**BEFORE THE BOARD OF SUPERVISORS**

**OF NAPA COUNTY**

In the Matter of:

|  |  |
| --- | --- |
| An Appeal by the Circle Oaks County Water District and Circle Oaks Homes Association to a decision made by the Napa County Director of Planning, Building and Environmental Services Department on August 1, 2016 to approve the Walt Ranch Vineyards Agricultural Erosion Control Plan No. P11-00205-ECPA filed by Hall Brambletree Associates, LP and to certify the related Environmental Impact Report on the property located on the west side of Monticello Road, approximately one mile southwest of its intersection with Highway 128, and approximately one-half mile north of its intersection with Waters Road, approximately 6.2 miles east of the Town of Yountville; Assessor’s Parcel Numbers 032-120-028, 032-480-007, -008, -011, -012, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -024, -027, -028, 032-490-004, -005, -006, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019, and -020. | **RESOLUTION NO. 2016-181**  **FINDINGS OF FACT AND DECISION ON APPEAL** |

**WHEREAS,** on or about November 7, 2007, Hall Brambletree Associates, LP (the Applicant) submitted an application for Agricultural Erosion Control Plan (ECP) P07-00800 to the Napa County Planning, Building and Environmental Services (PBES) Department requesting approval to develop 397 net acres of vineyard within 538 gross acres (the Original Project);

**WHEREAS,** the environmental review process required by the California Environmental Quality Act (CEQA) for the Original Project was initiated by circulation of a Notice of Preparation (NOP) of an Environmental Impact Report (Governor’s Office of Planning and Research, SCH #2008052075);

**WHEREAS,** the Applicant thereafter withdrew ECP application P07-00800 for the Original Project;

**WHEREAS,** on March 1, 2012, Applicant submitted an application for ECP P11-00205, which reduced the scope of the Original Project to approximately 356 acres of vineyard within 507 gross acres of land disturbance (the Proposed Project). The Applicant proposed the reductions in size in order to avoid wetlands, waters of the United States, and active landslides, with appropriate buffers;

**WHEREAS,** the Proposed Project is located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. The project is in an Agricultural Watershed zoning district and has an Agriculture, Watershed and Open Space General Plan designation. The project is located on Assessor’s Parcel Numbers 032-120-028, 032-480-007, -008, -011, -012, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -024, -027, -028, 032-490-004, -005, -006, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019, and -020;

**WHEREAS,** Analytical Environmental Services (AES) was retained to assist the County with preparation of the EIR to evaluate the potential environmental impacts associated with the proposed project. On October 22, 2012, the County issued a second NOP and Initial Study due to substantial changes to the project proposed by the Applicant, requesting comments prior to November 21, 2012;

**WHEREAS,** during the NOP period and scoping session the County received nine comment letters, and all comments were considered in the preparation of the Draft Environmental Impact Report (EIR);

**WHEREAS,** the County, as lead agency, caused to be prepared a Draft EIR for the Proposed Project entitled “Walt Ranch Erosion Control Plan Application No. P11-00205-ECPA,” between mid-2013 and 2014;

**WHEREAS,** in accordance with CEQA, the County issued a Notice of Availability for the Draft EIR, which allowed for public comment and agency review between July 11, 2014 and August 25, 2014. The County extended the public review period to November 21, 2014;

**WHEREAS,** the PBES Director held a public hearing to solicit comments on the Draft EIR on November 12, 2014;

**WHEREAS,** between the start of the public comment period on July 11, 2014 and the end of the comment period on November 21, 2014, the County received over 3,700 pages of public and agency written comments on the Draft EIR;

**WHEREAS,** in accordance with CEQA, all comments received on the Draft EIR during the comment period were responded to and included in a Final EIR. The Final EIR was finalized in March 2016 and included the Draft EIR and comments and responses to comments on the Draft EIR and minor text changes to the Draft EIR;

**WHEREAS,** in accordance with CEQA, the Final EIR was mailed to all commenting state and local agencies, organizations and individuals at least ten days prior to the Planning Commission Director’s action on the Project;

**WHEREAS,** Napa County issued a notice of a public hearing on the Walt Ranch Vineyards Agricultural Erosion Control Plan;

**WHEREAS,** in accordance with Government Code section 65402, County staff prepared a written report for the PBES Director’s consideration regarding implementing the Walt Ranch Project and its consistency with the Napa County General Plan;

**WHEREAS,** on April 4, 2016, the PBES Director conducted a public hearing and received testimony and comments from interested parties on the Final EIR and the Proposed Project;

**WHEREAS,** on June 13, 2016, the PBES Director issued a Notice of Tentative Decision, tentatively approving the Reduced Intensity Alternative in the EIR, which generally consists of the avoidance of approximately 100 gross acres of developed area which have been targeted to further protect special status species and associated habitats; preserves individual trees that are identified as specimen or notable trees; enhances sensitive biotic communities; and enhances wildlife movement on the project site, as described in the Final EIR. In connection with the tentative decision, the PBES Director directed staff and the Applicant to prepare a revised erosion control plan consistent with the Reduced Intensity Alternative, and associated mitigation measures for consideration and approval;

**WHEREAS,** County staff submitted the Updated MMRP, responses to FEIR comments, the Walt Ranch Biological Resources Management Plan, and revised Conditions of Approval to the PBES Director in accordance with the Notice of Tentative Decision, and the Applicant submitted a Revised ECP;

