is not realistic.

On a small scale, and with the utilization of "hand-farming", largely non-mechanized farming methods including a non-continuous control strip and liberal application of mulch and compost, cover rates of 80% can be achieved, but the Hall-Brambletree vineyard management scenario does not meet that target. Indeed, nature, left to itself rarely meets that standard. The USLE "C" or cover factor is one of the few variables in the equation and has a dramatic effect on predicted

soil loss. For instance, the difference between 85% vs 75% effective groundcover reduces predicted soil loss by about 2.5 times, (USLE Special Applications for Napa County, USLE "C" Factors for Vineyards, Table 5. USDA NRCS, 1994).

For these reasons, the 356 acre,(perhaps 280 acre) Hall Brambletree proposal should re-calculate the USLE cover factor in the FEIR to no more than 75% for most of the vineyard acreage. If this runs soil loss predictions above the "T+2" level, erosion control and runoff management systems will need to be re-assessed to determine if the project can indeed achieve less than significant impacts on soil erosion and sediment-laden runoff, (water quality).

3. Peak Runoff Analysis

The DEIR estimates that planting vineyards on the Hall-Brambletree site will effectively lead to reduced rates of peak runoff discharge in the Milliken Creek and Capell Creek watersheds, (4.0 Environmental Setting, Impacts and Mitigation Measures, 4.6-36). Tables 4.6-2 and Table 4.6-3 summarize these report findings.

The report results are primarily predicated on TR-55 curve number selection and input. Report Appendix's C, "Developed Land Use Per Watershed" and Appendix E-Peak Discharge and Volume contain tabular information on curve number (CN) selection. The selections are based on land use types, and the selected condition of those land use cover types.

Overall the CN's are mostly rated as too low for the vineyards that are to be developed, and in many cases too high for most of the project, on the land use cover types that are being supplanted by the vineyard development. The report also credits hydrologic soil group shift, due to the ripping or shattering of the soil profile on many more acres of land than should be credited, given Napa County soil survey soil map unit. It cites a memo generated by Ken Oster, USDA NRCS Soil Scientist that concedes that some hydrologic soil groups, (HSG) "D" map units can convert to a lower, "C" HSG.

The following are our comments on specific citations in the tables that have not been correctly assessed:

California Annual Grasslands Alliance: The report states that most of these vegetation associations are in "fair" condition. A "fair" condition rating is not suitable for lands that have not been grazed, burned, or otherwise mechanically altered on a regular and recent occurrence basis. HSG type "B" should assign a CN of 58 to 61 rather than 69. This 12% increase in curve number is not warranted or appropriate. In HSG type "D" a CN of 78, rather than 92, (15% increase) should be assigned to this existing land use.

The proposed vineyards to be developed on HSG type "B" should be rated at 72, rather than 61 (a 15% reduction in the CN). HSG type "C" should be corrected to 80, rather than 75 (a 6% reduction in CN).

Other examples of incorrectly-assigned CN's include the following:

Land Use	HSG	DEIR CN	Correct CN	Net Result
Chamise Alliance	D	86	73	15% increase
Coast live oak-blue oak	D	88	77	12% increase
Coast live oak alliance	D	88	77	12% increase
Mixed oak alliance	D	89	77	15% increase
Sclerophyllous shrubland formation	D	86	77	12% increase

Referencing: Technical Release 55 Urban Hydrology For Small Watersheds-Tables 2-2b and 2-2c, Runoff Curve Numbers for cultivated agricultural lands, and Runoff Curve Numbers for other agricultural lands. USDA-NRCS technical publication.

Reducing the HSG rating of soils has been applied more liberally in the DEIR than recommended in the Ken Oster memo that is cited. The DEIR incorrectly states that in watershed 1, the Rock Outcrop, (175 map unit) can be credited with a reduction in HSG from type "D" to type "C". The FEIR should correct vineyards mapped in 175 mapping designations to remain as HSG type "D".

Watersheds 5, 6 and 8 are mostly mapped as 113 or 114 Bressa-Dibble map units, yet the DEIR also incorrectly allows a ripping credit for these vineyards. Although it is not specifically clear, it appears that the DEIR may well assign HSG rating reductions to even more of the vineyard blocks proposed. The FEIR should be specific and clear in noting in detail how any re-assignment of HSG has been applied.

The Oster memo, as related to the Hall-Brambletree project only recommends that Hambright and Maymen-Millsholm-Lodo map units might benefit from ripping of the soil profile. Based on the soil map, only vineyard blocks 22B, 22C, 22D, 22E, 47a1, 47a2, 47b, 12, 13, 14, 15, and 16 should be considered for re-assignment of a lower runoff-generating HSG, D to C. All other map units should retain the Napa County Soil Survey-assigned hydrologic soil groupings.

The DEIR data presented largely achieves peak runoff reduction - natural vegetation condition vs. vineyard development - through the assignment of TR-55 CN's. It raises significant concern that devoid of any significant runoff attenuation/detention devices, it is claimed that straight-row herbicide strip-managed vineyards displacing un-manipulated natural forest, grassland, and chaparral vegetation types can yield lower storm peak runoff. The FEIR should re-calculate CN assignments and vegetation cover condition ratings to create an accurate accounting of vineyard impact analysis.

4. Impacts of land slippage on Circle Oaks

The DEIR fails to evaluate the potential impacts of land slippage on the adjacent community of Circle Oaks.

> Impact 4.4-3: As discussed in Section 4.4.1-4, the development of the Proposed Project would occur on some areas prone to slope failure. This is a potentially significant impact. However, the development of load-bearing structures or housing is not a part of the Proposed Project, so it is unlikely to expose people or structures to risk of loss, injury, or death involving landsliding. (p. 4.4-23)

As the project maps show, the residential community of Circle Oaks, which holds 300+ building lots, of which 182 currently contain houses, is almost surrounded by the Walt Ranch. It is of lower elevation – downhill – from much of the proposed land development. Vineyards in the 37 and the 68 blocks, for example lie directly above steep ridges flanking Circle Oaks homes. Therefore, if slope failure occurs, contrary to the conclusion of the DEIR, it could expose people or structures to severe risk involving landslides.

There are bountiful recent examples of soil slippage affecting infrastructure and homes in the slopes of Atlas Peak and its associated ridgeline, though these examples are not to be found in the DEIR.

Highway 121 in the vicinity of the Walt Ranch has been closed in recent years due to landslides. (These landslides were not on the Walt property, but are being used to illustrate the instability of soils on the Atlas Peak ridgeline/eastern slopes). In January of 2006, Highway 121, about 1 mile south of the Wooden Valley junction, was closed for several days due to a landslide (debris-flow) measuring at least 1900 feet in length, and over 100 feet wide at the highway. The scar has yet to heal. A house near the bottom of the slide was narrowly missed. Had this massive slide occurred in a residential area, catastrophic loss of life and property damage could have resulted. See photo and Google Earth image on next page.

This massive landslide on Hwy 121 followed several weeks of rainy weather in 2006

Above: January 2006 landslide on Highway 121 , photo from the General Plan, p. SAF-2

Right: Google earth image 7 months after the landslide (8/2006), arrow shows house that was narrowly missed.

In the 1990's, after recurrent slides had closed the highway about 1 mile north of the Wooden Valley junction, Caltrans was forced to perform extensive repairs, at least ¼ mile long, involving re-grading and replanting the hillside, and reinforcing the highway next to the creek.

Circle Oaks is built on steep terrain, rising from 950' altitude for its lowest streets, to 1550' for its highest. As the DEIR Regional Geology Map in Appendix F shows, the community rests on an ancient landslide and the land is still in motion, gradually sliding into Capell Creek. The community is heavily wooded, with approximately 200 of its total 285 acres preserved in mostly wooded greenbelt. Per the Circle Oaks Homes Association CCR's, residents cannot cut down mature trees without a permit. This strict conservation of its native vegetation is an important factor in minimizing erosion and slides on this steep property.

Below is an excerpt from page 4 of the **Comprehensive Water Service Study Service Review Report** dated October, 2004 produced by LAFCO of Napa County. It demonstrates the Circle Oaks land stability concerns which have been present since the earliest days of the community. The section is headed Circle Oaks County Water District - Overview.

> "Over the next twenty years, development within Unit One was tempered due to a change in market demand along with unstable soil conditions, which resulted in elimination of several lots and roadways within the subdivision[1]...
>
> 1) In 1964, the California Department of Real Estate conducted a survey of Unit One and determined that 21 of the subdivision's original 331 lots were not suitable for residential development due to unstable soil conditions. In 1971, the County of Napa declared that three roadways within Unit One (Fawn Court, Glen Court, and a portion of Poplar Court) would not be accepted into the County's roadway system as a result of prior landslides.

The Circle Oaks community has a history of problems with land slippage, and these problems continue. The County repeatedly needs to perform expensive repairs on yards-long sections of Circle Oaks streets, which are prone to slippage. (See comments by Heitzman) As the Circle Oaks County Water District comments note, the pipe infrastructure for water and sewer services lie under the roads. Within Circle Oaks, at least two homes have been destroyed due to land slippage within the past decade.

Empty lot across from 318 Circle Oaks Drive. The house formerly on this lot had to be demolished after heavy rains caused foundation shifts. The land was then extensively re-graded and drains installed.

116 Ridgecrest Drive, near the ridge which separates the proposed vineyards from Circle Oaks. The foundation of the house shifted, which would have been uninsured damage. Facing the total loss of his home investment, the owner set fire to his home, destroying it. He is currently imprisoned for arson.

There are other instances of homes being at risk due to the instability of the soil.

House at 254 Circle Oaks Drive) located below the road. Grading performed during construction of the house caused the road to wash out, requiring extensive repairs, and nearly damaging the home. Again, cracks are visible, indicating more problems ahead for the road.

. A swale, which Circle Oaks Drive crosses.

Circle Oaks is criss-crossed with such swales, dry in summertime, but creeks in the wintertime. Many homes are built on steep banks bordering these ephemeral watercourses, and the community's roads cross these swales in many places. If, as separate comments from hydrologist Kammon indicates, conversion to vineyards increases runoff, especially from storm water, Circle Oaks can expect increased damage from creek incision.

While some of the damages cited above were due to landslide events, others were due to either slow undermining from underground water flow, or to the natural baseline gradual land slippage. **As stated above, we are challenging the accuracy of the DEIR conclusion that conversion of hundreds acres to vineyards will decrease soil erosion and flash runoff. Instead, our calculations, and those of Kamman show an appreciable increase in erosion.**

Circle Oaks (and other surrounding land) is already slipping, and we are concerned that this process will only accelerate as the Walt project moves forward, resulting in ever-increasing damage costs to local landowners and water/sewage/roads providers, due to increased erosion and storm runoff from vegetation removal, landslides, and changes to underground water patterns from pumping 69 million gallons of water annually for vineyard irrigation.

In our discussion on related topics above, we indicate that many figures used, and thus resulting calculations, are wrong with respect to the potential impact for runoff and erosion. As a final comment on our concern regarding the underestimated potential for impact, we note that the discussion on *Tree Removal and Slope Stability Evaluation* in Appendix F, includes the statement that "The impact of tree removal on deep-seated landslides is not well understood." The lack of certainty in this area, when added to the errors in numbers and calculations discussed above, the disagreement between the Kleinfelder 2008 Landslide Hazard Evaluation and the Gilpin ngineering Geologic Evaluation on the impact of deforestation, the fact that Gilpin looked at aerial photos only through 2005 when the heavy rainfall that caused the Highway 121 landslide occurred in 2006, and the lack of any analysis regarding what type of time gap is anticipated between the trees being clearcut and vineyards and cover crops being established, causes us grave concern. Added to this concern is the knowledge that, as stated by Kleinfelder (p.18), "the

successful performance of any erosion control system is dependent on how well the system is maintained by the vineyard operators.

