

W A L T R A N C H





The Vineyard

- **Who are we?**
- **Perspective of the Process**
- **Perspective on the Project**



Who are we?

General Background and Facts

- Kathryn and I have been in Napa for more than two decades and been in the wine business since 1995.
- My wife's family has been farming since 1973, first in Mendocino. Kathryn has owned or operated vineyards for more than 3 decades. Her family has been in Northern California for generations.
- We own 4 vineyards in Napa Valley encompassing just under 200 acres of vineyard.
- We employ over 150 local residents.
- We believe in environmental stewardship and responsible agriculture – **balance** is critical and we continue to use best practices in both our vineyard and winery operations.



Who are we?

Our Environmental Initiatives

- All four of our Napa Valley vineyards are Certified Organic by CCOF (2010), including the WALT Ranch.
- Our St. Helena winery was the first California winery to receive the LEED GOLD (Leadership in Environmental and Energy Design) Certification in 2009.
- In 2014, an expansion of the winery received our second LEED Gold Certification. This is the only winery we know of with two LEED Gold Certifications.
- Recognized for our work with Napa County RCD, CA Fish and Game to remove a fish barrier and restoration of the riparian areas on Dry Creek in 2008.
- Member
 - Napa Fish Friendly Farming
 - Putah Creek Watershed Group



Who are we? Community Initiatives

Launched the HALL's annual Cabernet Cookoff in 2010 to raise funds for local non-profits, including:

- Napa Humane Society
- Connolly Ranch
- Legal Aid of Napa Valley
- Community Action North Bay
- Grace Cathedral – San Francisco
- Food Literacy Center
- Marin Organic
- Do it for the Love Foundation (Marin)
- Napa Valley Hospice and Adult Services
- Napa Community Resources for Children (CRC)
- Napa Valley Youth Advocacy – Food of Love
- If Given a Chance – Napa Valley
- St. Helena Little League
- Vine Trail Napa Valley
- Voices Napa Youth Center



Who are we? Community Initiatives

In addition to the Cabernet Cookoff events, we have, through donations, supported the following local non-profits:

- Big Brothers, Big Sisters of the North Bay
- Boys and Girls Club of the Napa Valley
- Boys and Girls Club of St. Helena and Calistoga
- CASA, A Voice for Children
- Children's Hospital and Research Center Foundation
- Clinic Ole
- Community Action of Napa Valley
- Cope Family Center
- KQED
- Land Trust of Napa County
- Napa Learns
- Napa Valley Festival Association
- Napa Valley Vine Trail Coalition
- Nimbus Arts
- On the Move
- Our Town St. Helena
- Slow Food USA
- Solano-Napa Habitat for Humanity
- Sonoma State University
- Soroptimist St. Helena Sunrise
- St. Helena Hospital Foundation
- St Helena Rotary Foundation
- Stonebridge School
- Upvalley Family Centers
- We Care Animal Rescue



Who are we?

Community Initiatives

- We have served as Board Members of Napa County Legal Aid, Napa Emergency Women's Shelter, the Horatio Alger Society, and the Napa Valley Vintners Grant Review Committee. Our staff has served on Boards for St. Helena Chamber of Commerce, the California Wine Institute, Napa Valley College and Napa Little League.
- Each of our full-time employees is given up to one week paid leave each year to volunteer in the community.



Perspective on the Process

- We purchased the property in 2005. Our plans have always been to plant a vineyard on the property. We would have never bought the property if it was not zoned for agriculture.
- Shortly after purchasing the property, we met with neighbors at Circle Oaks and Napa County to let them know about our intention to plant a vineyard. In both cases, we were encouraged to go forward.
- Throughout the process, we have been open to ideas, concerns and comments to improve the project.



Perspective on the Process

We have been Listening

- The Public has been included since 2008 with the first Notice of Preparation (NOP). There was a second Notice of Preparation in 2012. Concerns received through both of the NOP's, the Draft EIR and the Final EIR comments have been addressed systematically and the project has been reduced substantially through the process.
- Napa County, for the first time in history, has held Public Hearings on a vineyard Erosion Control Plan. We have had three to date.



Perspective on the Process

We have been Listening

- We attempted multiple times in 2009, and again in 2014 to reach out to both the Circle Oaks Homeowners Association and the Circle Oaks Community Water District. We were told in writing that they were unwilling to meet with us. The Water District finally met with us in 2016 - after 7 years of requests to meet.
- We held our own public meeting on November 6th, 2014 and a second county meeting on November 20th. The residents who attended provided valuable feedback for the project. Subsequently, we mailed a large portion of the Napa Community and received again valuable feedback and much support.
- Through all of these interactions, the project has been reduced and other changes have been made. For example, the public meeting we held led us to:
 - Eliminate vineyard blocks close to Circle Oaks, as well as reducing/eliminating other blocks
 - Move construction-related traffic off of Circle Oaks Road.



Perspective on the Process

The County is in Charge

- Napa County, not the applicant, is in charge of determining if the project complies with local regulations and CEQA.
- At every turn, the County has taken a conservative view of the conservation regulations and applied them accordingly.

Napa County's Conservation Regulations

- Napa County's conservation regulations are widely recognized as the most far-reaching agricultural regulations in the world.
- Over the past decade, the rules have continued to change. And as such, the project has continued to evolve.



Perspective on the Process

The County is in Charge

Since the initial Notice of Preparation in 2008, the County has systematically responded to comments from appellants and others. Where legitimate concerns have been raised, the project has been revised, new analyses have been performed, and new mitigation measures and conditions of approval have been imposed.

Remaining disputes amount to differences of opinion, or efforts to retroactively change the 2008 General Plan.

The County staff and consultants have concluded that the project, as mitigated, will have no significant environmental effects.

In practical terms, all potentially significant environmental problems have been resolved. No significant impacts remain.



Perspective on the Project

What is the Walt Vineyard?

This is a proposal to plant a vineyard in land zoned for Agriculture.

Goal AG/LU-1 - Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.



Perspective on the Project Overview

- Nearly 2000 acres will remain undisturbed.
- The vineyard will cover 9% of the property.
- 660 acres of the property will go into permanent conservation easements.
- The undisturbed property is the same size as Bothe State Park and 2 ½ times the size of the city of Yountville.

Policy AG/LU-4: The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.



So, why are we here?

We believe the core of the dispute is two fold:

1. Proximity to Circle Oaks, a residential development surrounded by Agricultural land.
2. A desire by some to expand the County General Plan's current restrictions on development.

This conflict between Agriculture and Urban uses has long been recognized by the County of Napa and is addressed in the General Plan.

Policy AG/LU-15: The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a “right to farm”), even though established urban uses in the general area may foster complaints against those agricultural practices. The “right to farm” shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2, above.



Right to Farm Ordinance

Napa County has determined that the highest and best use for agricultural land as defined below is to develop or preserve said lands for the purposes of agricultural operations and it will not consider the inconveniences or discomforts arising from agricultural operations to be a nuisance if such operations are legal, consistent with accepted customs and standards and operated in a non-negligent manner.

If property you own, or are purchasing, or may purchase in the future is located close to agricultural lands or within agricultural lands, you may be subject to inconveniences or discomfort arising from agricultural operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, dust, chemicals, smoke, insects, operation of machinery during any 24-hour period, aircraft operation, and storage and disposal of manure. One or more of the inconveniences described above may occur even in the case of an agricultural operation, which is in conformance with existing laws and regulations and locally accepted customs and standards.

If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and a healthy agricultural sector.



For some it is about Changing the General Plan and Recruiting Support through Fear

Through this entire process, there has been a group of people who have worked to instill fear in their neighbors about what the project is. This is especially true given the scope and breadth of the EIR and the technical subjects it covers. They continue to promote and disseminate inaccurate information.

The truth is that most people do not, or will not, read the document. People don't understand what it says, or what it means. We saw that Friday with the presentations of a number of the experts who clearly had not read the Final EIR.

Given what people have said about the project, we can understand why they would be scared. At the same time, it is unfortunate that they are misled by inaccurate statements.



Going Beyond What is Required

The County and its experts, after years of study, concluded that the approved Walt Ranch project would have not significant impact.