**WHEREAS,** on August 1, 2016, the PBES Director approved the Revised ECP, which generally conforms to the Reduced Intensity Alternative described in the Final EIR, with additional modifications to reflect the requirements of the Updated MMRP consisting of approximately 209 net acres of vineyard (+/- 316 gross acres). The PBES Director filed a Notice of Determination with the State Clearinghouse;

**WHEREAS,** pursuant to CEQA Guidelines section 15132, the FEIR consists of the following documents and records: the Draft EIR for the Walt Ranch Erosion Control Plan Application No. P11-00205-ECPA; the 2016 FEIR; and appendices thereto;

**WHEREAS,** on September 1, 2016, Circle Oaks County Water District and Circle Oaks Homes Association (hereafter Appellant Circle Oaks or Circle Oaks) submitted a timely Appeal packet;

**WHEREAS,** timely appeals to the PBES Director’s decision were also submitted by Center for Biological Diversity (CBD), Living Rivers Council (LRC), and Sierra Club;

**WHEREAS,** because most of the grounds raised in the four appeals overlap each other, the Chairman of the Board consolidated the appeals, with no objection to consolidation from Appellants, Applicant or Staff;

**WHEREAS,** in accordance with Napa County Code section 2.88.080(A), and to accommodate all parties’ schedules, the Clerk scheduled a hearing on all four appeals before the Napa County Board of Supervisors (the Board) to commence on November 18, 2016, a date at least 15 but no more than 90 days from the date of submittal of the appeals;

**WHEREAS,** the Board scheduled the hearing to proceed as follows: on November 18, 2016, Staff and the EIR consultant to present, Appellants to present, and open and complete public comment; on November 22, 2016, Applicant to present, rebuttal from each Appellant, and Board questions of Staff; on December 6, 2016, Board deliberations and tentative action; on December 20, 2016, Board adoption of resolution of findings consistent with the Board’s prior, tentative action;

**WHEREAS,** on October 12, 2016, Board Chairperson Pedroza conducted a prehearing conference to establish procedures and a schedule for the conduct of the appeal, at which all Appellants and the Applicant were present and participated;

**WHEREAS,** on November 18, 2016, the Board heard and considered presentations from Appellants LRC, Circle Oaks, CBD, and Sierra Club; comments from the public; and the County Staff report including a presentation from County Supervising Planner Brian Bordona, a presentation from Consulting Project Manager Annalee Sanborn, and presentations from experts on behalf of County staff. The Board continued the hearing to November 22, 2016;

**WHEREAS,** on November 22, 2016, at the continued public hearing, the Board heard and considered presentations from the Applicant; and rebuttal presentations from Appellants Sierra Club, CBD, Circle Oaks, and LRC. The Board continued the hearing to December 6, 2016;

**WHEREAS,** on December 6, 2016, the Board heard and considered presentations and associated documents from County Staff. After considering all comments and written materials, the Board closed the public hearing, deliberated, and adopted a tentative motion to: (1) deny Appellant LRC’s appeal seeking or requesting that approval of the Project and certification of the EIR be vacated; (2) deny Appellant Circle Oaks’ appeal seeking or requesting that approval of the Project be vacated; (3) deny Appellant CBD’s appeal seeking or requesting that the approval of the EIR, its findings, and the statement of overriding considerations be vacated; and (4) deny Appellant Sierra Club’s appeal seeking or requesting that the Planning Director’s decision to certify and approve the EIR and the Project be vacated;

**WHEREAS,** the Board further directed Staff to return on December 20, 2016 with documents consistent with the Board’s expressed intent; and

**WHEREAS,** this proposed Resolution containing the Findings of Fact and Decision on Appeal having been presented to the Board for possible adoption at a regular meeting of the Board on December 20, 2016;

**NOW, THEREFORE, BE IT RESOLVED,** that the Board of Supervisors finds, determines, concludes and decides as follows:

**Section 1.** **Recitals.**

The Board hereby finds and determines that the foregoing recitals are true and correct.

**Section 2. Findings of Fact and Conclusions of Law on Appeal.**

The Board hereby makes the following findings of fact and conclusions of law concerning each of the grounds for appeal as stated by Appellant in its Appeal.

**1. First Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to adequately describe the environmental setting regarding groundwater resources. Appellant claims that the EIR failed to incorporate any data or analysis concerning Circle Oaks County Water District’s (COCWD) demand or the potential impacts to the residents served by the COCWD should the Project’s massive water demand draw down the aquifer and affect the wells served by the COCWD.

**Findings and Decision**: The Board finds and determines as follows:

Consideration of COCWD groundwater demands and infrastructure was addressed in Impact 4.6-4 (Final EIR: Volume II), Final EIR General Response 14, Final EIR Response to Comment O2-1, and throughout the supporting documents prepared by RCS. Consideration of COCWD infrastructure was addressed in Response to Comment O2-1 in the Final EIR. The RCS aquifer (pumping) test analysis included theoretical monitoring points that coincided with the estimated locations of the COCWD wells and springs to estimate impacts to COCWD. In addition, wells on the Circle S Ranch property were monitored as part of the aquifer test. Once COCWD provided its actual well data to RCS, it was incorporated into the modeling by updating the theoretical or assumed locations to the actual well locations.