A comprehensive investigation and analysis needs to be completed to determine the baseline risk of a large or catastrophic landslide originating from the vicinity of Walt Ranch, or smaller landslide events that might impact the Circle Oaks residential community, other residences in the area, and Highway 121. A determination then needs to be made of the extent to which that risk may be increased by reviewing the comprehensive aggregate impact of this project, including clear cutting of 28,000 trees, and constructing reservoirs and roads, and any other activities, and then the impact of operating heavy vehicles and other activity involved in operating and maintaining vineyards on the slopes in the Project area.

5. Seismicity

The DEIR is incorrect on p 4.4-9, when it states that the Green Valley Fault approaches no nearer to the project than 3.1 miles. As Figure 1 and 2 below show, the Atlas Peak–Foss Valley portion of the fault runs through the Walt property, with geomorphic features reaching almost as far north as the town of St Helena. From USGS National Earthquake Hazards Reduction Program, **Digital Database for the Concord And Green Valley faults, Sept 2007**, Authors William A Bryant, Ellen F Sander, and Christopher J Wills:

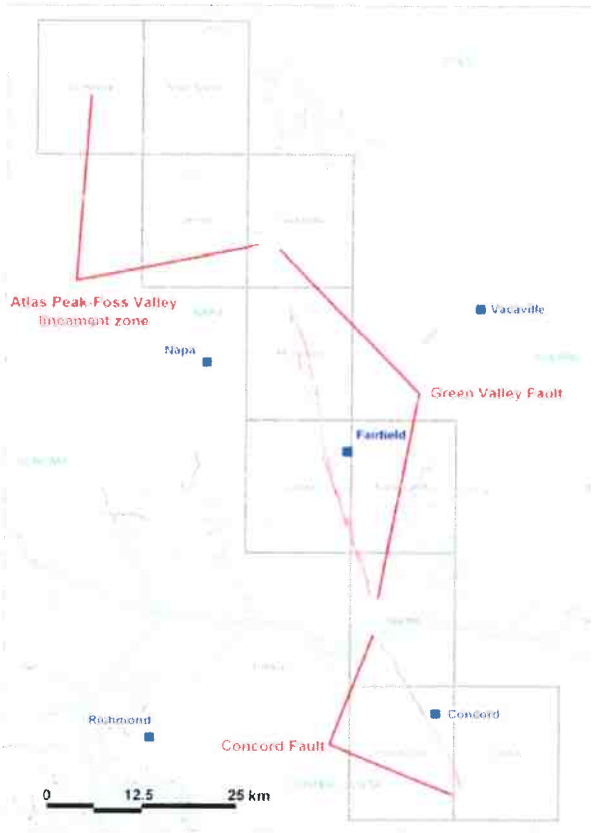


Figure 1. Digitized traces of Concord and Green Valley faults, including Atlas Peak-Foss Valley lineament zone, located in eastern San Francisco Bay region.

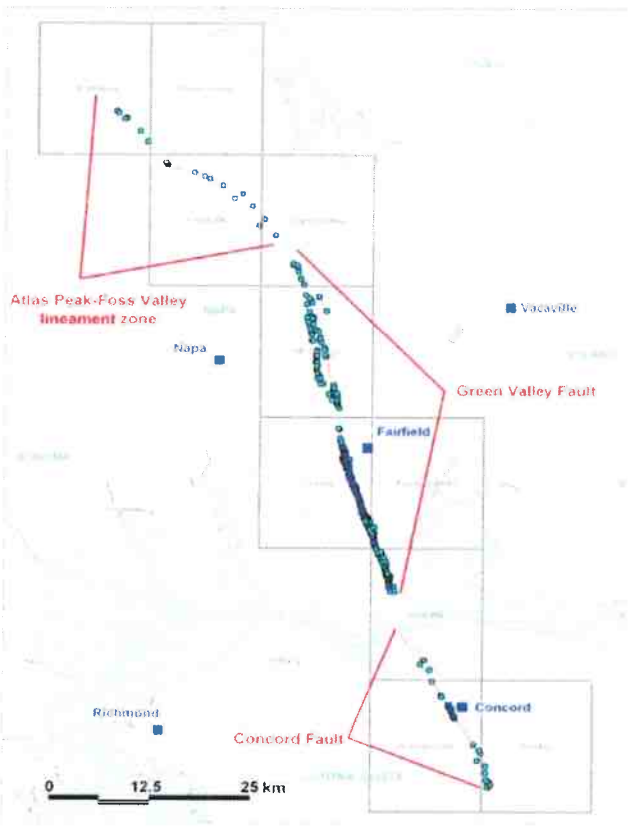


Figure 2. Digitized traces of Concord and Green Valley faults, showing locations of geomorphic features (light blue circles) and trench sites and fault creep localities (dark blue circles).

On the same page, the DEIR estimates the maximum earthquake energy possible from the Green Valley Fault to be 6.7. However, more recent research, released after the Napa earthquake of August, 2014, has further quantified the danger of this fault, and found it to be capable of generating a much stronger quake than had been anticipated, as follows:

National Geographic News, published Oct 13, 2014, Brian Clark Howard
http://news.nationalgeographic.com/news/2014/10/141013-bay-area-earthquakes-seismology-prediction-science/

Stronger Earthquakes Predicted for Bay Area— and They Could Come Soon

Most notably, the Green Valley Fault in the North Bay's Solano County "is likely to have a larger earthquake than people previously thought," says James J. Lienkaemper of the U.S. Geological Survey in Menlo Park, California.Lienkaemper led a new analysis of the northern part of California's San Andreas Fault system that was published Monday in the *Bulletin of the Seismological Society of America*.Using the most rigorous measurements made to date, the scientists found that the Green Valley Fault has stored up enough energy to produce an earthquake of magnitude7.1. The fault accumulated additional stress when a 6.02 magnitude earthquake struck the nearby West Napa Fault in August, damaging parts of Napa and rattling awake thousands of sleeping Bay Area residents.

Note: the Bulletin of the Seismological Society of America describes itself as follows: The ***Bulletin of the Seismological Society of America*** (ISSN0037-1106) is the premier journal of advanced research in earthquake seismology and related disciplines.

In view of the fact that the Green Valley Fault, capable of generating a 7.1 earthquake, runs through the property, we believe that the DEIR should more adequately address the seismic hazards associated with landslides and reservoir failure or overtopping which the project may present to the surrounding watersheds and their residents and infrastructure.

6. Access from Circle Oaks Drive

The project assumes that access to Walt Ranch from Circle Oaks Drive (COD) can be secured. The situation regarding the use of COD with respect to legal entitlement, safety, and environmental impact is unclear, and the DEIR does nothing to enlighten us on the developer's plans in this regard.

In order to the access the Project, COD - which narrows to a single lane dirt road for more than 200 feet before it culminates at the Circle Oaks Water District facilities - will presumably need to be widened, paved, and possibly realigned. It seems unlikely that construction equipment can navigate the turns - including a short, sharp right angle turn - on the current, one lane route, particularly as there will be oncoming traffic from the water facilities.

It is not clear that any realignment would be within the county road easement, subject to other rights or entitlements of the owners of Walt Ranch, or whether instead it would be on land owned by the Circle Oaks Home Association.

Information has been verbally received that the final segment of COD in question was not accepted by the county in 1964 because of soil instability. This may be confirmed by consulting county records on the approval of the Circle Oaks development.

There are markings on trees that we believe to be on Circle Oaks Homes Association Property. The developer may have marked these trees to signify those that need to be removed for any

such realignment. Has the developer applied for the required permission from the Homes Association for the removal of these trees?

Design drawings should be provided, possibly including a survey, and legal entitlement clarified to determine if this is a viable access point, and to establish the area that will be impacted so that environmental review can be included in a revised DEIR. The terrain in this area is uneven, wooded, possibly unstable, and may include wetlands or seeps.

We are aware that other comments are being filed on the unsuitability of COD as a thoroughfare for construction and vineyard trucks, and equipment, due to steepness, poor state of the roads, soil instability, the existence of underground water infrastructure, and safety (lack of sidewalks and shoulders, bound on both sides by steep hills, use by pedestrians, including school children). The DEIR should determine if the proposed use of the road would threaten the integrity of the underground infrastructure, possibly jeopardizing public services and increasing the need for expensive repairs, present safety issues to pedestrians, or place local residences at risk due to landslides or slumps caused by the frequency and excessive weight of construction and other vehicles.

In short, the roads were likely not designed, and may not be able to sustain use as a construction and commercial route. At a minimum, the roads need to be investigated and tested to determine if they can withstand the use and whether use as a commercial route would present unacceptable safety issues.

In our view, COD is not a viable access point. Another access point should be found and environmental review of the impact of creating that access included in a revised DEIR.
The DEIR has failed to include the environmental impact of the construction necessary to create access from Circle Oaks Drive or preferably, from another more suitable access point.

7. Oak Woodland Mitigation

Oaks 2040, The Status and Future of Oaks in California, Tom Gaman and Jeffrey Firman, California Oak Foundation, available on-line.

> More than one million acres of California's oak woodlands are developed and approximately 750,000 are at risk of development before 2040. Twenty percent of California's oak woodlands are facing rapid and increasing urbanization by 2040.
>
> Napa County, with approximately 167,450 acres of oak woodlands comprising 33 percent of the county, has the highest density of oak woodlands in the state. 93% of Napa County's oak woodlands are in private ownership.

It is estimated that in the early 1800's, the Napa Valley floor was home to approximately 45,000 mature canopy oak trees. **(Napa Valley Historical Ecology Atlas**, Grossinger, R). By 2002, less than 2000 remain. Adjacent to Walt Ranch is the Circle S project, whose EIR in 2008 planned for the destruction of almost 14,000 trees on 289 acres. The Walt and Circle S projects cumulatively would clear cut 42000 trees on Atlas peak, almost 600 acres of woodland lost. In less than a decade these two projects are taking out as many oaks and other large trees as it took over a century to destroy in the Napa valley floor.

The Project fails to adequately mitigate for the destruction of 312 acres of oak woodland.

Table 4.2-2, page 4.2-8, details the oak woodland acreage to be converted to vineyard as follows:
Black Oak Alliance 38.35 (after mitigation 35.8),
Blue Oak Alliance 6.26 (after mitigation 2.6 acres) ,
Cal. Bay/Coast Life Oak 17.64,
Coast Life Oak (foothill pine) 21.85,
Coast Life Oak-Blue Oak-Foothill Pine 111.45,
Mixed Oak (Foothill Pine/Ponderosa Pine) 116.81,
Valley Oak (Calif Bay – Coast Life Oak- Walnut –Ash)Riparian 6.34 acres,
Total 312.49 acres, or 17.8% of the total acreage of oak woodland on the site

California State Law and Napa County regulations require mitigation for destruction of oak woodland as follows.