Regardless of this, both we and Napa County included additional mitigations and protections well beyond what the experts recommended and the General Plan required. This conservative position permeates the Final EIR and the Mitigations. Examples include:

- Surface Water Monitoring Plan (developed with the City of Napa)
- Groundwater Monitoring and Mitigation Plan
- Alternate access for Heavy Equipment

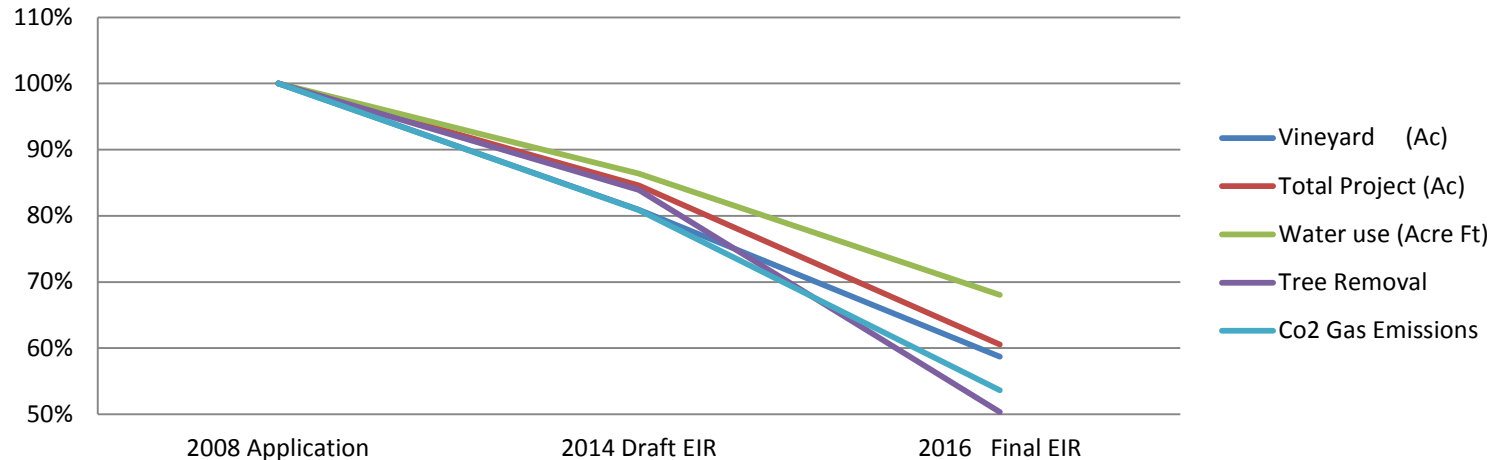
Given the above, we believe there is little risk associated with this vineyard. Further, we believe that we have demonstrated, in both this project and others in Napa, our willingness to go the extra mile and do things in the most responsible way.



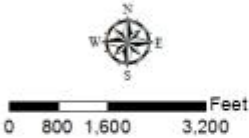
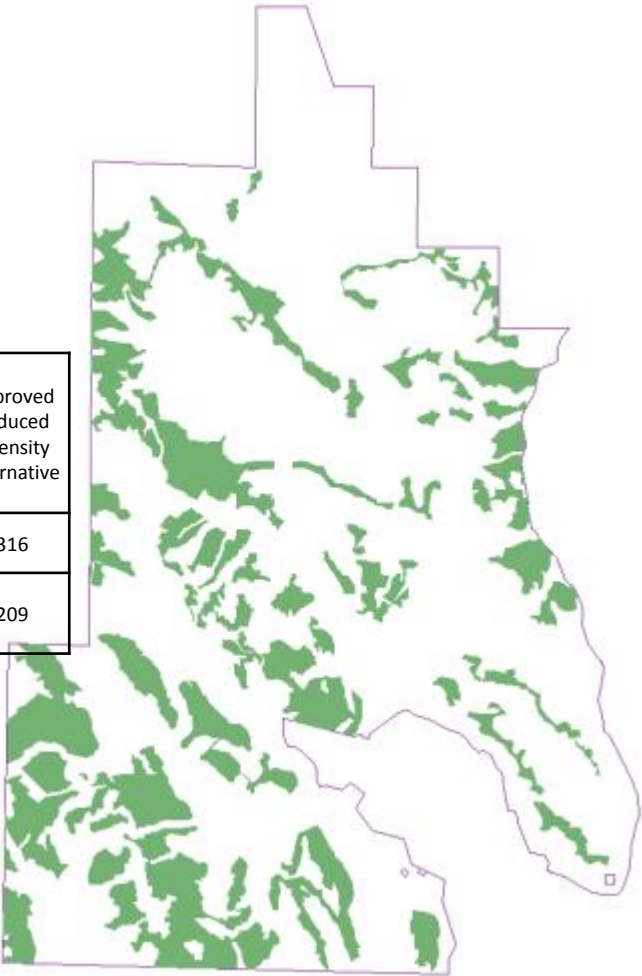
The Property and Project: Big Reductions in Scope

Through the EIR process, which was led by Napa County, along with voluntary reductions in response to community concerns, the project has been reduced dramatically from the original proposal.



Project Reductions - 2008 - 2016



Acreage Totals	Original Project	Applicant Revised Project #1	Mitigated Project	Applicant Revised Project #2	Approved Reduced Intensity Alternative
Total Acres (Gross)	538	507	429	410	316
Vineyard Acres (Net)	397	356	294	282	209



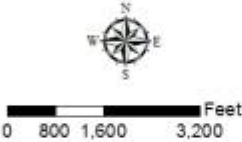
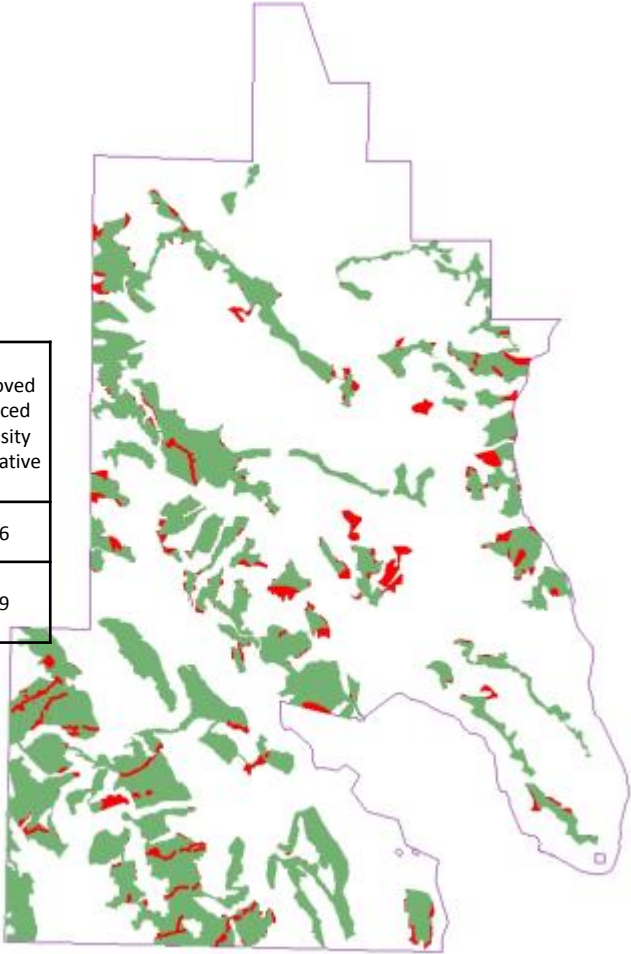
Legend