Cumulative groundwater demands have been addressed throughout the EIR process, specifically in: the Draft EIR (Impact 4.6-4 and Section 6.1.4-6), Final EIR (Appendix Q pages 8 through 10), and Final EIR General Response 14. As discussed therein, groundwater extractions for the COCWD and the permitted future (but undeveloped) Circle S Ranch project are considered in conjunction with the groundwater demand for the proposed Walt Ranch project.

The Final EIR General Response 14 outlines the cumulative groundwater pumping demand for these three main water users and demonstrates that there would be more average annual recharge than groundwater extraction from the three main water users from the Sonoma Volcanics underlying the Walt Ranch and Circle S properties. Please note that the Final EIR excerpt below uses the Mitigated Project groundwater demand of 187 af per year, which has been reduced to 144.5 af per year with the final 209-acre project. The analysis from General Response 14 is as follows:

“…the total combined groundwater demand for all groundwater users drawing from this portion of the Sonoma Volcanics (Circle S, mitigated Walt Ranch, and Circle Oaks horizontal well) combined, are as follows:

(Walt Ranch 187 af per year) + (COCWD Horizontal Well 16.2 af per year) +

(Circle S 189.9 af per year) = **393.1 af per year**

Conservative estimate of average annual recharge (assuming recharge occurs only on the Walt Ranch property and the Circle S property):

(Walt Ranch 161 af per year) + (Circle S 325 af per year) = **486 af per year**

Therefore, the average annual recharge calculated above (486 af per year) exceeds the combined total sum of the groundwater demands (393.1 af per year) for both properties and the COCWD Horizontal Well.”

The EIR also presents an analysis of the three known water users and a fourth user, the COCWD Well No. 1 which likely does not derive its water from the Sonoma Volcanics. However, even with inclusion of this fourth water extraction point, the demand does not exceed recharge:

“(Walt Ranch 187 af per year) + (COCWD Horizontal Well 16.2 af per year) + (COCWD Well No. 1 - 40.5 af per year) + (Circle S 189.9 af per year) = **433.6 af per year**”

When considering the above analysis with the smaller groundwater demand of the final project, the revised numbers show an even lesser demand in the cumulative environment. The demand in the cumulative environment when considering the smaller Walt Ranch Project would be 391.1 af per year. The recharge potential would still be the same at 486 af per year, resulting in an even smaller potential groundwater impact in the cumulative environment.

In addition, Conditions of Approval 15 and 18 were added to the Project. Condition of Approval 15 was added to require the Walt Ranch groundwater monitoring efforts be consistent with other County approved projects and as required by the Updated MMRP. Condition of Approval 18 was added to acknowledge that the Project will be developed over four phases which allow groundwater monitoring data to be collected and assessed by the County in consultation with a qualified hydrogeologist before the next phase of development may occur.

**Citations**: RCS, 2013, Updated Report on the Results and Analysis of 96-Hour Constant Rate Pumping Test, Irrigation-Supply Well No. 3 for Walt Ranch in Napa County, California, Prepared for Hall Wines, LLC. February 2013, included as Appendix D to the Draft EIR; RCS, 2015, Technical Memorandum Re: Responses to Comments on the Walt Ranch Draft EIR, August 13, 2015, included as Appendix Q to the Final EIR; Richard C. Slade and Associates (RCS), 2016, Technical Memorandum Re: Responses to Comments on the Walt Ranch Final EIR, June 10, 2016, included as Attachment C to the Responses to Final EIR Comments Memorandum; RCS, 2015, Technical Memorandum Re: Response to Comments on the Walt Ranch Draft EIR, August 13, 2015, included as Appendix Q to the Final EIR; Final EIR, Volume II, Impact 4.6-4; Final EIR General Response 14; Final EIR Response to Comment O2-1; Draft EIR, Impact 4.6-4; Draft EIR, Section 6.1.4-6; Final EIR, Appendix QQ, pages 8-10; Final EIR, General Response 14; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings; Memorandum from David Morrison and Brian Bordona to Chair Pedroza and Board Members, December 5, 2016.

**Conclusions**: For the foregoing reasons, the Board denies the first ground of appeal and upholds the Planning Commission’s decision to approve the Walt Ranch Vineyard Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised), certify the related EIR, and approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval.

**2. Second Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR mischaracterizes the rate of groundwater recharge on the Project site.

**Findings and Decision**: The Board finds and determines as follows:

Refer to responses to LRC’s ninth ground of appeal, Resolution No. 2016-180.

**Citations**: Refer to citations for responses to LRC’s ninth ground of appeal (see Resolution No. 2016-180).

**Conclusions**: For the foregoing reasons, the Board denies the second ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**3. Third Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR mischaracterizes the hydraulic connection between groundwater to be pumped for the Project and groundwater in the Milliken Sarco Tulocay (“MST”) Groundwater Deficient Area. Appellant claims that the EIR improperly locates the Project outside the MST and thus inadequately analyzes groundwater supply and recharge rates. The EIR claims there is no hydraulic connection between the Project site and the MST study area, but USGS studies show that at least the southwest third of the project site is in the MST basin and the four proposed wells are located in the MST basin. Therefore, the conclusions in the EIR relating to groundwater supply are not based on the correct assumptions.

**Findings and Decision**: The Board finds and determines as follows:

Refer to response to LRC’s tenth ground of appeal (see Resolution No. 2016-180) regarding the lack of connection between the Sonoma Volcanics on the project site to the MST groundwater deficient area. The southwest third of the Walt Ranch property is located within the Milliken Creek watershed (surface water drainage area), not the MST groundwater area.