California: § 21083.4. COUNTIES; CONVERSION OF OAK WOODLANDS; MITIGATION ALTERNATIVES; OAK WOODLANDS CONSERVATION ACT GRANT USE; EXEMPTIONS

..... (b) As part of the determination made pursuant to Section 21080.1, a county shall determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment. If a county determines that there may be a significant effect to oak woodlands, the county shall require one or more of the following oak woodlands mitigation alternatives to mitigate the significant effect of the conversion of oak woodlands:

(1) Conserve oak woodlands, through the use of conservation easements.
(2) (A) Plant an appropriate number of trees, including maintaining plantings and replacing dead or diseased trees.....
(C) Mitigation pursuant to this paragraph shall not fulfill more than one-half of the mitigation requirement for the project.
(D) The requirements imposed pursuant to this paragraph also may be used to restore former oak woodlands.
(3) Contribute funds to the Oak Woodlands Conservation Fund.....,
(4) Other mitigation measures developed by the County

Napa County General Plan Update, Policy CON-24:

Maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures including one or more of the following:
a) Preserve, to the extent feasible, oak trees and other significant vegetation that occur near the heads of drainages or depressions to maintain diversity of vegetation type and wildlife habitat as part of agricultural projects.
b) Comply with the Oak Woodlands Preservation Act (PRC Section 21083.4) regarding oak woodland preservation to conserve the integrity and diversity of oak woodlands, and retain, to the maximum extent feasible, existing oak woodland and chaparral communities and other significant vegetation as part of residential, commercial, and industrial approvals.
c) **Provide replacement of lost oak woodlands or preservation of like habitat at a 2:1 ratio** *(bolding added)* when retention of existing vegetation is found to be infeasible. Removal of oak species limited in distribution shall be avoided to the maximum extent feasible.

As mitigation for oak woodland tree loss, the Walt DEIR proposes the following:

Planting 170 trees to replace 34 "specimen trees" (36 " dbh) for replacement at a 5:1 ratio (mitigation measure 4.2-16)

Onsite conservation easements of 71.6 acres of Black Oak Alliance to mitigate loss of 35.8 acres at a 2:1 ratio; 5.2 acres Blue Oak Alliance to be conserved at a 2:1 ratio, to mitigate loss of 2.6 acres.

A total of 170 replants and 76.8 acres conserved does not begin to approach the Napa County requirement for 2:1 mitigation of oak woodland, which would be 625 acres. (Other commentators are challenging the adequacy of mitigation for old-growth trees by planting of saplings.),

It is not feasible for the applicant to propose mitigation by onsite conservation easement of 625 acres of oak woodland because that would fail to meet the definition of "mitigation" under CEQA, which follows:

CEQA GUIDELINES California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15370, Mitigation.

> "Mitigation" includes....
> (e) Compensating for the impact by replacing or providing substitute resources or environments.

The Air Resources Board of the California EPA defines what constitutes acceptable mitigation in avoided-conversion of woodlands as follows:

Compliance Offset Protocol U.S. Forest Projects, Adopted Oct 20, 2011
2.1.3 Avoided Conversion

> An Avoided Conversion Project involves preventing the conversion of forestland to a non-forest land use by dedicating the land to continuous forest cover through a Qualified Conservation Easement or transfer to public ownership, excluding transfer to federal Ownership. An Avoided Conversion Project is only eligible if it can fully satisfy the eligibility rules in the Regulations and:
>
> 1) it can be demonstrated that there is a significant threat of conversion of project land to a non-forestland use by following the requirements for establishing the project's baseline in section 6.3 of this Protocol ...

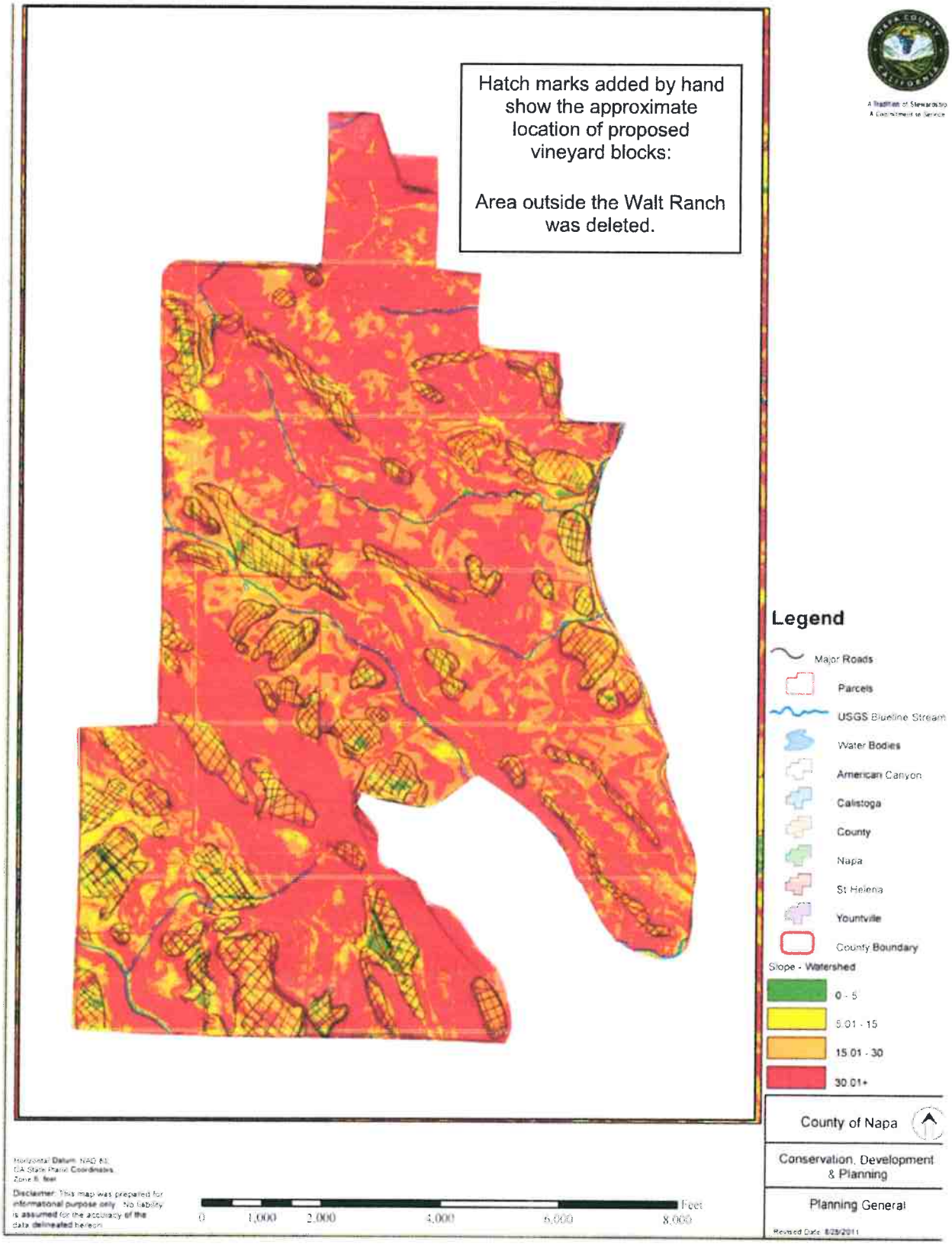
The proposed mitigation of on-site conservation easement does not meet the definition of mitigation, because the on-site land does not face "a significant threat of conversion of project land to non- forest land" for the following reasons:

Firstly, the Walt Ranch is zoned for AWOS (Ag-Watershed and Open Space). It cannot be urbanized, or used for housing developments or for non-ag commercial endeavors.

Secondly, as the following slope map - produced by the County Planning Department- shows, the bulk of the Walt Ranch is steep terrain, in fact over 30% slope (areas in red). Napa County regulations require a use permit, and extensive/expensive erosion control measures on lands over 30% slope. Indeed on this project, all proposed vineyard blocks are located on land less than 30% slope.

As the map on the next page demonstrates, the applicant proposes development of most of the land under 30% slope. The oak woodlands to be left undeveloped on slopes greater than 30% are not under significant threat of conversion, as is stated in the cumulative impacts section of the DEIR:

> ... Napa County Code Section 18.108.060 limits development to areas of less than 30% slope. There are approximately 901.4 acres of land on the Walt Ranch property that have greater than 30 percent slope, and therefore would not be developable (pg. 6-18)


Hatch marks added by hand show the approximate location of proposed vineyard blocks:
Area outside the Walt Ranch was deleted.
Legend
Major Roads
Parcels
USGS Blueline Stream
Water Bodies
American Canyon
Calistoga
County
Napa
St Helena
Yountville
County Boundary
Slope - Watershed
0 - 5
5.01 - 15
15.01 - 30
30.01+
County of Napa
Conservation, Development & Planning
Planning General
Revised Date: 8/29/2011
Horizontal Datum: NAD 83
CA State Plane Coordinates
Zone II, feet
Disclaimer: This map was prepared for informational purpose only. No liability is assumed for the accuracy of the data delineated hereon.
0
1,000
2,000
4,000
6,000
8,000
Feet

If the applicant proposes on-site conservation easements, a map should be included showing the areas to be conserved, and demonstrating that they are under 30% slope. The applicant should also present some documentation from a conservation organization stating that they are interested in pursuing a conservation easement on the land, since generally, such organizations are not interested in highly fragmented easements, preferring to protect large continuous acreage.

Under mitigation 6.1, the applicant does propose placing permanent protection on 248 acres of habitat as mitigation for project construction emissions. The same objections apply here to the use of onsite mitigations.

Finally, the DEIR fails to address **County Policy CON-65** which states that the County

> *strives to maintain current levels of CO2 sequestration*

Question:
How does the applicant plan to replace the CO2 sequestration capacity which will be destroyed by removal of 312 acres of woodland?

8. Tree disposal

The EIR fails to account for the impacts of disposing of the 28,000+ trees to be cut down. How are these trees to be disposed of? Possible methods include on-site burning or mulching, or trucking off-site for some other disposal method.

Question:

- if the trees are to be burned on site, what will be the impact on air quality?
- if trees are to be transported off site for disposal:
  how much GHG emission will be produced by the trucks? (this would depend on the final destination of the trees)
  what will be the effects on traffic patterns on Circle Oaks Drive, including increases in ambient noise, pedestrian safety, and road and subterranean infrastructure damage?
- what will be the impacts on GHG/loss of carbon sequestration of tree disposal? (impacts will depend on type of disposal planned: burning would release carbon immediately back into the atmosphere; mulching would release carbon more slowly; sale for use as building materials would retain the carbon in the wood indefinitely; trucking offsite would require burning fuels in vehicles)

9. Wildlife Movement Assessment

The DEIR Section 4.2-6, page 2-16 erroneously concludes that project impacts to wildlife movement would be less than significant. It fails to address the status of the Walt Ranch property as a critical wildlife movement corridor. The Napa County Baseline Data Report pg 4-57 states

> "Maintaining wildlife movement corridors between the Atlas Peak-Mount George region and the Mount Saint Helena Conservation Area and to the American Canyon area to the south is critical to ensure that sensitive populations in the area do not become isolated. Unless development in this area is clustered, it could impact the movement of coniferous forest species found in the northern portion of the area, and of oak woodland species that are more abundant in the southern portion."

The Walt Project sits athwart this critical wildlife movement corridor, and its proposed development is not clustered, but fragmented. As the wildlife fencing map below taken from the DEIR shows, rather than a corridor, the wildlife must negotiate a maze to traverse the property

The list of fauna sighted on the property (appendix M) by consultants fails to mention bears or coyotes. It does mention mountain lion scat and tracks. It is not surprising that the field biologists did not see any of these animals as they are shy, low in number, and some are nocturnal. However, they are indisputably present on the site. Residents of Circle Oaks have seen all of these creatures within Circle Oaks. Once or twice a year, the Circle Oaks Homes Association posts warnings about mountain lion sightings. As the undersigned can personally attest, coyote concerts are frequent in the night time.

These large mammals -- some are "alpha predators"-- are of critical ecological importance, and they require large territories.