-  Original Project (538 acres)
-  Property Boundary






Wait Ranch
Original Project
538 Gross Acres

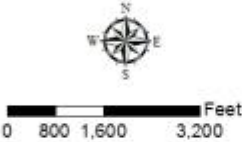
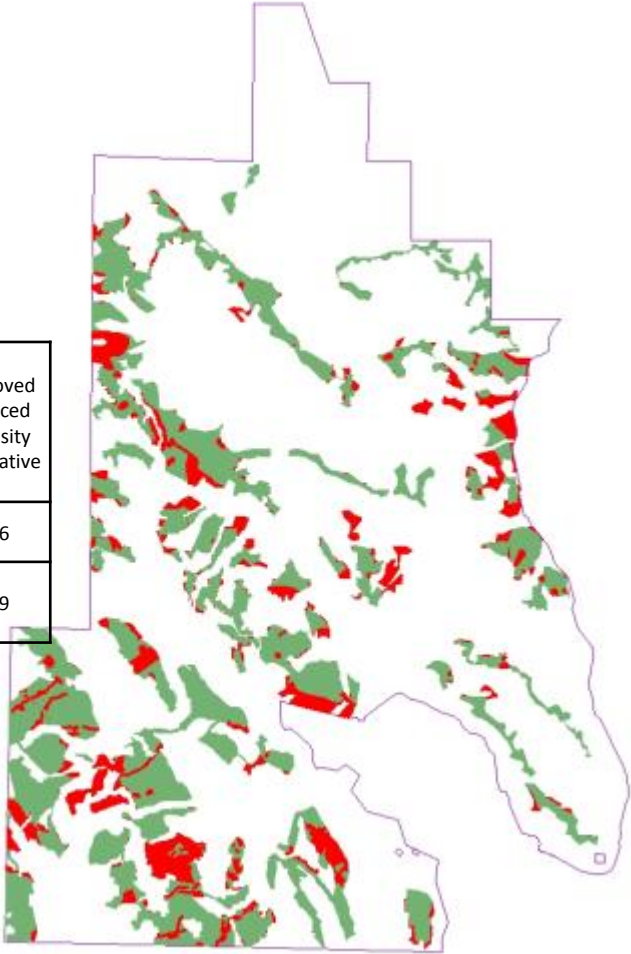
Acreage Totals	Original Project	Applicant Revised Project #1	Mitigated Project	Applicant Revised Project #2	Approved Reduced Intensity Alternative
Total Acres (Gross)	538	507	429	410	316
Vineyard Acres (Net)	397	356	294	282	209






Legend

-  Areas Removed From Original Project
(41 net acres, 31 gross acres)
-  Revised Project #1
(356 net acres, 507 gross acres)
-  Property Boundary

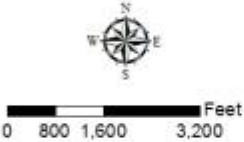
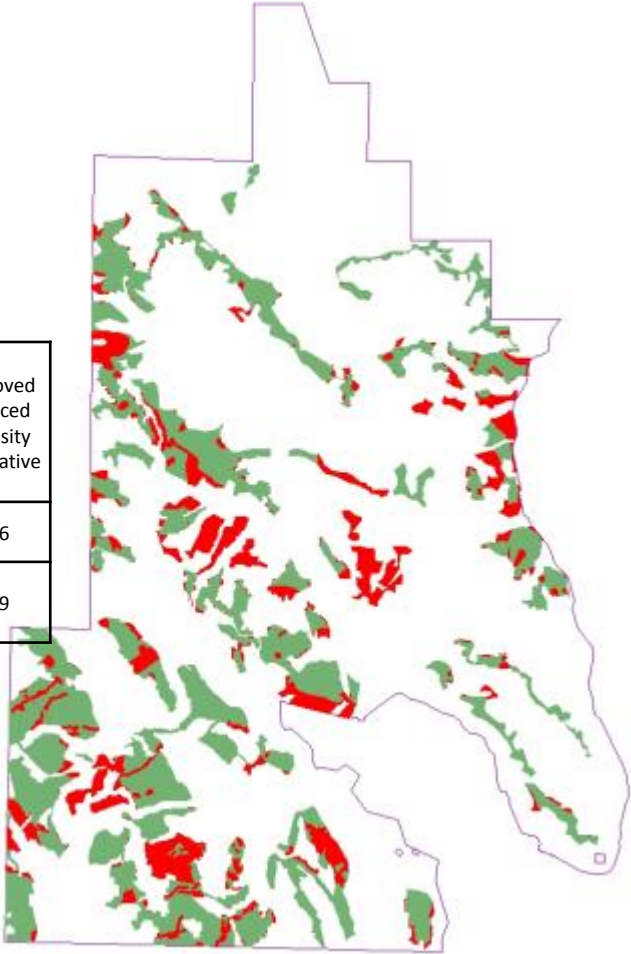
Acreage Totals	Original Project	Applicant Revised Project #1	Mitigated Project	Applicant Revised Project #2	Approved Reduced Intensity Alternative
Total Acres (Gross)	538	507	429	410	316
Vineyard Acres (Net)	397	356	294	282	209





Legend

-  Areas Removed From Original Project
(104 net acres, 109 gross acres)
-  Mitigated Project
(294 net acres, 429 gross acres)
-  Property Boundary

Acreage Totals	Original Project	Applicant Revised Project #1	Mitigated Project	Applicant Revised Project #2	Approved Reduced Intensity Alternative
Total Acres (Gross)	538	507	429	410	316
Vineyard Acres (Net)	397	356	294	282	209



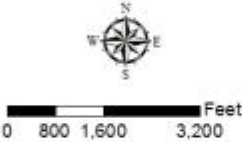
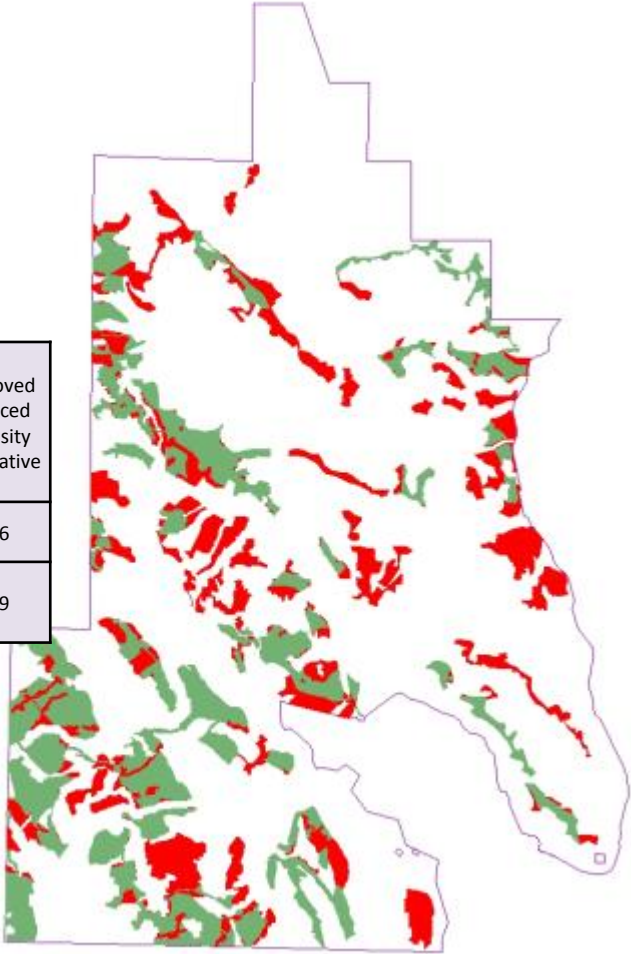
Legend

-  Areas Removed From Original Project
(115 net acres, 128 gross acres)
-  Revised Project #2
(282 net acres, 410 gross acres)
-  Property Boundary






Walt Ranch
Applicant Revised Project #2
282 Net Acres

Acreage Totals	Original Project	Applicant Revised Project #1	Mitigated Project	Applicant Revised Project #2	Approved Reduced Intensity Alternative
Total Acres (Gross)	538	507	429	410	316
Vineyard Acres (Net)	397	356	294	282	209



Legend

-  Areas Removed From Original Project (188 net acres, 222 gross acres)
-  Approved Reduced Intensity Alternative (209 net acres, 316 gross acres)
-  Property Boundary



A review of the Legal Requirements under
California State Law



General Standards re: Adequacy of EIR

An agency's decision to certify an EIR and approve a project is reviewed for prejudicial abuse of discretion. An abuse of discretion is established if the agency has not proceeded as required by law or its determinations are not supported by substantial evidence. (Pub. Resources Code, §§ 21168.5, 21168.) Where the claim is that the agency has not followed proper procedures, the Court does not defer to the agency's decision. Where the claim is that the EIR's analysis is incorrect, "the agency's conclusion [is] reviewed only for substantial evidence."

(Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 435.)