**Citations**: Refer to citations for response to LRC’s tenth ground of appeal (see Resolution No. 2016-180)

**Conclusions**: For the foregoing reasons, the Board denies the third ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**4. Fourth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that EIR mischaracterizes the direction of groundwater flow.

**Findings and Decision**: The Board finds and determines as follows:

Refer to response to LRC’s eleventh ground of appeal (see Resolution No. 2016-180).

**Citations**: Refer to citations for response to LRC’s eleventh ground of appeal (see Resolution No. 2016-180).

**Conclusions**: For the foregoing reasons, the Board denies the fourth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**5. Fifth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to adequately analyze and account for impacts to increased stream sedimentation in the Napa River drainage or provide for adequate mitigation. Appellant claims the EIR fails to adequately consider the potential for stormwater runoff to contribute pesticides, nutrients and trace metals (boron and mercury) during operation of the Project. There is no substantiation of the claim that the mitigation measures would filter sediments, agricultural chemicals, and nutrients to a less-than-significant level.

**Findings and Decision**: The Board finds and determines as follows:

Baseline water quality is discussed in Section 4.6.1-2 (page 4.6-8 through 4.6-11) of the EIR, which provides a detailed description of the following water quality constituents relevant to the Walt Ranch property and downstream watersheds:

* **Sediment Loading.** The Napa River watershed is listed for sediment loading and a Total Maximum Daily Load (TMDL) has been developed by the San Francisco Bay Regional Water Quality Control Board (RWQCB). The Capell Creek watershed is not listed for sediment loading;
* **Temperature.** The Napa River watershed is listed for temperature constraints because it provides habitat for cold-water listed fishes. The Capell Creek watershed is not listed for temperature;
* **Nutrients.** The Napa River watershed is listed for nutrient pollution such as phosphorus and nitrogen. However, given improving water quality in the non-tidal portions of the Napa River, the San Francisco Bay RWQCB adopted Resolution No. R2-2014-0006 on February 12, 2014 to delist the non-tidal Napa River for nutrients. The Capell Creek watershed is not listed for nutrients;
* **Pathogens.** The Napa River watershed is listed for pathogens and a TMDL has been developed by the RWQCB. Onsite waters have a low potential for increased levels of pathogens due to the halting of livestock grazing on the property. The Capell Creek watershed is not listed for pathogens; and
* **Metals/Metalloids.** The Putah Creek and Lake Berryessa watersheds are listed for metals/metalloids, specifically mercury and boron. The Milliken Creek/Napa River watershed are not listed for metals.

Numerous mitigation measures throughout the EIR are designed to be protective of water quality in order to ensure the Walt Ranch Project does not result in increases in sediment, temperature, or nutrient loading (Milliken Creek watershed) or metals/metalloid loading (Capell Creek watershed). As clarified in the Final EIR, the following mitigation measures will be protective of water quality:

* Mitigation Measure 4.2-4: Maintain appropriate stream and wetland buffers
* Mitigation Measure 4.4-1: No net increase in sedimentation
* Mitigation Measure 4.5-1: Create and follow a Hazardous Materials Business Plan (HMBP)
* Mitigation Measure 4.5-2: Follow all Standard Operating Procedures (SOPs) for vineyard equipment
* Mitigation Measure 4.5-3: Restrictions on chemical mixing and mix water
* Mitigation Measure 4.5-4: Restrictions on application of agrichemicals
* Mitigation Measure 4.5-5: Restrictions on use and storage of oils
* Mitigation Measure 4.6-2: Upgrade rocked water crossings prior to use

Furthermore, in addition to these protective measures for water quality that mitigate potential impacts to less than significant levels, the Applicant has been working with the City of Napa, independently of the EIR process, to voluntarily develop a surface water monitoring plan to address the City’s concerns regarding potential water quality impacts. A Condition of Approval requiring the implementation of the Water Quality Monitoring Plan was added to the Updated MMRP and as Condition of Approval No. 10.

**Citations**: EIR, Section 4.6.1-2; Mitigation Measures 4.2-4, 4.4-1, 4.5-1, 4.5-2, 4.5-3, 4.5-4, 4.5-5, 4.6-2; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the fifth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**6. Sixth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to analyze the significance of increased channel erosion and sediment production caused by increases in peak runoff caused by installing engineered drainage structures. Appellant argues that the EIR inadequately analyzes the runoff rates caused by the drainage elements incorporated into the Erosion Control Plan. The surface drains, subdrains and utility corridors proposed by the Project will intentionally and unintentionally concentrate and accelerate runoff off and through proposed vineyard blocks. The potential future impacts from changes in stormwater runoff have not been fully evaluated and presented in the EIR.

**Findings and Decision**: The Board finds and determines as follows:

Refer to response to LRC’s twenty-fourth ground of appeal (see Resolution No. 2016-180).

**Citations**: Refer to citations to response to LRC’s twenty-fourth ground of appeal (see Resolution No. 2016-180).

**Conclusions**: For the foregoing reasons, the Board denies the sixth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**7. Seventh Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to adequately analyze and provide mitigation for impacts related to groundwater resources.

**Findings and Decision**: The Board finds and determines as follows:

Refer to response to LRC’s fifth and eighteenth grounds of appeal (see Resolution No. 2016-180).

**Citations**: Refer to citations for response to LRC’s fifth and eighteenth grounds of appeal (see Resolution No. 2016-180).