Individual Mountain Lion territory averages 100 square miles (per the Mountain Lion Foundation) 10 to 350 square miles (Defenders of Wildlife); male black bears may range 8 to 60 square mile territory (American Bear Association); coyote territories may range up to 40 square miles (National Trappers Association)

Due to the number and scattered distribution of the vineyard blocks, this 500 acre project will fragment most of the 2300 acres of the property, with impacts much greater to wildlife habitat and movement than would have occurred were the 500 acres to be developed be concentrated in one area of the property. Figure 3-12 from the DEIR, showing proposed vineyard fencing (see on next page), illustrates the habitat fragmentation posed by this project:

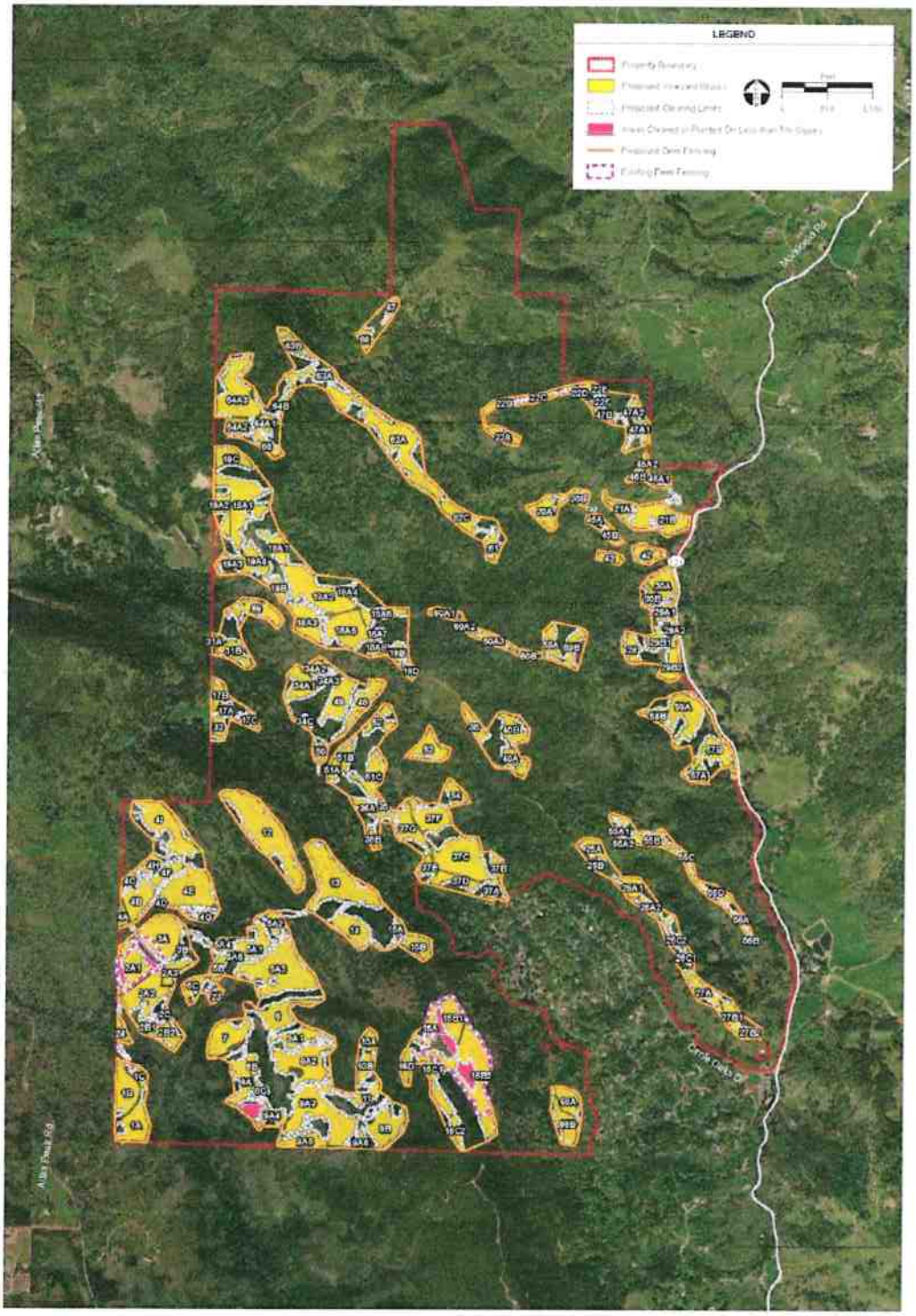
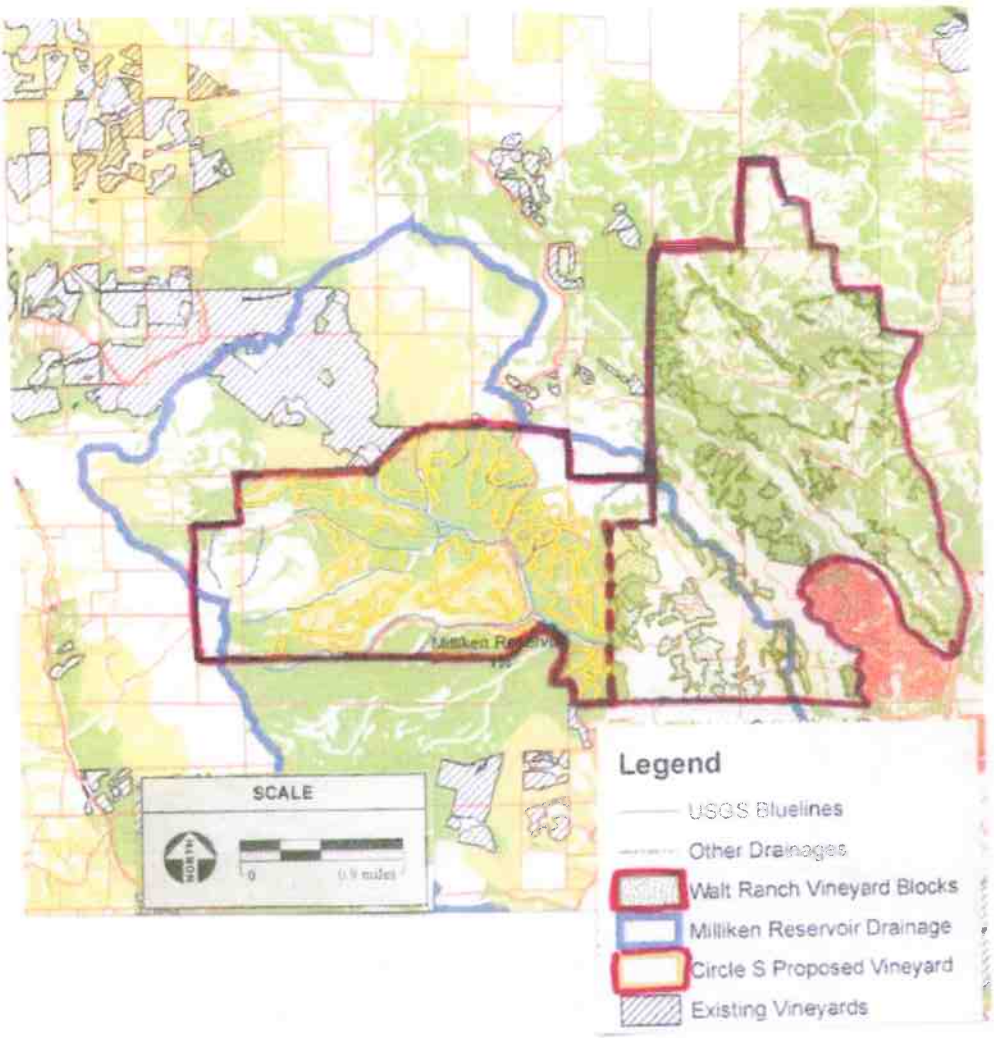


Figure 3-12
Proposed Deer Fencing

There is a cumulative impact on wildlife movement in this critical corridor when the adjacent Circle S vineyard project is considered. Like Walt Ranch, this is a large (1593 acre) property where a large number of vineyard blocks (380 acres to be developed, of which 289 are oak woodland) are scattered across the property, effectively fragmenting the habitat of most of the parcel. Between these two properties alone, most of 6.1 square miles of Atlas Peak open space/habitat will be effectively fragmented, including total destruction of 600 acres of oak woodland. Walt and Circle S together stretch a total length of four miles across the wildlife migration corridor. The map below, taken from the Circle S DEIR shows the two projects outlined in red, Circle S on the left (west), and Walt on the right (east).



Question: What will be the effect of the project on the large mammals, specifically bear, coyote, and mountain lion known to frequent the area? What will its impacts be on this critical wildlife movement corridor? What is the cumulative impact of the development of Walt and Circle S on the wildlife corridor?

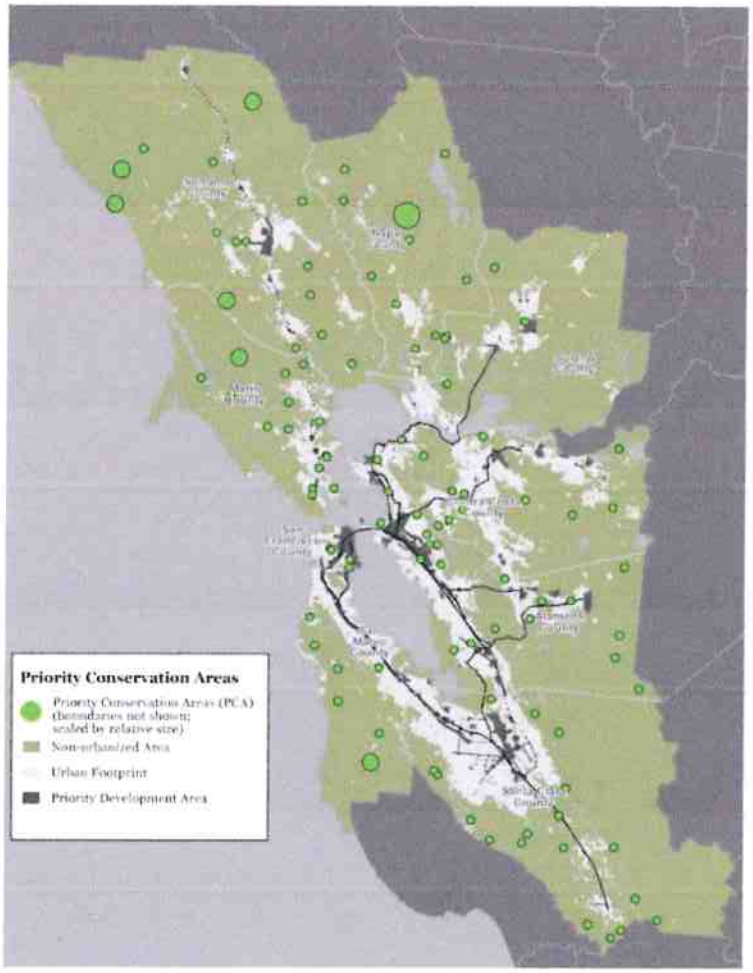
The distribution of the fenced vineyard blocks appears to almost form a chute, directing animals towards the Circle Oaks community, in the SE border of the property.

Question: Given that the proposed vineyard fencing and other disturbance of the Walt property (traffic, construction activity and noise, farmworkers, etc) will displace wildlife and channel them toward Circle Oaks, what is the projected impact on safety of the residents of Circle Oaks of the potential for increased presence of large mammals including bears, mountain lions, and coyotes within the community?

10. Recreation:

The DEIR erroneously concludes (Section 1, Introduction, pg 1-13) that no impact to recreation will occur. The CEQA requires evaluating not just current recreation, but recreational opportunities. The DEIR fails to take account of well-documented recreational opportunity on the Walt Ranch of hiking trails.

