Revised Conditions of Approval

WALT RANCH APPEAL HEARING

BOARD OF SUPERVISORS

December 20, 2016

1. The permittee shall strictly conform to all provisions of the approved revised Agricultural Erosion Control Plan #P11-00205-ECPA (dated July 5, 2016). It is the responsibility of the permittee to communicate the requirements of all conditions and mitigation measures to all designers, contractors, and professionals related to the implementation and maintenance of the ECP to ensure compliance is achieved.

2. The permittee shall fully comply with the Mitigation Measures contained in the Updated Mitigation Monitoring and Reporting Program (dated December 2016) and the four (4) Conditions of Approval listed in Table 2 as follows:

(a) All Construction Equipment shall access the Walt Ranch Property at the northernmost access point directly off of State Route 121 (“Gate 1”). No Construction Equipment or vehicles weighing greater than 64,000 pounds shall use Circle Oaks Drive. Construction Equipment is defined in Table 3-5 of the EIR, including: excavators, graders, rubber tired dozers, tractors, loaders, and backhoes.

(b) Western Pond Turtle (WPT) Exclusionary Fence Specifications. Consistent with Mitigation Measure 4.2-10, exclusion fencing shall be installed along the length of the access road. Recommended fencing for exclusion of WPT consists of silt fencing with a minimum height of 18 inches, trenched and backfilled to a depth of 6 inches. The exclusion fencing shall be placed on both sides of the portions of the access road that run through WPT nesting and upland habitat, including across the four existing stream crossings. WPT exclusion fencing shall be installed in early April to allow WPT hibernating in upland habitat to return to aquatic habitat. The portions within the stream crossings shall be removed during the winter period (October 16 through March 31) of each year, and shall be reinstalled in early April prior to equipment delivery.

(c) Specimen Tree Trimming. A qualified arborist or biologist shall monitor any limbing of the specimen tree located approximately 200 feet from the access gate.

(d) The following protective measures shall be followed for the protection of archeological and cultural resources:

i) No construction machinery or construction machinery transport shall occur unless the dirt access road is hard and dry; normal vehicles may continue to use the access road as needed, but the road shall be avoided when wet, slippery, or otherwise in a condition where tires would dig in deeply;

ii) No vehicles shall drive or park off of the access road anywhere within Site CA-NAP-257 Locus A boundaries;

iii) No construction equipment, materials, or other goods shall be stockpiled or stored within Site CA-NAP-257 Locus A boundaries;

iv) Prior to use of the access road for project construction, a qualified professional archaeologist shall walk the access road, documenting and removing any typologically distinctive artifacts, adding them to any collections already held by the archaeologist;

v) Prior to use of the access road for project construction, a qualified professional archaeologist shall assist a qualified biologist in the establishment of exclusion fencing for the western pond turtle; this fencing shall also be used to restrict construction equipment access to the archeological site;

vi) Any alteration or improvement of the dirt road or access gate that may be required within the boundaries of CA-NAP-257 shall be overseen by a qualified professional archaeologist;

vii) Prior to use of the access road for project construction, a qualified professional archaeologist shall train construction workers in the recognition of prehistoric site features and burials;

viii) If any prehistoric site features or burials are uncovered during use of the access road through CA-NAP-257, all use of the road shall halt immediately, and a qualified professional archaeologist shall be retained to identify and assess the find, providing mitigation as necessary;

ix) Following each year’s construction season on the project, a qualified professional archaeologist shall walk the access road, documenting and removing any typologically distinctive artifacts unearthed by heavy equipment, adding them to any collections database already held by the archaeologist; and

x) Following the end of vineyard construction, the artifact collections shall be given to the property owner or their designated representative, or any local Tribe with a claim to the local area.

3. The permittee shall, throughout the duration of the project, adhere to the Oversight and Operation regulations specified in County Code Section 18.108.135, which deal with among other things installation oversight, erosion control measure maintenance, monitoring, failure response, and non-compliance. Prior to the first winter rains after construction begins and each year thereafter until the project has received a final inspection from the county or its agent and been found complete, a qualified professional shall inspect the site and certify in writing to the director that all of the erosion control measures required at that stage of development have been installed in conformance with the plan and related specifications. The report shall be provided to the Director of Planning, Building, and Environmental Services (“Director”) within 7 days from the inspection.