**Conclusions**: For the foregoing reasons, the Board denies the seventh ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**8. Eighth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to analyze the significance of pumping more groundwater than is recharged on-site on local groundwater supplies.

**Findings and Decision**: The Board finds and determines as follows:

Refer to response to LRC’s thirteenth ground of appeal (see Resolution No. 2016-180).

**Citations**: Refer to citations for response to LRC’s thirteenth ground of appeal (see Resolution No. 2016-180).

**Conclusions**: For the foregoing reasons, the Board denies the eighth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**9. Ninth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the Mitigation Measure 4.6-4 concerning impacts to groundwater resources is vague and unenforceable and unlawfully defers the analysis and development of further mitigation measures until after Project approval. Relative to the impact analysis concerning the Circle Oaks wells, the sufficiency of the annual water supply is not determinative, rather the issue concerns whether there is sufficient availability of water for Walt Ranch, together with the adjacent well use, during the months when Walt Ranch proposes its heaviest demand. Appellant claims the analysis conducted for the drawdown of COCWD wells was not conducted over a long enough period to accurately determine the total effect, given the slow rate of water transfer in the existing cracked volcanic rock, and testing was not conducted to determine the effects vineyard ground seepage and/or runoff would have on the water COCWD receives from the horizontal piping.

**Findings and Decision**: The Board finds and determines as follows:

As discussed in response to Appellant’s first ground of appeal, theoretical monitoring points that coincided with the estimated locations of the COCWD vertical and horizontal wells were included in the pumping test analysis. The inclusion of these monitoring points by RCS was specifically to address a lack of response from COCWD to RCS inquiries in advance of the pumping tests. Further, once the actual locations of the COCWD wells were provided to RCS, the theoretical modeling was revised as described on page 29 of the 2015 RCS Report. Refer to response to LRC’s eighteenth ground of appeal (see Resolution No. 2016-180) regarding the GWMMP.

In addition, Conditions of Approval 15 and 18 were added to the Project. Condition of Approval 15 was added to require the Walt Ranch groundwater monitoring efforts be consistent with other County approved projects and as required by the Updated MMRP. Condition of Approval 18 was added to acknowledge that the Project will be developed over four phases which allow groundwater monitoring data to be collected and assessed by the County in consultation with a qualified hydrogeologist before the next phase of development may occur.

**Citations**: RCS, 2015, Technical Memorandum Re: Response to Comments on the Walt Ranch Draft EIR, August 13, 2015, included as Appendix Q to the Final EIR; refer to citations for LRC’s eighteenth ground of appeal (see Resolution No. 2016-180); County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings; Memorandum from David Morrison and Brian Bordona to Chair Pedroza and Board Members, December 5, 2016.

**Conclusions**: For the foregoing reasons, the Board denies the ninth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**10. Tenth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR improperly used the mitigation as a device to avoid disclosing impacts. (*Stanislaus Natural Heritage Project v. County of* *Stanislaus* (1996) 48 Cal.App.4th 182, 195-196.)

**Findings and Decision**: The Board finds and determines as follows:

As discussed further in the response to LRC’s thirteenth ground of appeal (see Resolution No. 2016-180), the EIR did not attempt to ignore potentially significant impacts due to groundwater pumping. Impact 4.6-4 of the EIR clearly states that the “effects to groundwater levels could cause drawdown in offsite wells, and if this drawdown interference were to be substantial, the existing pump in the impacted well might become less efficient; if this were to occur, the existing pump might not be able to maintain its normal operational pumping rate. *This would be a significant impact*” (EIR at p. 4.6-43; emphasis added). As such, Mitigation Measure 4.6-4 was required to protect offsite wells from significant impacts due to project-related groundwater pumping. The GWMMP that was developed in accordance with Mitigation Measure 4.6-4 is discussed in more detail in response to LRC’s fifth ground of appeal (see Resolution No. 2016-180).

**Citations**: See citations for responses to LRC’s fifth and thirteenth grounds of appeal (see Resolution No. 2016-180); EIR, Impact 4.6-4; Mitigation Measure 4.6-4; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the tenth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**11. Eleventh Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to adequately analyze and provide mitigation for impacts to roads, including road failure, due to Walt Ranch operations. Appellant asserts that Mitigation Measure 4.7-4 provides for repaving and damage to sub-surface infrastructure during the construction phase only, it does not address mitigation for road damage to continuing operations of the Project.

**Findings and Decision**: The Board finds and determines as follows:

The EIR analyzes impacts to roads in Impact 4.7-4 and Response to Comment O21-091. As discussed therein, the construction period represents the most intensive period of heavy equipment entering and exiting the project site, which is what exacerbates road wear-and-tear. There are significantly fewer large trucks that will be required during the ongoing operations of the Walt Ranch Project when compared to the construction period. Further, the project will not require the same type of heavy equipment deliveries as during the construction phase. The ongoing operation of the project is an agricultural land use that is allowable under the property’s AW zoning designation and is in keeping with the rural nature of the area. The use of the County-maintained roads for agricultural transport is consistent with the goals and policies of the Napa County General Plan, and is not significantly different from the existing vineyards in the area. The property owner will pay a fair-share payment for any future wear-and-tear of roads from this typical and expected agricultural use via the ongoing payment of property taxes.