The Regional Planning Committee of the Association of Bay Area Governments (ABAG) in its May 2014 publication, **Revisions to Priority Conservation Area Criteria** (authors Laura Thompson and Mar Shorett), lists the area between Moore Creek and Millikan Creek as a Priority Conservation Area. See the map below.



The Priority Conservation Area (PCA) program was initiated in 2007 to identify Bay Area open spaces that: 1) provide regionally significant agricultural, natural resource, scenic, recreational, and/or ecological values and ecosystem functions; 2) are in urgent need of protection due to pressure from urban development or other factors; and 3) supported by local consensus.

The Moore Creek to Millikan Creek area, which includes Walt Ranch, was sponsored as a PCA by the Napa county Parks and Open Space District and the Bay Area Ridge Trail, and it can fit the designation under two categories:

> Natural Landscapes: areas critical to the functioning of wildlife and plant habitats, aquatic ecosystems and the region's water supply and quality. Examples: wetland restoration, riparian corridor
>
> Regional Recreation—existing and potential regional parks, trails, and other publicly accessible recreation facilities. Examples: regional trail networks, areas for potential regional park expansion.

Per Natural Landscapes, see the argument above regarding the wildlife corridors.

Per Regional Recreation. The Bay Area Ridge Trail is hoping to establish connecting trails from Skyline Park, up through the Milliken headwaters, and from thence to connect with the Moore Creek Park trails up near Lake Hennessey, and from there through the Palisades to Robert Lewis Stevenson Park, on the border between Napa and Lake Counties.

Question: How will the project mitigate the impact of loss of recreational opportunities on the site?

11. Cumulative Impacts

Growth Inducement

The Walt Ranch consists of 35 separate parcels. The DEIR fails to analyze the cumulative and growth-inducing impacts which would be incurred from sell off of the vineyard parcels individually.

Craig Hall, one of the property's owners has specifically failed to rule out breaking up the property and selling off individual pieces. This outcome is reasonably foreseeable on several points:

- The land would fetch much more as multiple parcels;
- The Walt project applicants will develop significant infrastructure, including improved roads, irrigation systems, reservoirs, and, we are told, electric power distribution, which will make it more attractive to develop individual parcels
- As we learned at the Nov 12 hearing, the Halls own a small parcel which provides access to Walt from Atlas Peak Road This access, within a few miles of downtown Napa, would be very attractive to buyers looking to establish either "country homes" with estate vineyards, or wineries with tasting rooms.

  This last potential is of particular concern as the new vineyards could provide each parcel owner the 75% Napa source grapes required for a winery.

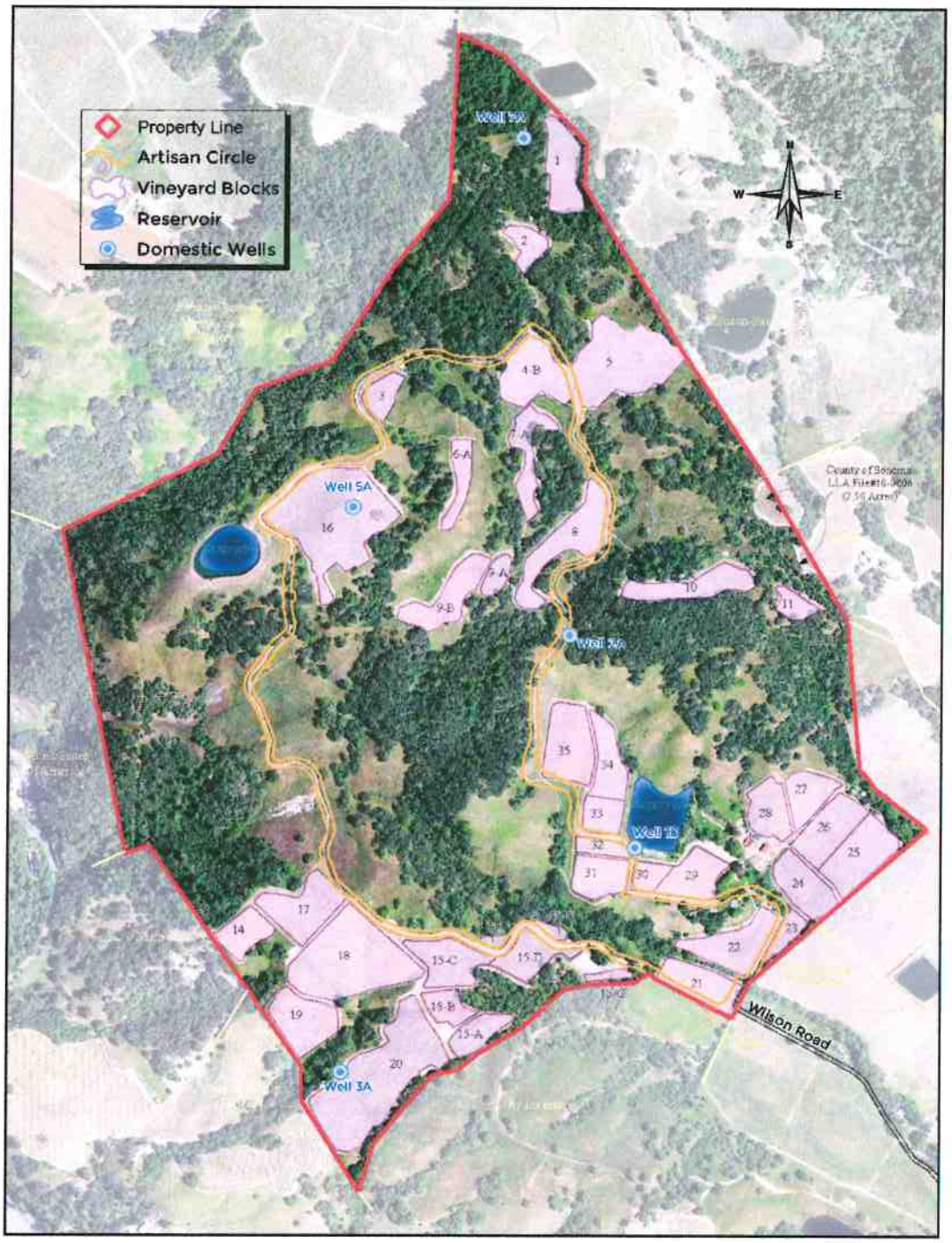
  Development of access from Atlas Peak Road, included in the original Initial Study in 2009 represents another foreseeable development that should be analyzed as part of this Project.
- Per the County's rather loose lot line adjustment ordinance, the property owners can, within a few months, for minimal expense, and without environmental review, rearrange the parcels to their hearts' content, ensuring that each parcel has its own vineyard.

Individual parcel development would increase traffic, groundwater use, habitat fragmentation, and reliance on county services including fire, police, and emergency services. **The DEIR needs to analyze these foreseeable impacts of the project. Failure to do so represents project segmentation, or piece-mealing.**

As evidence that sell-off as individual parcels is a reasonably foreseeable impact of the Walt approval, one need only look at their Hall Ranch "vineyard estate" development project in Alexander Valley (www.Hall-Ranch.com). Apparently the plan is to have 10 lots of about 40 acres each. The project is advertised as:

> 421 acres of gentle rolling hills dotted with native oaks, natural grasses and vineyard rows that rise from the valley floor to an elevation of approximately 1000 feet. A gated entry provides security and privacy and a newly constructed paved road encircles the entire ranch. The ranch is served by rural utilities and PG&E power is available on site. There are numerous luxury estate building sites carefully situated throughout the ranch.

This Hall holding in Sonoma bears a striking resemblance to the Walt Ranch Property. Both properties lie conveniently within a few miles of town centers (Healdsburg and Napa), both have vIneyards dispersed widely about the property, both will have electrical power, a road system and a water delivery system, and both are subdivided into multiple "vineyard estate-size" parcels. See project map on next page.



Proposed plan for the Hall Ranch Project in Alexander Valley, Sonoma County

Open Space, Watershed and Wildlife Habitat

The map on the next page, from the Napa County Baseline Data Report, shows the impact of "potential buildout" if all parcels in Napa County which are currently used for residential/urban use or intensive agriculture were fully converted to those uses. Excerpts from BRD, p. 4-51:

> Map 4-19 also indicates the parcels that are not currently used for residential/urban use or intensive agriculture and could be protected to provide for wildlife dispersal and migration after buildout" BDR p. 4-51) The Western Mountains, Eastern Mountains [where Walt Ranch is located], and Pope Valley Evaluation Areas emerge as areas of particular concern.
>
> North-south movement in the Western Mountains and Eastern Mountains areas is already somewhat constrained by roads and development. Buildout would result in severe disruption of wildlife movement in these areas. . . . Even if intact corridors between these natural areas remain, adjacent development could narrow the corridor's east-west dimension, causing constrictions that would reduce corridor quality. Narrow corridors may not provide the habitat attributes necessary for many species. In addition, a narrow corridor may provide only edge habitat. Some predators are more active in edge habitat, resulting in higher predation rates within narrow corridors (Environmental Law Institute 2003), as well as increased stress resulting in displacement and/or mortality.

As can be seen from the map, Walt Ranch had been identified as an area which "could be protected to provide for wildlife dispersal and migration" or "Natural Habitat". In light of the discussion in the Baseline Data Report, the impact of this Project is all the more concerning when cumulated with the impacts of the Circle S development shown previously in the map of both projects. **The DEIR fails to address how the Walt project contributes to the cumulative effects of open space fragmentation foreseen in the BDR.**

Numerous General Plan goals and policies promise the defense of open space and wild landscapes and for good reason economically:

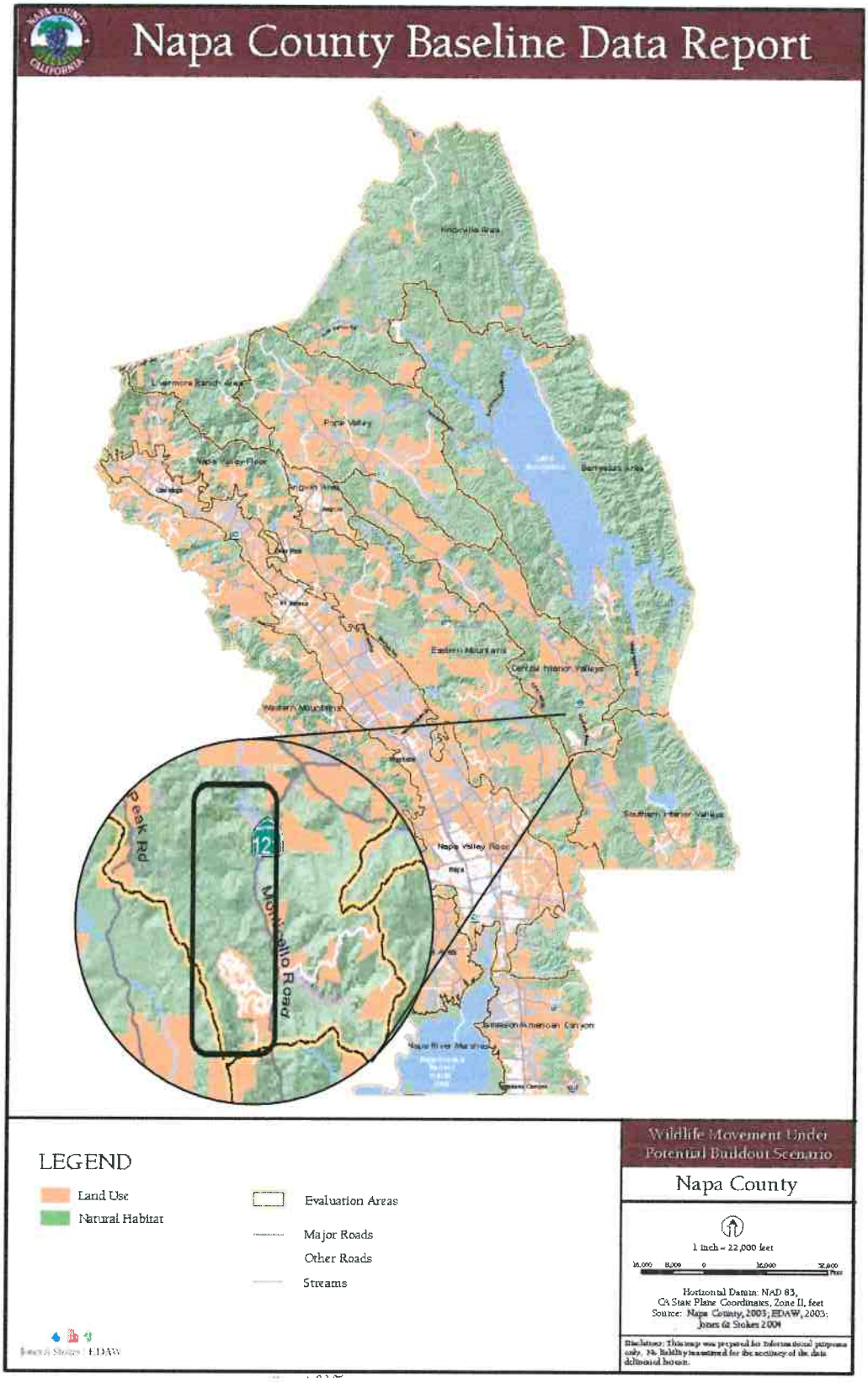
> **Policy CON-4**: The County recognizes that preserving watershed open space is consistent with and critical to the support of agriculture and agricultural preservation goals.