EIR Process:

Under CEQA, public hearings encouraged but not required.

- The County has held multiple public hearings to receive comments on the Environmental Impact Report, on public review periods, and on the decision whether to approve the ECP.

Agency must provide notice and an opportunity to provide comments on the scope of the analysis (30 days), and on the Draft EIR (45 days, “not to exceed” 60 days).

- The County requested scoping comments twice.
- Comment period on Draft EIR extended to 133 days.



EIR Process:

Preparation and certification EIR should generally take no longer than a year. (CEQA Guidelines, § 15108.)

- Here, EIR process has been ongoing for eight years.

EIR should generally be 300 pages in length.

- Here, the text of the EIR spans 1,100+ pages, not including technical appendices. The technical appendices, which were circulated with the Draft EIR and are part of that document, span another 1,100+ pages.



General Standards re: Adequacy of EIR

A reviewing court “may not set aside an agency’s approval of an EIR on the ground that an opposite conclusion would have been equally or more reasonable. . . . [The court] may not, in sum, substitute [its] judgment for that of the people and their local representatives.”

(Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564.)



General Standards re: Adequacy of EIR

“A project opponent or reviewing court can always imagine some additional study or analysis that might provide helpful information. It is not for them to design the EIR. That further study ... might be helpful does not make it necessary.”

(Laurel Heights Improvement Assn. v. Regents of the University of California (1988) 47 Cal.3d 376, 415.)



General Standards re: Adequacy of EIR

The “substantial evidence” standard of review “applies to disagreements concerning ‘the methodology used for studying an impact, and the reliability or accuracy of the data upon which the EIR relied.’ [Citation.] ‘The fact that different inferences or conclusions could be drawn, or that different methods of gathering and compiling statistics could have been employed, is not determinative in a substantial evidence review.’ The issue is not whether other methods might have been used, but whether the agency relied on evidence that a ‘reasonable mind might accept as sufficient to support the conclusion reached’ in the EIR. [Citation.]”

(North Coast Rivers Alliance v. Marin Municipal Water District Board of Directors (2013) 216 Cal.App.4th 614, 642-643.)



General Standards re: Adequacy of EIR

“‘[P]ointing to evidence of a disagreement with other agencies is not enough to carry the burden of showing a lack of substantial evidence to support [an agency’s CEQA] finding[s].’ [Citation.]

“... The court’s role is not to ‘weigh the evidence adduced before the agency or substitute its judgment for that of the agency. [Citation.]’ Rather, our inquiry ‘in reviewing the [a]gency’s exercise of its discretion, is to ‘ensure that an agency has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute ...’ giving appropriate deference to the [a]gency’s authority and presumed expertise. [Citation.]”

(North Coast Rivers Alliance v. Marin Municipal Water District Board of Directors (2013) 216 Cal.App.4th 614, 632.)



Assertions that Walt Ranch EIR is Inadequate:

- Biological surveys
- Impacts on “critical habitat” for listed species
- “Deferral of mitigation”
 - Groundwater monitoring plan
 - HSG field testing
- Analysis of greenhouse gas emissions
- “Piece-mealing”
- Analysis of alternatives



Biological Surveys:

“Appellants argue that because County did not conduct a protocol level study following one of the three survey guideline methodologies, the record does not contain substantial evidence supporting the board’s finding that the [project] will not have a substantial adverse impact on the kit fox.... The County was not required to conduct a protocol level study merely because [a commenter] requested it in its comment. CEQA does not require a lead agency to conduct every recommended test and perform all recommended research to evaluate the impacts of a proposed project. The fact that additional studies might be helpful does not mean that they are required.”

(Association of Irrigated Residents v. County of Madera (2003) 107 Cal.App.4th 1383, 1398.)



Biological Surveys:

“[Appellant] argues that the EIR must include a ‘quantitative analysis’; that is, in order to determine the effect on the population of affected species as a whole, the agency would have to ‘know the size of the population and ... quantify the potential effects of the project.’ However, ‘the issue is not whether the studies are irrefutable or whether they could have been better. The relevant issue is only whether the studies are sufficiently credible to be considered *as part of* the total evidence that supports the agency's decision. [Citations.] The sources of information supporting the EIR's analysis, we conclude, satisfies this test. Thus, even if the DEIR's analysis on this point ‘could have been better,’ it is adequate, sufficiently complete, and a good faith effort at full disclosure. [Citations.]”

(Save Round Valley Alliance v. County of Inyo (2007) 157 Cal.App.4th 1437, 1478-1468.)



Critical Habitat:

“Plaintiff contends the entire 18.9 acre project site is ‘*per se* significant’ because it was all designated a ‘critical habitat’ by the United States Fish and Wildlife Service (USFWS).... But plaintiff cites no cases deeming every square foot within these USFWS designations to be equally significant, or significant at all....”

(Banning Ranch Conservancy v. City of Newport Beach (2012) 211 Cal.App.4th 1209, 1233 [upholding EIR’s analysis as supported by substantial evidence].)



Critical Habitat:

Species analyzed in EIR:

- California Red Legged Frog: nearest mapped unit critical habitat does not encompass project site. Surveys performed in 2007, 2008 and 2012. “[N]o evidence of CRLF has been found on the property.” Mitigation incorporated to avoid direct impacts.
- Foothill Yellow-legged Frog. Not listed under Federal or California Endangered Species Acts. No designation of “critical habitat.” No impacts on streams or wetlands with the exception of minor stream crossings. Mitigation incorporated to avoid direct impacts.
- Western Pond Turtle. Not listed under Federal or California Endangered Species Acts. No designation of “critical habitat.” Over 95% of habitat to be undisturbed. Mitigation incorporated to avoid direct impacts.



CEQA Mitigation:

“[T]he question is only whether there is substantial evidence to support [the respondent’s] conclusion. [¶] In answering that question, the reviewing court must consider the evidence *as a whole*. ... The proper judicial goal ... is not to review each item of evidence in the record with such exactitude that the court loses sight of the rule that the evidence must be considered as a whole.”

(Laurel Heights Improvement Assn. v. Regents of the University of California (1988) 47 Cal.3d 376, 407-408.)



Groundwater Mitigation:

- Pump test and modeling shows that no impact to COCWD wells will occur.
- Mitigation measure adopted to provide further assurance of no impacts.
- Measure requires preparation of groundwater monitoring and mitigation plan.
- RCS has submitted plan, and County has adopted condition of approval requiring implementation of plan.
- Condition is fully enforceable.



Groundwater Mitigation:

- Groundwater plan is not used as a substitute for analysis. Rather, plan is provided to ensure that impacts will not occur.
- Groundwater plan will be administered and enforced by the County, not by the applicant.
- In the event water levels in COCWD wells decline as a result of Walt-related groundwater use, pumping regime can be adjusted as necessary to avoid impact. Menu of options is feasible and ensures that, if impact is seen and attributable to Walt Ranch pumping, steps can be taken to avoid impact.



Groundwater Mitigation:

Monitoring + menu of actions to respond to observed impacts = appropriate CEQA mitigation:

- *City of Hayward v. Trustees of California State University* (2015) 242 Cal.App.4th 833, 854-855 [transportation demand management plan];
- *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 524–525 [upholding mitigation measures that required “a qualified biologist to conduct preconstruction surveys for [listed species], and to relocate any found specimens”]; and
- *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1071 [requirement to “avoid” any “adverse hydrologic conditions” was sufficiently specific]. Compare *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1119 [no evidence that plan to replace groundwater supplies would be feasible].



HSG Field Confirmation:

Condition of approval requires site-specific evaluation of each vineyard block prior to disturbance to confirm modification from HSG “D” to HSG “C” is warranted. If testing does not confirm modification is warranted, vineyard block must be redesigned. Appropriate CEQA mitigation:

- *Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 226 [noise monitoring program];
- *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 475-476 [upholding parking mitigation measure that required agency to monitor impact and work with local jurisdictions to implement permit program or other options]; and
- *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 412 [monitoring as component of mitigation].