**Citations**: EIR, Impact 4.7-4; Response to Comment O21-091.

**Conclusions**: For the foregoing reasons, the Board denies the eleventh ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**12. Twelfth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to include review of alternative access ways to the Project; given that the Project may seriously impact the roadway and the water and sewer systems of the Circle Oaks community, the EIR must consider ways to avoid or substantially lessen these impacts.

**Findings and Decision**: The Board finds and determines as follows:

To address Circle Oaks residents’ concerns, the project added a condition of approval to require that construction equipment be delivered via an alternative access point. Condition of Approval No. 2(a) was imposed which adds additional traffic restrictions requiring that all construction equipment be routed away from Circle Oaks Drive and through the northernmost access driveway directly off of State Route 121. In addition, no construction equipment or vehicles weighing greater than 64,000 pounds shall use Circle Oaks Drive. This additional Condition of Approval significantly minimizes any potential traffic disruption to the Circle Oaks community or damage to infrastructure.

The Final EIR correctly identified that developing a new access point may cause new environmental impacts not previously disclosed (see Final EIR General Response 17 at page 4- 32); fortunately, use of the existing access road would not require significant improvements or cause safety hazards. The Applicant would use an existing access road directly off of SR 121 for the delivery of construction equipment; this road may also be utilized for materials deliveries. This existing driveway is the northern-most driveway located on the eastern property boundary, directly adjacent to SR 121 and approximately 1.5 miles southwest of the intersection of SR 121 and SR 128. The existing road network would then be utilized to provide access to the remainder of the Walt Ranch property. The EIR already reviewed the existing and proposed road network and provided mitigation measures to substantially lessen impacts caused by the use of roads on the Walt Ranch property.

As discussed in the Walt Ranch Alternative Access Proposed by Applicant memorandum, the alternative access route would be upgraded consistent with the Long-Term Road Management Plan provided in Appendix C of the Draft EIR. Commenters pointed out that the EIR was vague in its discussion of why this access point was eliminated; this is because cultural resources locations are not allowed to be disclosed in public CEQA documentation in accordance with Section 304 of the National Historic Preservation Act (16 USC 470w-3) and the Archaeological Resources Protection Act (16 U.S.C. Section 470h). However, the County is able to acknowledge that the resources present in the vicinity of that existing access point would be protected by mitigation measures that are already in place within the EIR (see Mitigation Measures 4.2-1, 4.2-2, 4.2-9, 4.2-10, 4.3-1, and 4.6-2). As such, there are no new significant environmental impacts that would require revision or recirculation of the Draft EIR consistent with CEQA Guidelines,section 15088.5. Conditions of approval requiring the use of this alternative access for construction equipment delivery and the specific recommendations discussed in Table 2 of the Updated MMRP.

**Citations**: Final EIR, General Response 17; Mitigation Measures 4.2-1, 4.2-2, 4.2-9, 4.2-10, 4.3-1, and 4.6-2; AES, 2016, Memorandum Re: Walt Ranch Alternative Access Proposed by Applicant, July 7, 2016, included as Attachment B to Responses to Final EIR Comments Memorandum; Memorandum from David Morrison and Brian Bordona to Chair Pedroza and Board Members, December 5, 2016; Memorandum from Lou Gilpin to Brian Bordona Re: Rebuttal Response to Comments—Circle Oaks Road Distress, December 1, 2016; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the twelfth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**13. Thirteenth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to consider the potential impacts due to landslide. Appellant argues that the EIR inadequately considered the impacts of drainage discharge onto mapped landslides. The drainage discharge will increase the local infiltration and soil water content of the receiving landslide areas over existing levels.

**Findings and Decision**: The Board finds and determines as follows:

See response to LRC’s twenty-fifth ground of appeal (see Resolution No. 2016-180).

**Citations**: See citations for response to LRC’s twenty-fifth ground of appeal (see Resolution No. 2016-180).

**Conclusions**: For the foregoing reasons, the Board denies the thirteenth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**14. Fourteenth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR does not adequately apply significance criteria for noise impacts. Appellant contends the EIR failed to compare construction and project-generated noise with existing ambient noise levels. Appellant states that the EIR discussed construction noise only in terms of absolute noise levels, and the projected 74 dBA is 40 decibels louder than the measured ambient level. Appellant asserts that the EIR also incorrectly compares project-generated noise to the highway noise, rather than the noise measured at or near neighboring residences, which are significantly shielded from highway noise.

**Findings and Decision**: The Board finds and determines as follows:

Similar to other environmental resource areas, a noise analysis must first determine the existing ambient noise level, estimate the project’s potential impacts, and then assess whether that would exceed an established criteria or significance threshold. In the case of a noise analysis, the level of significance of an impact is typically measured at the nearest “sensitive receptor”, or in this case the closest residence that would hear project-related noise.

The noise analysis presented in the EIR utilized the Napa County Baseline Data Report (BDR) noise data provided in the Napa County General Plan to determine the existing noise level in the project vicinity in accordance with CEQA Guidelines, section 15150. The Napa County BDR is a document used to guide County planning efforts; the existing setting of each environmental resource area noted in the BDR was determined using a rigorous scientific approach. Construction of the Walt Ranch Project is temporary in nature, occurring during the dry season over four years. Therefore, the discussion of construction noise impacts presented in Section 4.8 of the EIR is a discussion of the temporary or periodic increase in ambient noise levels in the project vicinity.