These goals include:

> **Goal CON-2:** Maintain and enhance the existing level of biodiversity.
>
> **Goal CON-3**: Protect the continued presence of special-status species, including special-status plants, special-status wildlife, and their habitats, and comply with all applicable state, federal, or local laws and regulations.
>
> **Goal CON-4**: Conserve, protect, and improve plant, wildlife, and fishery habitats for all native species in Napa County.
>
> **Goal CON-5**: Protect connectivity and continuous habitat areas for wildlife movement.
>
> **Goal CON-6**: Preserve, sustain, and restore forests, woodlands, and commercial timberland for their economic, environmental, recreation, and open space values.

This DEIR should include a discussion of how the project meshes with Napa County CON-1 Goal:

The County of Napa will conserve resources by determining the most appropriate use of land, matching land uses and activities to the land's natural suitability, and minimizing conflicts with the natural environment and the agriculture it supports.


Napa County Baseline Data Report
Livermore Ranch Area
Pope Valley
Napa Valley Floor
Berryessa Area
Eastern Mountains
Central Interior Valleys
Western Mountains
Southern Interior Valleys
Napa Valley Floor
Peak Rd
12
Monticello Road
Jameson Canyon
LEGEND
Land Use
Natural Habitat
Evaluation Areas
Major Roads
Other Roads
Streams
Wildlife Movement Under Potential Buildout Scenario
Napa County
1 inch = 22,000 feet
Horizontal Datum: NAD 83,
CA State Plane Coordinates, Zone II, feet
Source: Napa County, 2003; EDAW, 2003; Jones & Stokes 2004
Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

As discussed above, Walt Ranch has a "natural suitability" for recreational functions and for wildlife habitat. Indeed, the wildlife migration corridor is considered "critical". The essential recreational trail link between the Lake Hennessy area and the southern county, and the wildlife corridor are not functions of open space which can be magically assigned to some other property in the county. They are inherent in this particular site.

The loss of 300 acres of oak woodland with their functions of habitat, carbon sequestration, soil stabilization and aquifer recharge will be extremely difficult to mitigate. Other individuals and organizations are submitting comments on the extensive mitigation which will be required to protect special status species of plants and animals. Still others are commenting on the potential impacts of pumping 69 million gallons annually of Atlas Peak groundwater, and on other impacts to neighbors.

The groundwater and surface water of Atlas Peak, besides serving Atlas Peak/Monticello Road residents, are the headwaters of Milliken Creek, which is a City of Napa water source, and feeds into the water deficient MST basin. The DEIR fails to account for the quite likely separate development of up to 35 of the parcels which comprise the property, each of which would draw still more water, cut more trees and further fragment habitat, rely on public services such as fire suppression and emergency response, and which, under many scenarios, would not face the public scrutiny of the EIR process.

Profound effects on the watershed ecology, recreation, and neighboring residents will accrue from this project. **Together these add up to such large cumulative impacts that it seems apparent that developing 500+ acres for vineyards is not a "naturally suitable" use of the land per Con-1 goal.** The current and past agricultural use of the Walt Ranch--grazing and small vineyard plots -- has proven itself over several decades to be much more compatible with other open-space functions of the land. This proposed vineyard conversion is much too large to be supported on this site.

Thank you for your attention to these concerns.

Nancy Tamarisk
Vice Chair, Napa Sierra Club

Napa Group,
PO Box 5531
Napa, CA 94581

Brian Bordona, Senior Project Planner
Planning, Building, & Environmental Services Department
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559

April 4, 2016

Dear Mr. Bordona:

Thank you for the opportunity for one final round of comments on the Walt project. We recognize that this is unusual and represents an additional imposition on the County and the applicant.

We maintain that this FEIR should not be certified because it is still incomplete. Our comments below will show many areas where adequate information has not been provided as required by CEQA. We are aware that other commenters have reached the same conclusion, and are resubmitting the same concerns they submitted for the DEIR, because of the inadequacy of the response. For example we are aware that Mr. Billings is again requesting a response to his data about the potential for catastrophic road failure on Circle Oaks Drive.

We are also presenting some new information and new arguments.

.

Discovering so many flaws in this EIR, ranging from outright misstatement of fact, to irrelevant mitigations, to only cursory analysis of problematic areas has been discouraging indeed. So many of these issues were brought to light by lay people who lack the time, expertise, deep pockets, and access to the land itself, to thoroughly vet this EIR. We come away distrusting the supposedly non-biased work of AES, and wondering what even greater faults would be uncovered in this EIR were a team of neutral experts to examine this document, including being allowed access to the land.

This FEIR lacks credibility.

Let us not speak falsely now, the hour getting late.
Bob Dylan, "All along the Watchtower"

1. Disposal of cut trees

The response to comment 011-47 was not helpful. **It did not answer our question: what is the disposal plan for the cut trees?** We cannot determine from the DEIR how the applicant plans to dispose of the trees which are removed. Will they be burned on site? Chipped on site? Processed for firewood? Trucked off site for some other method of disposal? Obviously each method has environmental consequences which need to be accounted for.

The EIR is incomplete in that it does not explain how cut trees are to be processed. What is the plan for disposal of 24,000 + cleared trees and other vegetation?

2. Water Balance

2a. Water usage

The project estimates use OF 0.5 acre/feet per year per acre of planted vineyard, which with 40 acre/feet of water for frost protection totals 213 acre/feet per year.

However, in 2012 UC Cooperative Extension published "Sample Costs to Establish a Vineyard and produce Winegrapes (cabernet sauvignon). (Attachment). This is devoted particularly to conditions in Napa County. It estimates for the 3rd year of vines, a need for 5 gal/wk over 20 weeks, or 100 gal/vine. For the proposed density of 2420 vines/acre, this results in a need for 74 acre/feet per acre for irrigation, an increase of 47% over the estimated water need in the EIR. When added to the estimated need for 40 af/yr for frost protection, we have, for a possible 294 acres planted, a total of 291 af/yr needed rather than 213 (an increase of 78 af/yr). If the UC Davis estimates are correct, then the effects on the hydrology of the area need to be reanalyzed.

The estimate in the DEIR of the need for only 0.5 acre/feet per acre is based on the Napa County Water Availability Analysis (WAA). However, in the WAA we cannot find any assumption about the number of vines planted per acre. The UC Cooperative Extension publication cited above, assumes only 1,555 vines/acre as being a typical planting density. If the WAA made a similar assumption, that would account for most of the discrepancy between the two water estimates. The EIR also looks at the af/yr for Circle S, again without specifying the number of vines planted per acre. Without knowing the underlying assumption of vines/acre in the WAA and Circle S, it is impossible to compare the estimate in the EIR with that of the UC Extension and argue which is most accurate.

The FEIR uses a total of 486. af/yr groundwater recharge, including both the Walt and the Circle S properties. It uses the figure of 433.6 af/yr as the combined water use rate for Circle S, Walt Ranch and Circle Oaks Water District. If the UC extension figures for water demand are accurate, the total user demand is not 486 af/yr but 511 af/yr for the three major users. This exceeds the annual recharge rates.

In addition, we point out that the calculations do not take into account the fact that Circle Oaks has over 300 lots, with currently only 189 water hookups, though the EIR gives the number of household users as 150, which is incorrect. There is the potential for 50 or so more households to be served by the Circle Oaks water district.

UC extension assumes around 100 gallons of water/vine/yr in the third year. Is this a correct assumption for the Walt Project? If so, the total water needs of the project need to be recalculated, and the estimates of groundwater demand and effects on groundwater need to be reassessed.

Is it true that once the project is approved the growers – whether Circle S or Walt -- can increase the density of their vines, and therefore their water requirements, without applying for permits, restudying the water situation, or in any other way requiring permission or even notification of the county?

2b Groundwater recharge rates under conditions of climate change

Recharge volumes (Appendix D of DEIR) are based on the long-term average rainfall value, generating an average groundwater recharge rate of 207 acre-feet per year The EIR also helpfully considers the situation during prolonged drought, which it defines as 59% of average rainfall over 6 years – the longest recorded drought – using the rainfall record at Atlas Peak. Under drought conditions, the recharge rate is estimated at 122 acre-feet per year. The EIR estimates that under drought conditions, the Walt project groundwater withdrawals would exceed recharge. But, we are reassured, over a 6 year period, this would not cause problems.

However, the effects of climate change already upon us. Estimation of sustainable rates of groundwater withdrawal cannot rely on past averages. While general effects of climate change, such as warmer weather, more intense storms and sea level rise, are widely agreed upon, the effects on microclimates are less certain. I am including a scientific paper which attempts to model the bay area climate over the next several decades:

"Downscaling Future Climate Projections to the Watershed Scale: a North San Francisco Bay Estuary Case Study" Elisabeth Micheli, Lorraine Flint, Alan Flint, Stuart Weiss, and Morgan Kennedy, published in *San Francisco Estuary and Watershed Science, Dec, 2012.*

The paper presents 4 possible scenarios for the North Bay area, combining 2 variables: higher vs. lower precipitation (wetter or drier), and higher vs. lower emissions, based on how much GHG emissions change globally.

Among the conclusions of the modeling:

> *"For both high- and low-rainfall scenarios, by the close of this century warming is projected to amplify late-season climatic water deficit (a measure of drought stress on soils) by 8% to 21%." (Abstract)*

"Our results also suggest that temperature forcing may generate greater drought stress affecting soils and stream flows than can be estimated by variability in precipitation alone." (Abstract)

"temporal and spatial variability of precipitation, runoff, recharge, and stream discharge is likely to increase." (p. 22)

"Our analysis shows under both higher and lower precipitation scenarios for an arid region, climatic water deficit is projected to increase no matter what, implying greater water demand if maintaining current land cover is a management objective." (p.23)

The organization, Conservation Lands Network, hosts a website, bayarealands.org, which allows the user to zero in on quite small areas, and to generate a table predicting the groundwater recharge for the local area using each of the models. The authors advocate the local approach as follows:

"given the current state of the science, we recommend downscaling to the watershed scale as a starting point to identify potential long-term trends and to "bookend" ranges of physically possible scenarios."