HSG Field Confirmation:

Appellants cite draft Waste Discharge Requirements issued by Regional Board:

“Agencies are not required to engage in ‘sheer speculation’ as to future environmental consequences of the project. [Citation.] Similarly, in the case of draft or proposed regional conservation plans, there is no express legislative or regulatory requirement under CEQA that a public agency speculate as to or rely on proposed or draft regional plans in evaluating a project. (See Appen. G to the CEQA Guidelines [“A project will normally have a significant effect on the environment if it will: (a) Conflict with *adopted* environmental plans and goals of the community where it is located”], (italics added)).”

(Chaparral Greens v. City of Chula Vista (1996) 50 Cal.App.4th 1134, 1145.)



Analysis of GHG Emissions:

Center for Biological Diversity v. Department of Fish and Wildlife (2015) 62 Cal.4th 204 (Newhall Ranch):

- EIR's analysis of GHG emissions subject to review for substantial evidence.
- "Business as usual" analysis – comparing GHG emissions with those anticipated without measures to reduce such emissions – permissible if supported by substantial evidence.
- Comparison with California Air Resources Board's state-wide Scoping Plan was permissible, but EIR erred "in failing to substantiate its assumption that the Scoping Plan's statewide measure of emissions reduction can also serve as the criterion for an individual land use project." (62 Cal.4th at 228.)



Analysis of GHG Emissions:

Walt Ranch EIR:

- Emissions not compared with State-wide scoping plan.
- Instead, emissions compared with geographic- and sector-specific climate action plan (Solano County Climate Action Plan), as directed by *Newhall Ranch* decision. (62 Cal.4th at p. 230.)
- County also evaluated emissions using thresholds recommended by air districts for both construction and operational emissions: 1,100 MTCO₂e – another approach recommended by *Newhall Ranch* decision. (62 Cal.4th at pp. 230-231 [endorsing reliance on threshold recommended by Bay Area Air Quality Management District].)



GHG Mitigation:

Preservation of compensatory land is appropriate mitigation to address GHG emissions:

- *Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal. App. 4th 477, 495 [preservation of compensatory habitat];
- *Masonite Corporation v. County of Mendocino* (2013) 218 Cal.App.4th 230 [agricultural easements may appropriately mitigate for the direct loss of farmland caused by a project, even though easement does not replace the lost resources];
- *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296 [upholding measure requiring compensation for agricultural land impacts with easement at 1:1 ratio];



GHG Mitigation:

- *Save Panoche Valley v. San Benito County* (2013) 218 Cal.App.4th 503, 529 [upholding conservation as mitigation; “[t]he goal of mitigation measures is not to net out the impact of a proposed project, but to reduce the impact to insignificant levels”];
- Pub. Resources Code, § 21083.4, subd. (b)(1) [conservation easements identified as acceptable mitigation for the direct loss of oak woodlands]; and
- CEQA Guidelines, § 15126.4, subd. (c) [“Measures to mitigate the significant effects of greenhouse gas emissions may include, among others: [¶] (4) Measures that sequester greenhouse gases.”].



“Piece-mealing”:

“[A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.”

(Laurel Heights Improvement Assn. v. Regents of the University of California
(1988) 47 Cal.3d 376, 396.)



Piece-mealing:

- *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209 [rejecting claim that park's shared access made adjacent mixed use project "reasonably foreseeable"];
- *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1450 [EIR for 27-lot subdivision did not need to analyze impacts of second units on each lot; "the possibility that future lot owners will or will not build a second unit is extremely uncertain, and any impact of such second units is highly speculative."]; and
- *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 227 [no growth-inducing impact because purpose of sewer construction was "first to meet the needs of the current project. And the nature of the project is not to facilitate additional development"].



Piece-mealing:

Development of 35 estates is not a reasonably foreseeable consequence of approval of the ECP:

- Roads on property already exist. Roads will be improved and upgraded to reduce erosion and to provide access to vineyard blocks, but new roads are not planned, and are not designed to provide anything other than vineyard access.
- Wells designed to provide water supply for vineyards, not houses. Condition of approval restricts use of water.
- 35 parcels already exist; application does not include subdivisions or lot line adjustments.
- Vineyard does not depend upon residential development, or infrastructure related to residential development. Rather, all proposed improvements are directly related to constructing and operating vineyard.



Feasibility and Alternatives:

EIR analyzes in detail three alternatives:

- No Project,
- Reduced Intensity, and
- Multiple Resources Protection.

“Environmentally superior alternative” is “Reduced Intensity Alternative.”



Feasibility and Alternatives:

Director Morrison approved “environmentally superior alternative.” That alternative has reduced further in size based on (1) reductions required by engineered drainage improvements, and (2) voluntary reductions proposed by applicant to address comments.

As approved, project will result in no significant and unavoidable impacts. The County is therefore not required to adopt CEQA findings with respect to alternatives, or a statement of overriding considerations with respect to the project. (Pub. Resources Code, § 21081.) Nevertheless, findings prepared by County staff include such findings, and substantial evidence supports these findings.



Feasibility and Alternatives:

“Buy an existing vineyard”:

- Equivalent to “no project.”
- Does not achieve project objectives.
- Does not avoid significant and unavoidable impacts, because there are none.



Feasibility and Alternatives:

Findings regarding the feasibility of alternatives upheld if supported by substantial evidence:

- *San Franciscans Upholding the Downtown Plan v. City of San Francisco* (2002) 102 Cal.App.4th 656;
- *Sierra Club v. County of Napa* (2005) 121 Cal.App.4th 1490;
and
- *Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603.



Feasibility and Alternatives:

Estimated cost of developing vineyard land, as compared to cost of acquiring established vineyard, is relevant to determining whether requiring further reductions in size of vineyard is feasible:

- *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587 [in determining whether alternative is feasible, issue is not applicant's capacity to absorb cost, but whether additional cost of alternative is objectively reasonable].



General Plan Consistency



Why is General Plan Consistency Relevant?

Constitution for all future development and all land use decisions must be consistent with the General Plan.

County uses General Plan Policies as CEQA Significant Thresholds.

Napa County's General Plan reflects the policy decisions of our community that balances competing interests, such as, agriculture, housing, economic development, and environmental resources, all of which play roles in supporting our quality of life.

Legal Standard: The County has broad discretion to construe the policies in light of the Plan's purposes. Balance does not require equivalence, but rather a weighing of pros and cons to achieve an acceptable mix. [*Friends of Lagoon Valley v. City of Vacaville*, 154 Cal.App.4th 807 (2007).]



County Agricultural Policy

Napa County has a long history of agricultural preservation that focuses on continuing to insure the viability of agriculture, including holding ourselves to the high environmental standards in the industry.

- The County created the first Agricultural Preserve in 1968.
- Measures J and P continued legacy to ensure agriculture in balance with environment remains the highest and best use of land.

Although the County has grown, it has grown relatively slowly, particularly compared to the other counties in the Bay Area. In fact, the population of our entire County is less than the population of Santa Rosa.

The General Plan identified: Development Pressure on Agricultural Land and the Continued Economic Viability of Agriculture as Challenges that the County faces. This is in recognition of the inherent relationship between our Agricultural Preserve and a strong agricultural economy.

- General Plan's first AG/LU Goal establishes Agriculture as the County's primary land use.



The General Plan & Conservation

Napa County's commitment to agricultural preservation and open space conservation has been extraordinarily successful when compared to other Bay Area counties.

The General Plan recognizes that a health agricultural economy also requires a healthy and balanced environment. This project reflects that balance between our need for Agriculture and a health Environment.

In 2009 the General Plan categorized 93 percent of the County as being "open space".

Goal CON-1: 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.



General Plan Goal CON-1

- CON-1 Goal: 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, minimizing conflicts with the natural environment and the agriculture it supports.
- ANALYSIS:
 - Consistent with the General Plan, the site is zoned for agriculture use with vineyards being allowed within the zoning designation.
 - The project has been analyzed, mitigated, and reduced to specifically insure that any conflicts are minimized.
 - The County approved the Reduced Intensity Alternative (Environmentally Superior Alternative) NOT the proposed project.



General Plan Policy CON-18

- Policy: To reduce impacts on habitat conservation and connectivity the County shall require retention of movement corridors of adequate size and quality to allow for continued wildlife use based on needs of species (paraphrased)
- ANALYSIS:
 - Mitigation requires corridors \geq 100 feet in width
 - Nearly 2000 acres of property will remain open space.
 - Permanent protection of large swaths of natural woodland landscape in areas selected by a qualified biologist as important wildlife movement corridors.
 - Four northwest-southeast trending woodland corridors were selected, in addition to four north-south corridors, including stream corridors.