CEQA Guidelines, section 15064.7 states that “[e]ach public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects…Thresholds of significance to be adopted for general use as part of the lead agency’s environmental review process must be adopted by ordinance, resolution, rule, or regulation.” Use of the Napa County Construction Noise Ordinance 75 dBA noise limit for construction across a residential property line as a significance threshold is appropriate under CEQA Guidelines.

As discussed in Section 4.8 of the EIR, construction noise associated with the construction of the Walt Ranch Project would generate noise at 30 feet (the distance to the nearest sensitive receptor) in excess of the Napa County threshold of 75 dBA and is a potentially significant impact. As a result, the project required implementation of Mitigation Measure 4.8-1 to reduce this impact to a less than significant level. However, it is important to note that this distance is based on the original Proposed Project and not the adoption of the final 209 net acre project. Based on the reduction in clearing limits resulting from mitigation measures and the adoption of the Reduced Intensity Alternative, the nearest sensitive receptors are approximately 475 feet from the nearest vineyard blocks (Blocks 27 and 37). At 475 feet distance, the loudest construction equipment would generate noise of approximately 65 dBA, Leq. Not only is this noise level 10 dBA less than the County’s significance threshold, it is only 10 dBA more than the estimated ambient noise level of the neighborhood. Because noise attenuates (lessens) farther from the source, other residents would experience even less disruption.

Furthermore, as discussed in the response to Circle Oaks’ twelfth ground of appeal, the County has adopted a condition of approval requiring that all heavy equipment deliveries be routed away from the Circle Oaks neighborhood and enter the Walt Ranch property from the northern-most access point off SR 121. Accordingly, there would be no large trucks driving up Circle Oaks Drive to deliver equipment, which was another source of noise accounted for in the original EIR analysis.

As such, the noise analysis presented in Impact 4.8-1 of the EIR significantly overstates the potential for noise impacts due to the project, and therefore presents a conservative analysis. In spite of this, Mitigation Measure 4.8-1 is still required to minimize noise impacts, and includes limiting construction times and providing sound barriers in accordance with Napa County regulations. Additional noise reducing measures provided in Mitigation Measure 4.8-1 include the use of sound walls, measures to reduce vehicle and equipment generated noise, and siting of stationary sources as far as practical from sensitive receptors. The courts have upheld mitigation measures to address construction noise that are comparable to those set forth in Mitigation Measure 4.8-1. (See *Sierra Club v. Tahoe Regional Planning Agency* (2013) 916 F.Supp.2d 1098.)

Although construction of the Proposed Project would generate noise typical of any construction project, with mitigation, construction of the Proposed Project would not expose persons to noise in excess of standards established in the County General Plan or County Ordinance.

**Citations**: Napa County Baseline Data Report; EIR, Section 4.8; EIR, Impact 4.8-1; Mitigation Measure 4.8-1; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the fourteenth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**15. Fifteenth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR used the incorrect baseline to judge noise impacts. Appellant states that the EIR utilized estimates based on modeling rather than actual data gathered near the project site, and based on four days of noise measurements conducted by Eric Yee, the daytime noise levels in the Circle Oaks residential community were between 32 dBA and 53 dBA, compared to the EIR’s estimate of 57 dBA. Appellant claims the EIR does not accurately represent the existing noise levels on the Project site and the EIR does not include actual noise measurements around the project site.

**Findings and Decision**: The Board finds and determines as follows:

The EIR utilized the Napa County BDR noise data provided in the Napa County General Plan to determine the existing noise level in the project vicinity in accordance with CEQA Guidelines, section 15150. The Napa County BDR is a document used to guide County planning efforts; the existing setting of each environmental resource area was determined using a rigorous scientific approach. The noise measurements from the Napa County BDR that were used in the Draft EIR were determined through the following methodology:

Noise levels produced by traffic on state highways and county roads with more than 3,000 vehicles per day were calculated using the [Federal Highway Administration] FHWA Traffic Noise Prediction Model. Noise from construction, agricultural, commercial, and industrial facilities was also quantified, based on information from short and long-term noise monitoring locations. The County, in consultation with consulting experts, identified all short- and long-term monitoring locations. The noise metric used is day-night noise level (Ldn) and equivalent sound level (Leq). Contours for existing noise conditions were mapped based on results from the monitoring study described above, as well as on noise modeling and information from previous studies.

No substantial change to land use, such as new residential or roadway construction, has occurred that would significantly alter ambient noise levels in comparison to levels stated in the EIR. Although several commenters requested that site-specific noise monitoring be conducted at Circle Oaks to provide the environmental baseline, the existing noise setting was determined using best available scientific information adopted by the County, as discussed above. The conditions in the project site and vicinity have not substantially changed since the adoption of the Napa County BDR, and as such the use of the analysis presented therein was reasonable and supported by available science.

The Appellant provides site-specific noise measurements in the Circle Oaks community that range from 32 dBA to 53 dBA, although it is unclear where or when those measurements were taken. In order to utilize site-specific noise measurements, the exact locations of where noise measurements were taken, when the measurements were taken, and how the data was analyzed should have been provided. Without being able to verify the methodology used to obtain that data, it is more appropriate to utilize the best available scientific information provided in the Napa County BDR. It should be noted that the Appellant’s measured daytime noise level apparently ranged up to 53 dBA, and the EIR assumed the ambient noise level was 57 dBA. As stated on page 4.8-4 of the EIR, “it is widely accepted that the average healthy ear, however, can barely perceive noise level changes of 3 dBA.” A change in level of 5 dBA is a perceptible increase. The difference between the 53 dBA measured by the Appellant and the 57 dBA assumed by the EIR may or may not be a perceptible difference to the healthy human ear.