The FEIR uses a total of 486. af/yr groundwater recharge, including both the Walt and the Circle S properties. It uses the figure of 433.6 af/yr as the combined water use rate for Circle S, Walt Ranch and Circle Oaks Water District.

	Drier/High Emiss	Drier/Low Emiss	Wetter/High Emiss	Wetter Low Emiss
2011-2039	- 07% (452 af)	-13% (422 af)	-11% (432 af)	+03% (501 af)
2040-2069	-16% (408 af)	-08% (447 af)	-09% (442 af)	-16% (408 af)
2070-2099	-31% (335 af)	-27% (355 af)	-10% (437 af)	-10% (437 af)

The FEIR uses an estimate of 433.6 a/f per year estimate of groundwater usage by Circle S, Walt, and Circle Oaks combined. Under this estimate, half of the projections under the four models result in a deficit of groundwater recharge (shown in green on the table).

However, if the upwardly revised irrigation number from the UC Extension estimate of per vine water need is used (511 for the three major users), under none of the projections is there adequate groundwater recharge for the Walt project.

We are obviously not climate change experts. If the County does not respect the modeling scenarios we are presenting, we would challenge them to offer an alternative analysis of likely future groundwater recharge rates on the Walt project.

Does the County contend that past history of groundwater recharge on this property is an accurate predictor of future groundwater recharge given that we are already experiencing the effects of global warming?

3. Circle Oaks Drive (COD) as Access Road

Per the administrative record, three potential access sites to the project from Highway 121 currently exist: Circle Oaks Drive extension, and two direct entries on 121, at unspecified sites.

The Highway 121 direct entry ways were dropped from consideration, and Circle Oaks Drive was chosen as the best access point. The reasons that the two other sites were dropped depends on where you look in the FEIR responses to comments: either safety or environmental concerns.

3a. Safety concerns as the determining factor

> Page 4-32
> *"Circle Oaks Drive was ultimately chosen as the preferred entrance to the project site due to line of sight constraints at all other existing access points."*
>
> Response to Comment O11-38
> *Circle Oaks Drive was chosen as the preferred entrance to the project site due to line of sight constraints and safety hazards at all other access points.*
>
> General Response 17
> *"The two other driveway entrances to the property off of SR-121 have numerous safety issues resulting from: poor line of sight from the property when large trucks would be exiting directly onto the highway; sharp turns; steep driveways; and the highway shoulder width is narrow at those locations so trucks would not have room to slow down safely without blocking traffic."*

What does "shoulder width" have to do with "room to slow down"? Vehicles do not normally pull onto shoulders when they slow to make turns, especially left turns. SR -121 is a two lane road. Circle Oaks Drive does not have turn lanes at its entrance. There is virtually no shoulder on highway 121 for the northbound lane at Circle Oaks Drive. (Picture below) Trucks northbound on highway 121 which turn left to access the Walt property are as likely to block traffic whether turning onto Circle Oaks Drive or any alternative entrance.

We cannot find any reference evaluation to line of sight constraints and safety hazards at other access points in the DEIR. Please provide a citation detailing the evaluation of line of site and other safety constraints at the alternative access points.

3b. Environmental concerns as the limiting factor

Some responses to comments state that the alternatives to Circle Oaks Drive would require damage to the environment, while the Circle Oaks Drive access can be used "as is".

> Response to Comment O21-091
> "*The Initial Study originally considered utilization of Circle Oaks Drive as well as two existing access points directly off of SR-121, but it was later found that these two existing access points had numerous safety concerns and environmental constraints"*
>
> General Response 1
> *"In addition, construction of anew alternative entrance to access the project site would require grading, tree cutting, importing roadway materials, and other alterations of the existing environment. These activities may cause impacts on the environment that would not occur under the proposed access."*
>
> *"These driveways would require substantial improvements on the property in order to be safely utilized by trucks, heavy equipment deliveries, and other traffic associated with the Proposed Project."*

Please direct us to the section of the EIR or DEIR which details the extent of environmental damage which would be incurred in order to utilize the alternate roads to Circle Oaks Drive for project access.

> *Response to Comment O11-32*
> *"The Proposed Project will not require any removal of trees, realignment, or alteration of Circle Oaks Drive:*
>
> *"Circle Oaks Drive, including the 200-foot segment mentioned in this comment, has been used to access the project site for years... Construction and operational equipment for the existing vineyard on the property has utilized this entrance without requiring widening, paving, or tree removal at the entrance of the property."*

But then there is this:

> *Response to Comment I022-7*
> *"There will be some tree removal on the Walt Ranch property associated with improving the entrance to the project site at the end of Circle Oaks Drive"*

The FEIR contradicts itself in whether or not the COD access road will require revision.

At least a dozen trees, some quite large, clustered around the COD entrance to the project site, in the vicinity of the hard 90 degree turn (discussed below), have red markings on them, applied within the last 3-4 years. Some locals have suggested that these markings indicate trees to be cut down to improve the road. **Is this what the markings indicate?**

The Walt Ranch Road map, figure 3-11 in the DEIR, shows a farm road paralleling Highway 121 from south of Vineyard block 30(a) to within about 1000 feet of the 121/Circle Oaks Drive intersection, a distance of well over 1 mile. It is virtually a frontage road to Highway 121, running most of the way within 40 feet of Highway 121, and for long stretches, no more than 5 feet in elevation above it. The road is clearly visible from the highway in many places. Many locations along that roadway offer long lines of sight and few obstacles. Two stretches each about 1000 feet long are quite straight offering long lines of sight, not inferior to the Circle Oaks Drive/121 intersection line of sight. Intervening trees are sparse at many sites.

See the next three pictures, taken along Highway 121 at approx. 0.9 and 1.4 miles north of the Circle Oaks Drive intersection.

Highway 121 approx. 0.9 miles north of Circle Oaks Drive, which is a long straight stretch. Farm frontage road is visible as the brown line located behind the coyote bushes.

Highway 121 approx 1.4 miles north of Circle Oaks Drive, a second long straight stretch. In the left-hand photo, the farm frontage road is in front of the dead grassy foliage, in the second the road passes through the shadow of the trees lining Highway 121. As can be seen, the farm road is perhaps 3 feet higher than the highway, and parallel to it.

It appears to the lay person that, armed with a bulldozer and wire clipper to deal with the fence, a safe, virtually flat, and environmentally friendly, entrance to the Walt Ranch from 121 could be created at any of several spots with a few hours' work.

.

3c. Pedestrian safety on Circle Oaks Drive.

The county's responses to Petition Commentators 5 and 6 regarding pedestrian safety on Circle Oaks drive cite Mitigation Measure 4.7-3:

> *4.7-3: Advance warning signs (e.g., "Intersection Ahead" and/or "Truck Crossing Ahead") shall be posted on Circle Oaks Drive and Country Club Lane consistent with Napa County sign placement standards to alert motorists of an intersection ahead*

Here the County response totally misses the point. Commentators are expressing concern about pedestrian traffic on Circle Oaks Drive. To recap: This is a community without sidewalks or playgrounds, and in most stretches of COD, little to no road shoulders. Pedestrians, including children, must walk in the street. Children play in the street, and teens skateboard in the street, people walk dogs.

We do not agree that placing signs stating "Intersection Ahead" or "Truck Crossing Ahead" will decrease the likelihood of collisions between heavy vehicles and pedestrians on a steep, twisting road featuring short lines of sight. (There will not be any truck crossings along Circle Oaks Drive– the Walt Project trucks will shoot straight up and down COD)

The most dangerous portion of COD is a steep grade featuring an S curve, between the Sunnyhill Lane and Rockrose Court intersections. Two driveways one on each side of COD exit below the blind curves, these are at 211 and 218 Circle Oaks Drive. Line of site is short there. We measured a 95.0' line of site travelling downhill on the S curve. The bottom of that line of site is the driveway of 211 COD. It is on the south side, the lane which is used by vehicles travelling downhill. We measured an 18% grade on this section of Circle Oaks Drive. This grade is too steep to meet current Napa County guidelines for residential roads.

Reference: Napa County Road & Street Standards; Revised January 26, 2016
{Resolution 2016.06}

Pictures illustrating blind curves, short lines of sight on steep grade of Circle Oaks Drive. The house visible on the left is at 218 Circle Oaks Drive.

We believe that pedestrian and heavy equipment traffic are incompatible on this road.

Frankly, your response to reasonable concerns about pedestrian safety – that adding a couple of signs solves the problem – is insulting and shows a cavalier disregard for human life.

We would suggest that a more adequate mitigation would be for the Project to lay sidewalks along the length of Circle Oaks Drive to enable pedestrians safe passage.

The FEIR is deficient in that it fails to analyze the dangers to pedestrian traffic from heavy equipment on Circle Oaks Drive.

3d. Environmental concerns r/t the Use of Circle Oaks Drive not addressed in EIR

Response to comment 011-32

"Circle Oaks Drive, including the 200-foot segment mentioned in this comment, has been used to access the project site for years... Construction and operational equipment for the existing vineyard on the property has utilized this entrance without requiring widening, paving, or tree removal at the entrance of the property."

Although the access road off of Circle Oaks Drive is currently being used to service the small present vineyard, residents along the road do not report seeing heavy-duty operational vehicles, such as large grape transporters, using the road. Only smaller trailers and farm vehicles have been seen. It is doubtful that the current Circle Oaks entrance could be used for the larger vehicles needed during both the construction phase and the operational phase for 200+ acres of vineyards without alteration.

As stated before, the County agrees with this opinion in at least one place, that is response to comment 1022-7

. *"There will be some tree removal on the Walt Ranch property associated with improving the entrance to the project site at the end of Circle Oaks Drive"*

The two pictures below show 2-lane Circle Oaks Drive entering the Walt property where its extension – which serves both the Water District facility and the Walt Ranch -- becomes a 1-.lane road with a 5 mph speed limit (small white sign on left side of right-hand picture). (Just for fun, how many deer can you spot in the left-hand picture?) .

As the three pictures below show from different angles, the access road, once it leaves the Circle Oaks Drive extension takes an immediate hard right turn (90 degree). The width of the COD extension going into the curve is 11'9". The tight turns at the entrance cannot be easily navigated by large construction vehicles and operational vehicles such as grape carriers, without substantial modification which would include re-alignment and tree removal.

Looking westward up Circle Oaks Drive extension, right turn onto Walt access road. Circle Oaks Water District facility is visible just past the access road turnoff.

View eastward: Left side of picture is access road, right looks down Circle Oaks Drive extension toward Circle Oaks Community.

Standing in Walt Access road, looking southward. Tail of arrow is Circle Oaks Drive extension. On the other side of COD, part of the nearest residential property is visible.

A few yards down the road is a tight curve. The access road is a narrow unpaved track, a typical farm access road, best suited to serve relatively small, preferably 4-wheel drive, vehicles.

The next picture gives an idea of the quality of the Walt access road at its entrance. The width of the access road at the gated entrance is approx. 10'9". The gate posts are set 10'8" apart.

Looking through Walt access gate.

Road realignment and perennial stream/wetland

Just past the entry gate, less than a yard (behind the tree to the right of the gate in the picture above), a perennial stream has been diverted to a culvert to run under the access road. The FEIR response to Comment 1139-4 is incorrect in calling this a drainage, rather than a Class II (perennial) stream. Indeed the road map in the DEIR, figure -11, clearly shows the access road from Circle Oaks Drive crossing a blue line stream at that point. A person who has resided in the house adjacent to the Walt property for over 30 years affirms that the stream runs year round.