4. Pursuant to County Code Section 18.108.140(A)(2), a financial security shall be submitted by the permittee to the Director within ten days of approval (or prior to earthmoving) of the erosion control plan for the portions of the project within the Milliken watershed. The financial security shall be in a form approved by County Counsel and shall be in an amount as determined by the Director, sufficient to guarantee restoration of any site disturbance, should the County be required to do so in case of default by the permittee.

5. The permittee shall implement the following measures to avoid encroachment into specified creek setbacks and associated riparian features:

(a) The location of creek setbacks shall be clearly demarcated in the field with temporary construction fencing, which shall be placed at the outermost edge of required setbacks shown on the project plans. Temporary fencing shall be installed prior to any earthmoving activities. The precise locations of said fences shall be inspected and approved by the Engineering and Conservation Division prior to any earthmoving and/or development activities. No disturbance, including grading, placement of fill material, storage of equipment, etc. shall occur within the designated areas for the duration of erosion control plan installation and vineyard installation. The protection fencing shall remain in place during the duration of project implementation and until wildlife exclusion fencing is installed as shown on the approved plans.

(b) All construction and related traffic shall remain on the inside (vineyard block side) of the protective fencing to ensure that the creek, buffer zones, and associated riparian habitat and/or woodland remain undisturbed.

(c) In accordance with County Code Section 18.108.100 (Erosion hazard areas – Vegetation preservation and replacement), trees that are inadvertently removed which are not within the boundary of the project and/or not identified for removal as part of P11-00205-ECPA shall be replaced on-site with fifteen-gallon trees at a ratio of 2:1 at locations approved by the Director.

6. The following measures shall be implemented to protect trees/woodlands:

(a) Prior to any earthmoving activities, the permittee shall place temporary fencing at the edge of the dripline of all trees to be retained that are located within 50-feet of the project area. The precise locations of said fences shall be inspected and approved by the Engineering and Conservation Division prior to the commencement of any earthmoving activities. No disturbance, including grading, placement of fill material, storage of equipment, etc. shall occur within the designated area for the duration of erosion control plan installation and vineyard installation.

(b) The permittee shall refrain from trimming the trees and vegetation to be retained adjacent to the vineyard conversion areas.

7. As described in the Updated Mitigation, Monitoring and Report Program (dated December 2016) and the Biological Resources Management Plan, the areas required for permanent protection shall be identified and placed into a conservation easement with an organization accredited by the Land Trust Accreditation Commission as the grantee, or other equivalent means of permanent protection as approved by the Director. Areas placed in protection shall be restricted from development and other uses that would degrade the quality of the habitat (including, but not limed to conversion to other land uses such as agriculture or residential development, and excessive off-road vehicle use that increases erosion) and should be otherwise restricted by the existing goals and policies of Napa County. Upon County Counsel’s review and approval as to the form of the conservation easement, the permittee shall record the conservation easement prior to any ground disturbing activities, grading, or vegetation removal or within 12 months of project approval, whichever occurs first.

8. The permittee shall fully implement “The Walt Ranch Long Term Vineyard and Road Maintenance Plan,” prepared by the Napa County Resource Conservation District, dated February 11, 2013 (the “Plan”) (including all watercourse crossings) on all roads to be used for vineyard development traffic prior to September 15th of the year development is commenced (or prior to October 15th for road segments within the Capell Creek Watershed). The permittee shall fully implement the Plan on all roads on the property within 3 years of commencement of development. The measures specified in the Plan shall be maintained throughout the life of the vineyard. Upon completion, all road treatments and watercourse crossings shall be inspected by the Napa County RCD and approved by Napa County. In addition, a Letter of Completion shall be submitted to the Engineering and Conservation Division prepared by a licensed design professional, prior to the construction of any vineyard blocks.