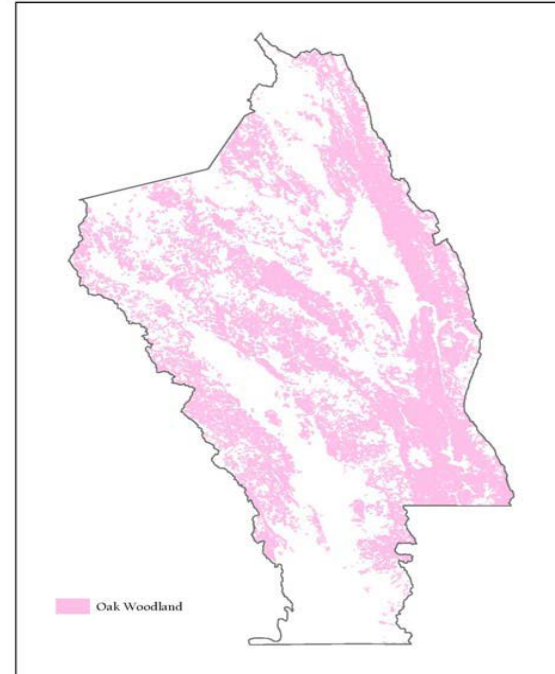


General Plan Policy CON-24

- Policy: Maintain and improve oak woodland habitat to provide slope stability, soil protection, species diversity, and wildlife habitat via preservation, compliance with Oak Woodland Preservation Act, or preservation of lost woodlands at 2:1 ratio (paraphrased)
- ANALYSIS:
 - Project avoids 94% of the trees on the property.
 - Preserves lost oak woodlands at 2:1 ratio (525 acres) protected via conservation easement.
 - The project is consistent with Napa County's voluntary Oak Woodland Management plan, which is the highest Napa standard.
 - Additional avoidance is simply not necessary or feasible given the time, costs, and acreage reductions to date.

W A L T R A N C H

- Oak woodland is the most common land cover in the County, occurring on over 167,000 acres (33% of the County's area).
- It occurs throughout the County across a broad range of elevations, on gentle to steep slopes.
- Project oak woodland removal equals .0016 percent of County Oak Woodlands.





General Plan and Agriculture

- The General Plan EIR estimated that the County would have 12,500 new acres of vineyard by 2030.
- Based on a straight-line projection, the County anticipated approval of roughly 5,000 acres. To date, the County has approved 3,587 new acres of vineyards.
- Today we see some who support the agricultural preserve but are opposed to agriculture.
- This is a project that balances the competing policy objectives of the General Plan Agriculture and Land Use Element with its Conservation Element.
- Walt Ranch is an agricultural project on a large 2300-acre property leaving almost 2000 acres in open space = SMART PLANNING AND BALANCED LANDUSE DECISIONS that is consistent with our County's long history of protecting and preserving both Agriculture and the Natural Environment.



What is being appealed?

- Surface Water Quality – Nutrients and Monitoring
 - Erosion
 - HSG Soil Changes
 - Engineering
- Groundwater availability – Project and Cumulative impacts
- Circle Oaks Road Use – Project impacts
- Biological – Animal species
- Biological – Plants and Trees
- Greenhouse Gas emissions



**Surface Water Quality
Nutrients, Erosion and Monitoring**

Appeal: Appellants argue that the addition of vineyards on the property will increase sedimentation, nutrients to surface water, increase TMDL levels in the Napa River, and threaten wildlife.



Response: Both the DEIR and the FEIR, after exhaustive study, concluded that there **was no impending threat** for contamination of surface waters from erosion or nutrients.

Regardless, we approached the City of Napa to work out a monitoring and mitigation agreement. This agreement is **voluntary** on our part and was the first of its kind in Napa County.

The first samples under this plan have already been taken to establish important baseline water quality data.



Surface Water Runoff: Erosion and Sedimentation

- Contrary to the recent public statements about this project, water quality in the Milliken watershed **is expected to improve** due to the reduction of sedimentation and soil loss in both the Milliken and Capell Watersheds.
- **Sedimentation/Soil Loss is expected to decrease** in both the Milliken (43%) and Capell (13%) watersheds. The +/- 21 miles of already existing roads will be graveled and/or improved as an important part of reducing sediment load.
- The project will not result in an increase in the rate or volume of surface water runoff in the Milliken Creek watershed.
- The applicant is committed to organic farming on the property following vineyard establishment.
- **The data provided by the scientists who have studied the project closely point to the conclusion that developing these vineyards in the responsible way proposed will materially benefit this watershed.**



Surface Water Runoff HSG changes, infiltration, and Peak Flows

Appeal: The General Plan standard for Napa County requires that there is no net increase of erosion and no increase of runoff from the property.

In 2014, NRCS sent a letter to Napa RCD indicating that the infiltration rate in rocky soils (e.g. Hambright) could be increased with deep ripping. The EIR was based on this assumption.

In June 2016, NRCS sent a letter that indicated that the first letter was theoretical, and that further testing on the site should be done to confirm the change, and the increase in infiltration. This called into question the design of the vineyard with relation to the peak flow and infiltration assumptions. Appellants are questioning the runoff assumptions.

Response:

PPI Engineering, in conjunction with NRCS and Napa County Engineering, conducted field testing (10/20/16) of ripped vineyards on the Walt Ranch (10 years old) to confirm that the soil depth and infiltration rate increased.

The testing not only confirmed the thesis that the soil types would change, but it also confirmed that the increase in soil depth is permanent. In fact, the observed change in soil type was greater than expected.

As a result, the *assumptions used in the modeling were confirmed and are conservative.*





Groundwater Availability

Appeal: The appellants suggest that the EIR's conclusions about groundwater are flawed. They question the following analysis and assumptions:

- Available Groundwater
- Recharge Capacity
- Well interference
- Groundwater connectivity to streams and the MST
- Cumulative Groundwater needs (Walt, Circle S, Circle Oaks)
- Adequacy of Groundwater Mitigation Plans

Response: The subject of groundwater availability is an important one affecting all players in Napa County.

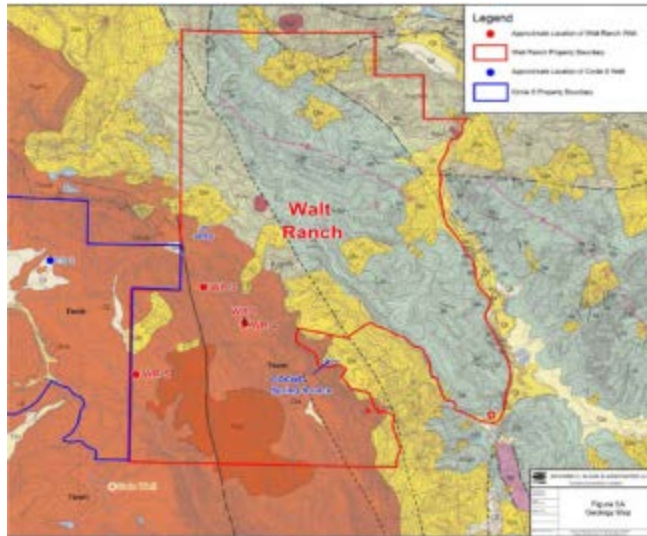
Planning Director Hilary Gitelman required intensive empirical analysis and study of the geology of the property, existing and neighboring wells, assessment of well interference (if any), and an assessment of recharge. These studies meet and go beyond the requirements of Napa County's WAA.

In addition, an extensive Groundwater Monitoring and Mitigation Plan (GWMMP) was created to monitor protect neighboring wells, if any interference is observed.

The results of the studies and GWMMP are described in subsequent pages.