In the left-sided picture below, what looks like a ditch visible to right of tree is actually the deeply incised stream as it emerges from the culvert underneath the entrance to the Walt access road. Note the Calla Lily, most clearly visible in the right hand picture – not a native, but a plant requiring year-round moist soil.

The stream originates a few hundred yards to the southwest of the access road, where year-round seeps flow out of the steep hillsides onto what is now the Circle Oaks Water District facility. (Noted as visible in a preceding photograph). Before the facility was built, the seeps came together to form a marsh from which the stream originated. The marsh or pond was perhaps an acre in size, and a long-time resident recalls personally stocking it with catfish for recreational fishing. The Water District paved over most of the wetland, channeling the water under the pavement and erecting structures upon it, an action which, these days, would likely be discouraged.

Surface water seeps out of hillsides behind and to the left of water tower.. Pipes and drains channel the water under the asphalt of the facility. The water flows under the Water District office building (houselike structure).

However, the entire wetland was not destroyed. As the following picture illustrates, immediately downhill from the paved area, the water re-emerges, and spreads out to replenish the remnant of the marsh.

Voila! There is the wetland. Note the cattails. The right shows the water flowing from the wetland into the culvert under the road. This is the wetland, you will recall, which according to the County does not exist. Numerous frogs, amphibians of undetermined species, can be heard croaking in the pond.

Therefore, based on local testimony and photographic evidence, including typical wetland flora and fauna, the FEIR response to Comment 1139-4 is incorrect in denying the existence of a wetland in the vicinity of the access road.

If the County continues to dispute the existence of the wetland, we would invite a representative to meet us there. Bring wading boots.

The soil in the immediate vicinity of the access road entrance is quite unstable. The earth is gradually being pushed downhill by the water flowing down the ridge immediately to the west. The house bordering the access road, built about 33 years ago, has moved on its foundations, and there have been sinkholes in the back yard. (Property noted as visible in a preceding photograph). When upgrading the access road, engineers will need to keep this instability in mind.

To properly compare the relative cost and environmental damage related to the use of Circle Oaks Drive vs other proposed entrances, the factors I have just cited need to be taken into account.

The stream and wetland need to be assessed and adequate mitigation measures applied for the potential harm from heavy vehicle traffic and likely need for road modifications.

The question needs to be answered: would the roadbed/culvert system require strengthening, widening or other measures to prevent damage to the perennial stream and/or the wetland from heavy vehicle traffic?

<u>Foreseeable use of Circle Oaks Drive access road for individual parcel access</u>

It is foreseeable that the Walt Ranch owners plan to sell off at least some of the 35 parcels of which the current property consists. Each property will carry the right to build a home and winery (or event center as they are now known) on their parcel. There is

the potential for 35 homes and wineries on the Walt Ranch to apply for use permits for visitation. If the current project establishes the precedent of Circle Oaks Drive as the primary access point to the property, it will be difficult to change at a later date. Circle Oaks Drive, with all of its deficits, could become quite heavily travelled, possibly with hundreds of winery visitors daily, since the County has thus far demonstrated a reluctance to consider cumulative impacts as a reason to limit visitation when multiple wineries share narrow rural roads. 40% of wineries surveyed in the County admit to exceeding the terms of their use permits. With Circle Oaks as the primary access road, we could look forward to a decades of residents repeatedly contesting winery requests for visitation and events, and attempting to document violations of use permits, an onerous process with poor likelihood of success.

The County has stated that parcel sell-off and build-out, even if foreseeable, is not part of the Cumulative Impacts of this project, because the project does not increase the rights or likelihood of home/winery building on the Ranch. This may be a valid argument. However, designating Circle Oaks as the access road for the Walt Project, with the likelihood of future development using that road, *should be considered* as among the cumulative impacts of the Walt project. Since each winery application will, in and of itself, contribute only a small incremental increase in traffic on Circle Oaks Drive, they are likely to be granted, despite being contested by residents. The Walt Ranch EIR process stands as the only real chance the public has to forestall COD, a residential road, being overrun by a level of traffic it was never designed to handle.

The EIR is deficient in that it fails to account for the foreseeable traffic impacts of development of individual properties on Circle Oaks Drive, if the COD access road is designated as the primary access road for the property.

Cumulative impacts of use of Circle Oaks Drive as Primary Access Point

As these comments, and those of other commentators to this document and the DEIR demonstrate, we believe that use of Circle Oaks Drive as the primary access point for the project creates cumulative impacts, which could be avoided relatively easily by selecting a primary access point further north along highway 121.

These impacts include:

- **pedestrian safety**
- **potential road damage to Circle Oaks Drive, which the County now rates in poor condition**
- **potential damage to Circle Oaks Water District infrastructure lying under Circle Oaks Drive**
- **potential for impacts on blue-line stream and wetlands at entrance to Circle Oaks access road**
- **disturbance to Circle Oaks residents due to noise from construction/ operational vehicles.**
- **likelihood of need for modifications/realignment, including tree removal at entrance to Circle Oaks access road.**
- **likelihood of vastly increased traffic on Circle Oaks Drive as wineries**

are established and visitation rights granted

We believe that the comments above adequately demonstrate that significant safety and environmental concerns exist related to the use of Circle Oaks Drive to access the project, and that insufficient analysis has been produced of the environmental and safety conditions of Circle Oaks Drive as well as of the feasibility of the alternate access roads.

Therefore, we believe that the County should require that the consideration of the alternative access roads should be reopened. We ask that the Project scout the access road along 121 for alternate entrances which are economically, environmentally, and safetywise feasible.

If the applicant continues to assert that no modification of the Circle Oaks access road is necessary, we would request that they, or future owners, be required, as a condition of project approval, to file a new Erosion Control Plan related to the road if they should, at any time in the future, decide that modifications to the Circle Oaks Drive access road entrance are in fact necessary.

4. Lack of Mitigation for Loss of Carbon Sequestration due to Clearing of Trees and other Vegetation.

The DEIR, in 6.1.4-1 Cumulative Effects Air Quality, Climate Change states that carbon sequestration will be accomplished as follows.

> • *Conservation of carbon sequestration from the avoidance of woodland conversion, deforestation, and loss of sequestration due to land use change.*

It goes on to speak of

> "*the sequestration of carbon due to the preservation of woodlands….*"

We agree with Ron Cowan, who has submitted another round of comments for the Quercus Group. He states:

> *Avoided forest conversion doesn't mitigate either direct or indirect forest conversion GHG emissions.*

As Mr. Cowen references, the State has set goals for reductions in carbon emissions for 2020, 2040 and 2050. County Climate Action Plans, such as the Solano CAP referenced by the DEIR, were initiated in response to AB 32 which was the first to set quantitative goals for cutting emissions of carbon. The plans must establish a GHG accounting system, which compares actual baselines of carbon emissions (balanced by any carbon removal systems such as vegetation) with actual emissions/sequestration at the goal date. Pretend mitigations, such as not cutting down even more trees, do not affect this balance sheet. In simple language, by clearing woodlands, the project decreases carbon sequestration, resulting in a net increase to the County's carbon footprint. Conserving trees on site (or anywhere else for that matter) does not compensate for that loss, because it does not decrease the County's carbon footprint.

The on-going carbon sequestration of conserved trees is not "due to" the enactment of a conservation easement. It is already happening. The conserved trees were never at risk of being cut down, and they do not magically start to conserve more carbon to compensate for the lost trees.

If the County is to meet goals of decreasing *measured* GHG emissions, per state mandate, some other entity will have the burden of either decreasing their emissions or increasing their carbon sequestration to compensate for the Walt deforestation. The GHG costs of this project are being externalized.

In November, 2015, after the close of the comment period on the DEIR but before the release of the FEIR, the California Supreme Court issued its ruling in Center for Biological Diversity v. Cal. Dept. of Fish and Game. We understand this was the first time the Supreme Court has weighed on the question of how GHG emissions impacts are to be addressed under CEQA. The FEIR does not indicate whether the DEIR's methodology has been reviewed for adequacy in light of this court decision. Please explain whether and how the DEIR/FEIR's approach to analysis and mitigation of GHG impacts satisfies the requirements of the recent Supreme Court ruling.

The EIR is incomplete in that it does not specify how the Project will mitigate for the loss of carbon sequestration of the cleared woodlands.

5. Land and Soil Instability.

As the EIR acknowledges, Circle Oaks is built on unstable soils, comprising shale, mudstone, sandstone, and siltstone. Ancient landslides can be traced throughout this area, testifying to the mobility of the earth. Our prior submission documented evidence of recent landslides, mudslides and road slippage, and other commenters are submitting additional evidence.

On March 13/14th of this year, Highway 121, about 2 miles south of Circle Oaks slumped after heavy rains. The road was closed for almost two weeks, and will be one-lane only for several weeks to months, pending repairs. The photo below, taken from Google Earth, documents the presence of large vineyards (Pahlmeyer) 400 yards above the road, on the ridge directly above the slump. While we cannot at present prove that the deforestation of the ridge top caused the damage, it is beyond dispute that trees, better than grape plants, capture, delay and disperse the runoff (both surface and subsurface) from heavy downpours, decreasing the chances of damage to both structures and infrastructures below them.

The Walt Project proposes to deforest large areas in the ridgetops above Circle Oaks. We continue to contest the assertion that conversion of woodlands to vineyards will not adversely impact the homes and roads of the Circle Oaks community.

We do not accept the soil loss calculations that seemingly demonstrate that vines hold moisture and sediment better than trees, as this runs counter to the decades of experience of the experts we have consulted. These assertions are not credible.

When added to the fact that the project lies along a seismically active area, the Green Valley Fault, the potential for catastrophic failure of "best laid erosion control plans" is too high for the vulnerable residents of this area to accept.

We assert that these numerous examples of the incomplete nature of this FEIR, along with those submitted by other commenters, require that the document be rewritten to amend its flagrant defects and recirculated.

Thank you once again for the opportunity to comment.

Nancy Tamarisk
Chair
Napa Sierra Club

Napa Sierra Club, P.O. Box 5531, Napa, CA 94581

April 4, 2016

Mr Morrison, and County Planners;

Thank you for this additional opportunity to comment on the Walt project. We recognize that this is an unusual privilege and imposes an additional burden on the County and the applicant.

We find that this FEIR is still incomplete and should not be certified. It does not provide information in all areas as required by CEQA. Responses to commenters are rife with evasion, reference to irrelevant mitigations, and cursory analyses of problematic issues.

To cite a few examples:

* the County maintains there is no wetland at the entrance road off of Circle Oaks Drive. Anyone who visits the site can plainly see the wetland.
* the document simply ignores data from a structural engineer about potential for catastrophic failure of Circle Oaks Drive, dumping sewage into Capell Creek
* the County refers to a drainage under the entrance road. Instead, its own maps show a perennial stream
* the FEIR fails to answer a direct question we asked about how 24,000 trees are to be disposed of

Most of these flaws noticed by lay people who lack the time, expertise, deep pockets, and access to the land itself, to thoroughly vet this EIR. We come away distrusting the supposedly non-biased work of AES, and wondering what even greater faults would be uncovered were a team of neutral experts to examine this document and the land itself. This EIR lacks credibility.

Additionally, we note how difficult it was for us and other commenters to obtain expert testimony. The Circle Oaks Water District, a county agency, spent weeks seeking a hydrologist. They were turned down by several experts who were too intimidated to go up against the wine industry, fearing that they would be blackballed. This experience was replicated again and again, as experts would offer us advice anonymously, but refuse to commit themselves on paper. Others stated they would have been fired if they had worked on this project and provided honest analyses. The game is rigged.

In conclusion, this FEIR needs more work. It is not ready for certification.

Respectfully,

Nancy Tamarisk
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