9. Prior to any ground disturbing activities, grading, or vegetation removal, the permittee shall revise the draft Biological Resources Management Plan (BRMP) to be consistent with and to reflect changes resulting from approval of the Reduced Intensity Alternative, the Updated MMRP and voluntary reductions in the scope of the project. The BRMP shall be reviewed and approved by the Director prior to any ground disturbing activities, grading, or vegetation removal or within 12 months of project approval, whichever occurs first.

10. The Walt Ranch Water Quality Monitoring Program prepared by Analytical Environmental Services dated August 2016 shall be implemented by the permittee and any subsequent property owners.

11. No blasting shall occur within 775 feet of any offsite residence.

12. The disposal of debris, storage of materials, or construction/operation of vineyard avenues outside the boundaries of the approved plan is prohibited.

13. The permittee shall install and maintain wildlife exclusion fencing as specified in approved Erosion Control Plan #P11-00205-ECPA.

14. All persons working on-site shall be bound by contract and instructed in the field to adhere to all provisions and restrictions specified above.

15. **Groundwater Management**

1. The permittee shall (at the permittee’s expense) maintain data regarding monthly well monitoring and report groundwater use to the County pursuant to Mitigation Measure 4.6-4 and the Groundwater Monitoring and Mitigation Plan. Water usage shall be minimized by use of best available control technology and best water management conservation practices.
2. Any new on-site, off-site water sources for vineyard use not evaluated as part of the ECPA (existing or proposed in ECPA) or required by Mitigation Measure 4.6-4 and the Groundwater Monitoring and Mitigation Plan shall be subject to the following requirements, as determined to be necessary by the County prior to approval:
3. New Water Availability Analysis;
4. Environmental Review, and
5. ECPA modification.

For the purposes of this condition of approval, a new water source shall include but not be limited to wells, imported water, new or existing ponds/reservoir(s) proposed or used to serve the vineyards. A new water source does not include any water source, including wells and reservoirs, evaluated as part of the ECPA (existing or proposed in ECPA) or required by Mitigation Measure 4.6-4 and the Groundwater Monitoring and Mitigation Plan.

1. Permittee shall limit groundwater use for vineyards to 144.5 acre-ft. per year.

1. The permittee shall be required to include the vineyard wells in the County’s Groundwater Monitoring program upon the County’s request.

16. Prior to any ground disturbing activities, grading, or vegetation removal, the permittee shall:

(a) Confirm Baseline Hydrologic Soil Group (HSG) and Related Conditions by performing a site evaluation of those vineyard blocks with a modified HSG to verify that the unmodified natural HSG of the soil is assigned HSG ‘D’ due to the depth to a water impermeable layer being less than 50 centimeters [20 inches] per Chapter 7 of the National Engineering Handbook.  The evaluation shall consist at a minimum of 5 (five) evaluation sites evenly spaced on a transecting line located approximately along the middle portion of each of the proposed vineyard blocks on an alignment that is roughly perpendicular to the natural drainage pattern of the area. Evaluations shall be conducted in accordance with general engineering standard practices.

(b) Perform laboratory and or field testing to determine the soil classification and conduct an evaluation of the soil to determine hydraulic conductivity per general engineering standard practices.  The information obtained from these evaluations shall be used to confirm the reassignment of the HSG per Table 7-1 of the National Engineering Handbook.

(c) Identify the Modified HSG and Related Conditions: The permittee shall prepare and submit a scope of work to the Engineering and Conservation Division describing the methods to be utilized to modify the natural soil profile for reassignment of the HSG within vineyard blocks. Upon completing the modification of the natural soil profile, the permittee shall perform a minimum of 5 (five) evaluation sites evenly spaced on a transecting line located approximately along the middle portion of each of the proposed vineyard blocks on an alignment that is approximately perpendicular to the natural drainage pattern of the area, but not in the same location as the pre-development site evaluation transecting line. All testing locations and sampling shall be done in accordance with general engineering standard practices to confirm the reassignment of the vineyard block HSG per the criteria set forth in Table 7-1 of the National Engineering Handbook.