WALT RANCH

Groundwater Availability



Geology key

Orange - Sonoma Volcanics (volcanic rocks)

Yellow – Landslide deposits

Green – Great Valley Sequence (sandstone, shale, mudstone)

- This property has ample available groundwater. Located in the Sonoma Volcanics. Extensive testing confirmed this. Due to the rocky nature of the soils, they are not connected to streamflows
- 782 acres of the Walt Ranch lie in the Sonoma Volcanics formation, which is the principal hillside water-bearing formation in Napa. Conservative estimates suggest **1.4 and 3.5 Billion gallons** (4,310 – 10,700 AF) are available under only 1/3 of the property
- Well monitoring and pump testing were undertaken to determine if there was any impact on neighboring wells. During this pumping test, **no impact** was measured in any of seven neighboring wells. Ongoing monitoring of wells and mitigations are part of the EIR.
- Water use for vineyards has been reduced by 32% from the original proposal.
- Wind machines, drip irrigation, and low-flow frost protection are already in use at the property.
- The geology demonstrates that Walt Ranch is not connected to the MST, which is >3 miles away.

Groundwater Availability

<u>Rainfall Source:</u>		Napa County Isohyets		PRISM Climate Group		CDEC/DWR Atlas Peak Raingage	
<u>Data Date range:</u>		1900-1960		1980-2010		WY1988-89 - WY2013-14	
Deep Perc Percentage Source	Estimated Deep Perc Percentage	Longterm Average Annual Rainfall (in)	Average Annual Recharge Estimate (AF)	Longterm Average Annual Rainfall (in)	Average Annual Recharge Estimate (AF)	Longterm Average Annual Rainfall (in)	Average Annual Recharge Estimate (AF)
Circle S Report by RCS	7%	35	161.3	36.8	169.6	40.0	184.3
LSCE&MBK 2013	8%	35	184.3	36.8	193.8	40.0	210.7
USGS 1977 and USGS 2003	9%	35	207.4	36.8	218.0	40.0	237.0
Nonner 2002, LSCE&MBK 2013	10%	35	230.4	36.8	242.3	40.0	263.3
BHFS 2012	10.5%	35	241.9	36.8	254.4	40.0	276.5

Adapted from Table A in RCS Memorandum, "Response to Comments, Wait Ranch Draft Environmental Impact Report (DEIR)." (FEIR Appendix Q)

Project Groundwater Demand = 144.5 AF/yr

Groundwater Availability

There is plenty of Annual Recharge

Project Use

The recharge estimates were developed using conservative deep percolation rates (7%). These are 20% – 30% lower than Napa County has used on similar projects.

- Woolls Ranch – 10%

Annual Vineyard Use – **145 af/yr**

Annual Recharge – **161 af/year**

Annual Recharge (10% perc) – **230 Af/yr**

Cumulative Use

Walt, Circle S, and Circle Oaks

Water Use at Circle Oaks is presented as the total water requirements for Circle Oaks, not simply the wells located in the Sonoma Volcanics, to be conservative.

Annual Use – Walt (145 af) + Circle Oaks (56.7 af) + Circle S (189 af) = **390.7 af/yr**

Annual Recharge – **486 af/yr**

Annual Recharge (10% perc) – **694 af/year**

Groundwater Availability

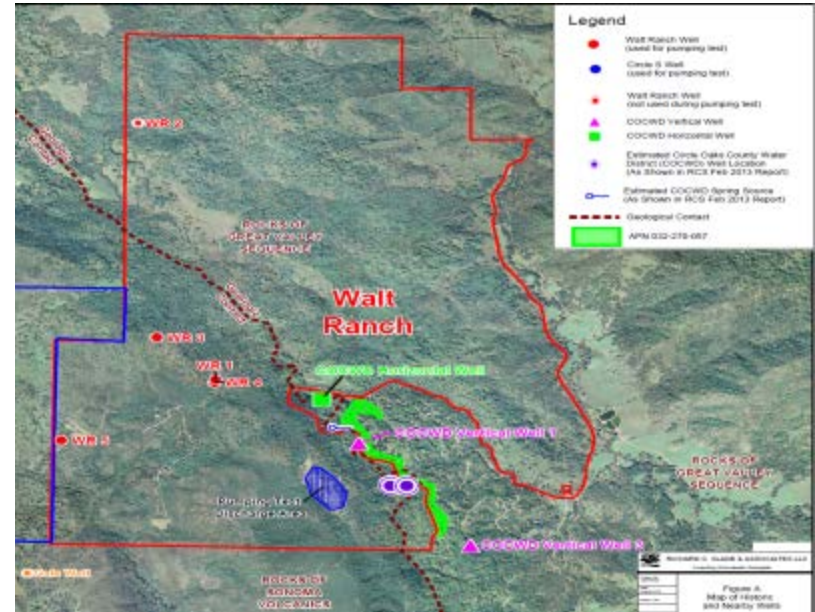
The Wells do not interfere with one another...

96 hour test – September 2009

The largest well was pumped for 96 hours continuously, at 150 gpm

Conclusions:

1. “No ...drawdown attributable to the pumping of WR-3 was observed in any of the seven observation wells.”
2. The closest monitored well was 1600 ft (WR – 4).
3. “The more distant the wells are apart, the less chance there is for hydraulic communication between them.” - RCS 2014
4. Distance from COCWD Wells to the closest Walt well (WR-4) are:
 1. COCWD Well #1 – 3,180 ft.
 2. COCWD Well #3 – 6,420 ft
 3. COCWD Well #4 – 2,100 ft
5. **Conclusion:** “It is our opinion that the cumulative effect of temporary water level drawdown due to pumping for irrigation purposes at both properties will not have a significant impact on offsite wells and springs located nearby the Walt Ranch and Circle S properties.” - RCS 2014



Groundwater Availability

Groundwater Monitoring and Mitigation Plan

Based on empirical data, the hydrogeologist has concluded **that the project is not expected to have a significant impact** on groundwater levels or neighboring wells.

Despite these conclusions, an extensive Groundwater Monitoring and Mitigation Plan has been developed as part of the project. Five key steps are proposed:

1. Data collection and Well history
2. Installation of monitors on existing wells (including COCWD) and drilling new monitoring wells at strategic sites
3. Development of Baseline data set
4. Monitor conditions and impact of vineyard development (if any)
5. If it is determined that the well production of pre-existing offsite wells drop to a level which does not support existing or planned land uses, then the following mitigations may be implemented (this is the trigger):
 - a) Reducing the peak pumping rates of seasonal irrigation in all or selected wells
 - b) Reducing the pumping volume of all or selected wells.
 - c) Shifting groundwater extraction to different project wells
 - d) Ceasing production in specific project wells and replacing that production
 - e) Lowering the pump depths in offsite wells
 - f) Development of new offsite wells to replace those that have been impacted
 - g) Providing an alternate source of water to the owner of the impacted well

Groundwater Availability

Trigger Points

- The data will be analyzed by a hydrogeologist and appropriate levels will be created, with solid data.

Determination of Cause

- COCWD management

Hydrogeologist works for Napa County

W A L T R A N C H

Circle Oaks Drive Access

Appeal: Appellants claim the EIR failed to adequately study the geotechnical conditions, traffic, noise, air quality and other effects of the use of Circle Oaks Drive, a county road with a specific concern related to construction traffic.



Response: Applicant volunteered, and the County added as mitigation, a condition that all construction equipment (and those over 80,000 lbs) must take an alternative access away from the neighborhood.

Employee access limited to specific hours.

A survey of the road's condition will be completed prior to development. This survey will allow the County to determine whether project construction causes any impacts to the road or infrastructure. Although no impacts to the road or underground pipelines are anticipated, mitigation requires that we repair any problems caused by the project.

The use of County-maintained roads for Ag use is consistent with the General Plan.



Biological – Animal Species

Appeal: The appellants questioned the impacts on multiple animal species. They include the Foothill Yellow Legged Frog, the California Red Legged Frog, Western Pond Turtle, Mountain Lions, Peregrine Falcons, White-tailed Kites, etc.



Response: Extensive surveys were undertaken over many years by qualified biologists to establish the presence and habitats of the species in question.

Avoidance was the primary mitigation.

Mitigations: All the vineyards require the following:

- Pre-construction surveys for the presence of the species.
- Remove vineyard to protect habitat (WPT nesting and upland habitat), resulting in 98% preservation.
- Setbacks from the vineyards to protect habitat.
- Larger setbacks to protect the upland habitat of multiple species
- Protective fencing in construction areas to protect wildlife habitat during construction
- Develop invasive species program to prevent predatory bullfrogs from establishment in reservoirs
- All construction workers will be trained to identify and avoid FYLF, CRLF, and WPT species and habitat.

Wildlife corridors of a minimum of 100 ft to provide connectivity for wildlife movement.

- Many corridors will be significantly larger than 100 ft.
- Smaller block design encourages larger wildlife corridors.

W A L T R A N C H

Biological – Plant Species

Appeal: The appellants questioned the impacts on a long list of Plant species and Woodland Alliances. The list is presented on the next page.



Response: Extensive surveys were undertaken over many years by qualified biologists to establish the presence and habitats of the species in question, and a Biological Resources Management Plan (BRMP) was developed by those experts.

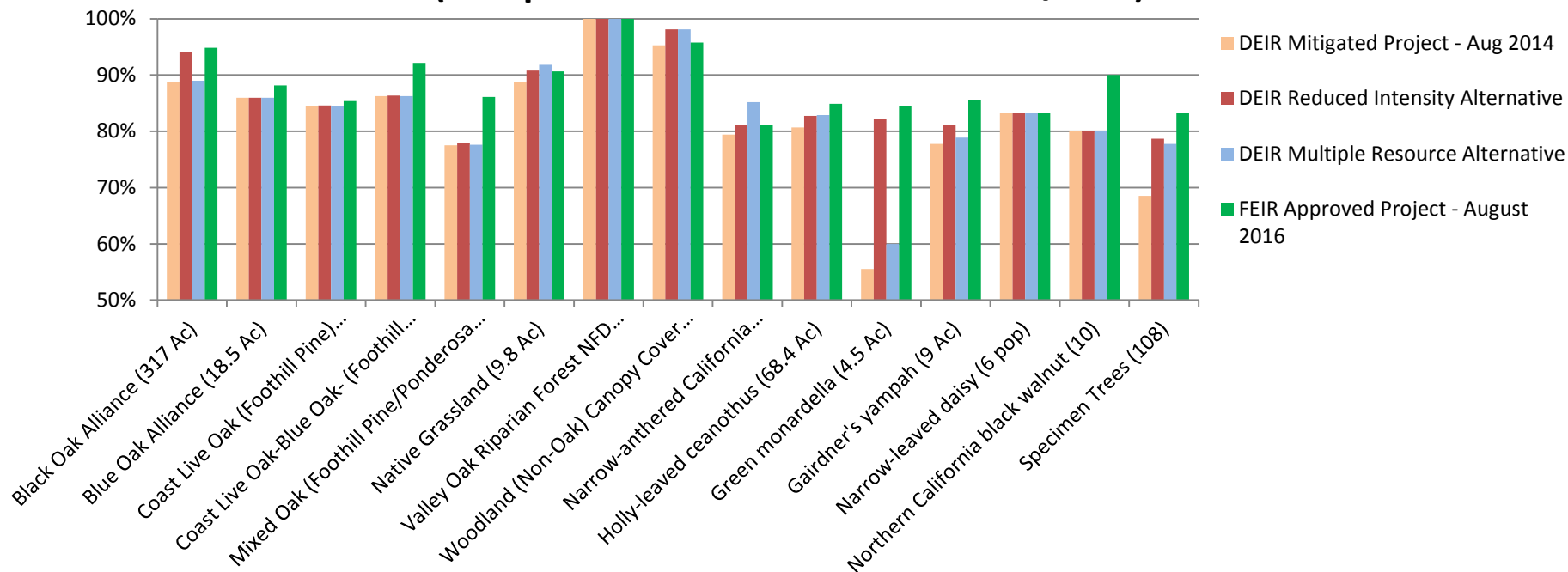
Avoidance and preservation of sensitive plants and habitats was the primary mitigation.

Mitigations: All the vineyards require the following:

- In all cases, retained populations are above 80% .
- Conservation easements are required for the long – term preservation of nearly all species.
- Sensitive habitats will be identified and protected with fencing prior to construction.
- Replanting, propagation, and preservation of many of the species will take place at a 1:1, 2:1, or 5:1 ratio as directed by the General Plan.

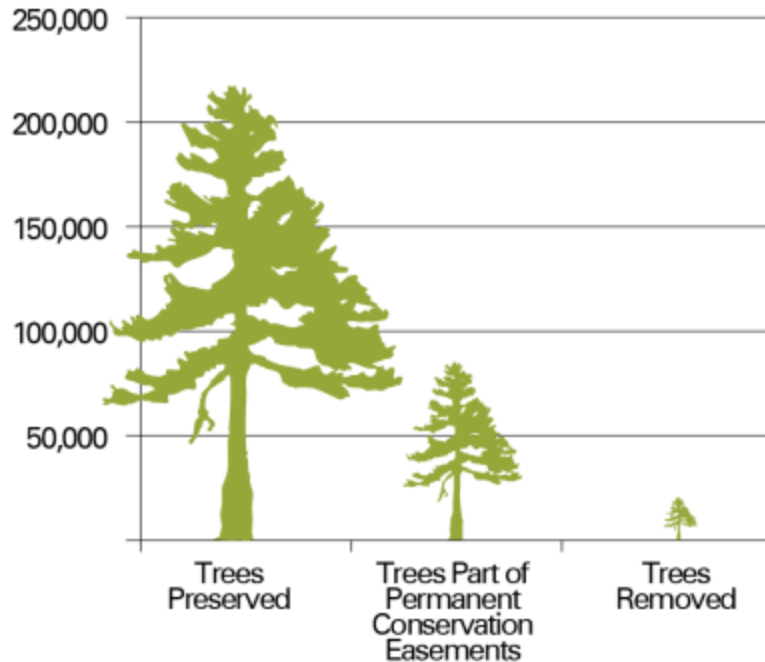
WALT RANCH

Avoidance of Sensitive Habitats and Plants - by Species (Comparison of Alternatives in DEIR/FEIR)



W A L T R A N C H

Oak Woodlands / Trees



- The FEIR calls for a combination of **avoidance, replanting, and preservation and conservation** of sensitive species on the property, including trees.
- More than 221,000 (94%) of the trees will be conserved.
- At a minimum, 525 acres (30%) of oak woodlands will be placed into permanent conservation easements.
- Depending on the specific species or habitat of tree or plant, replanting and preservation in perpetuity will take place on a 1:1, 2:1, or 5:1 basis.
- The proposal is consistent with Napa County's voluntary Oak Woodland Management plan, which is the highest Napa standard.



Greenhouse Gas Emissions

Appeal: Appellants state the EIR's analysis of GHG emissions does not comply with CEQA.

Response:

- Because Napa County has not adopted a Climate Action Plan (CAP), the EIR uses the Solano County CAP, and its analysis of emissions from the agricultural sector, as a basis for the analysis.
- EIR also analyzed GHG emissions – during both construction and operations – using thresholds recommended by Bay Area Air Quality Management District and Sacramento Metropolitan Air Quality Management District.
- No other potential threshold has been identified.
- Analysis performed using recommended modeling tools.

Mitigations and Actions:

1. 525 acres of woodlands on the property will be permanently conserved to offset GHG emissions.
2. With the preservation, both the project construction and ongoing operations were well below the existing thresholds for GHG emissions.
3. As new GHG rules and guidance have come from local agencies and courts, Napa County has updated the analysis and demonstrated that the project complies with each GHG emission standard.



Conservative and Cautious Plans

Through this 10 year process, Napa County has consistently applied the most conservative assumptions in the assessment of the Walt Ranch proposal, and the project has been reduced. After extensive study and review, the EIR concludes that **significant impacts are not expected**.

Despite this conclusion, we have established ongoing monitoring and mitigation plans to provide further protection to the environment and neighbors in four distinct areas:

1. Groundwater
2. Surface Water
3. Alternate Access for heavy equipment
4. Phasing of Vineyard development



Bottom Line

This proposal is to plant a vineyard in a part of the county zoned for agriculture in Napa Valley. Nothing more.

During the last two decades we, as applicants, have demonstrated our commitment to responsibility and the environment through our actions (organic farming, LEED construction, engagement in the community).

We are proud of the proposal. We believe it is balanced, responsible, and has been responsive to public comment as well as being consistent with Napa County's General Plan.

Thank you.