(d) Field testing, laboratory procedures, reports and conclusions shall be performed by a qualified professional registered in the State of California having experience in engineering or science related to soils and shall provide for verification of correct material usage and correct selection of reference standards. All inspection and testing parameters shall be conducted in accordance with accepted professional standards. Soil reports shall be provided to the Engineering and Conservation Division prior to vineyard planting to evaluate and determine if any additional recommendations are necessary. The permittee shall promptly implement the recommendations of the Engineering and Conservation Division.

(e) If the results of the soil testing do not show reassignment of the HSG to ‘C’ or better, the permittee shall immediately stop vineyard development and stabilize the site so that best management practices may be developed and processed to show compliance with the County’s Conservation Regulations and General Plan Policy CON-50(c). A revised ECP and additional CEQA review may be required.

17. The Permittee shall not burn vegetation removed as part of vineyard construction within 2,000 feet of the Circle Oaks neighborhood boundary.  This encompasses all or part of the following vineyard blocks: 12B, 13-16, 25-27, 36-37, and 53-54.  Vegetation from these blocks shall be either burned outside of the 2,000-foot radius or chipped.

18. Development of the Walt Ranch vineyard project will be performed in phases as described herein to plant the total 209 acres of vines.  Development activities are limited by other project conditions and Napa County requirements to occur only between April and September of each year.

In the initial phase of development, Phase 1 (or “year one”), work will include development of the initial vineyard areas and associated roads and pipelines, and the construction of reservoirs proposed for the project.  Groundwater use during “year one” would include groundwater used for construction and the filling of reservoirs, and shall not exceed the allotted 144.5 AF.  Following the end of “year one”, monitoring data that will have been collected over time in accordance with the existing Groundwater Monitoring and Mitigation Plan (GWMMP) from Walt Ranch and from other concerned Parties that surround Walt Ranch (such as COCWD) will be evaluated by a qualified hydrogeologist in accordance with the GWMMP to determine whether or not there have been any identifiable groundwater impacts, and include recommendations on whether or not the next phase of development should continue.  Those opinions/recommendations will be provided to Napa County for its approval.

Phase 2, (or “year two”) will include planting of vines in the areas of the property prepared during “year one”.  Assuming no identified groundwater impacts following “year one”, the second phase of development will also include preparing new areas of the property to accommodate vineyards (including associated roads and pipelines), and possible additional reservoir construction will commence.  Groundwater use during “year two” will include water for filling reservoirs/irrigating the existing vineyard areas, and for development activities; groundwater use shall not exceed the allotted 144.5 AF.  Following the end of “year two”, a qualified hydrogeologist will assess the available monitoring data collected over time pursuant to the GWMMP, and provide opinions and recommendations as to whether or not there have been any identifiable groundwater impacts in accordance with the GWMMP, and whether or not the next phase of development should continue. Those opinions/recommendations will be provided to Napa County for its approval.

Phase 3 (or “year three”) will include planting of vines in the areas of the property prepared during “year two”.  Assuming no identified groundwater impacts following “year two”, the third Phase of development will also include development of the remainder of the proposed vineyard areas (including associated roads and pipelines), and possible reservoir construction.  Groundwater use during “year three” will include water for filling reservoirs/irrigating the existing vineyard areas, and for final development activities; groundwater use shall not exceed the allotted 144.5 AF.  Following the end of “year three”, a qualified hydrogeologist will assess the available monitoring data collected over time pursuant to the GWMMP, and provide opinions and recommendations as to whether or not there have been any identifiable groundwater impacts in accordance with the GWMMP. Those opinions/recommendations will be provided to Napa County for its approval.

Phase 4 (or “year four”) will include the planting of the remainder vineyard areas that were developed during the previous year, for a total vineyard acreage of 209 acres of vines.  Groundwater monitoring will continue as stipulated in the GWMMP developed for the project.

19. All staff costs associated with monitoring compliance with the above conditions shall be borne by the permittee and/or property owner. The permittee shall make an initial deposit of $5,000 within 30 days of this letter to fund staff monitoring. Costs associated with conditions and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged at the rate in effect at the time monitoring occurs. Violations of conditions of approval or mitigation measures caused by the permittee’s contractors, employees, and guests are the responsibility of the permittee.