In accordance with CEQA Guidelines, section 15143, noise impacts were discussed with emphasis in proportion to their severity and probability of occurrence. Given that noise impacts of the Walt Ranch Project are temporary and that all impacts are reduced to less-than-significant levels with mitigation, the Draft EIR presented an appropriate level of scientific detail in accordance with CEQA Guidelines. Ambient noise levels provided in the Napa County General Plan are appropriate to provide decision makers with information to enable them to make an intelligent decision that takes into account all environmental consequences, per CEQA Guidelines, section 15151.

**Citations**: Napa County Baseline Data Report; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the fifteenth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**16. Sixteenth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to address noise impacts due to truck traffic, rock demolition and removal, and vibration.

**Findings and Decision**: The Board finds and determines as follows:

The EIR did address noise impacts due to truck traffic, rock demolition and removal, and vibration. The EIR determined the vibration noise levels for the construction of the Walt Ranch Project using the Caltrans Transportation- and Construction- Induced Vibration Guidance Manual’s (Manual) guidelines and estimates for standard construction equipment.

The EIR’s vibration analysis was consistent with the Manual’s adopted methodology for assessing construction related vibration impacts. It compared the vibration noise levels to the Caltrans vibration significance thresholds as stated in the Manual. Under those thresholds, an impact is considered potentially significant if construction or operation of the Walt Ranch Project would result in an increase of 0.5 peak particle velocity (PPV) at the nearest nonresidential structure, or 0.1 PPV at the nearest residence, consistent with State and local guidance.

Impact 4.8-1 provides an analysis of the increase in noise during construction and operation of the Walt Ranch Project, while Impact 4.8-2 provides an analysis of the increase in groundborne vibration during the construction and operational phases. Traffic noise impacts were not evaluated separately from other noise attributed to the Walt Ranch Project in these impact analyses. Mitigation Measure 4.8-1 and 4.8-2 will reduce the impacts due to noise and groundborne vibration, respectively, to less-than-significant levels.

Furthermore, as discussed in the response to Circle Oaks’ fourteenth ground of appeal, the County has adopted a condition of approval requiring that all heavy equipment deliveries be routed away from the Circle Oaks neighborhood and enter the Walt Ranch property from the northern-most access point off SR 121. Accordingly, there would be no large trucks driving up Circle Oaks Drive to deliver equipment, which was another source of noise and vibration accounted for in the original EIR analysis, which results in a more conservative analysis.

Impact 4.8-2 of the EIR finds that 775 feet is the safe distance for blasting. As discussed on page 4.8-13 of the Draft EIR:

At 775 feet from a residential sensitive receptor, blasting would generate 0.1 PPV groundborne vibration, which does not exceed the Caltrans threshold of 0.1 PPV for residences. Therefore, blasting that occurs greater than 775 feet from an existing residence requires no additional mitigation.

The only rock formation that may require blasting is the Sonoma Volcanics formation. Blocks 15, 16, and 68 are the only blocks within 775 feet of the Circle Oaks neighborhood that are underlain by Sonoma Volcanics. The ECP was revised to include a condition prohibiting blasting in these blocks. In addition, this limitation is required in Mitigation Measure 4.8-2: Blasting within 775 feet of a residence exceeds Caltrans significance thresholds for vibration. Therefore, no blasting shall occur within vineyard blocks 15, 16, and 68.

It should be noted that Block 68 has been removed from the Project through adoption of the Reduced Intensity Alternative.

Refer to the response to Sierra Club’s nineteenth ground of appeal (see Resolution No. 2016-183) regarding rock crushing operations.

**Citations**: Caltrans Transportation- and Construction- Induced Vibration Guidance Manual; EIR, Impacts 4.8-1 and 4.8-2; Mitigation Measures 4.8-1 and 4.8-2; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings; refer to citations to the response to Sierra Club’s nineteenth ground of appeal (see Resolution No. 2016-183)

**Conclusions**: For the foregoing reasons, the Board denies the sixteenth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**17. Seventeenth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR overestimates the degree of mitigation provided by the proposed sound barriers; noise impacts remain significant. The EIR concludes that a noise barrier will reduce noise a minimum of 15 dBA, resulting in a reduction to 74 dBA. Appellant claims that the most a noise barrier can practically reduce noise is by 15 dBA, but is more likely to provide only 6 to 8 decibels of shielding, depending on the height of the source noise in relation to the height of the receiver and the height and location of the barrier.

**Findings and Decision**: The Board finds and determines as follows:

As discussed in Final EIR Response to Comment O9-52, noise barriers that block line-of-sight between a noise source and noise receiver typically provide a 5 dBA reduction. Sound walls taller than noise sources may be necessary. However, Mitigation Measure 4.8-1 only requires these sound walls for construction that occurs within 150 feet of a sensitive receptor, as that is the distance the EIR found would cause a significant noise impact. As discussed in the response to Appellant’s fourteenth ground of appeal, the distance between the closest vineyard block in the final 209-acre project and the nearest sensitive receptor has increased to 475 feet. At 475 feet distance, the loudest construction equipment would generate noise of approximately 65 dBA, Leq. Therefore, sound walls will not be required during construction of the Walt Ranch Project as currently approved because no sensitive receptors are within 150 feet of project construction activities.

**Citations**: Final EIR, Response to Comment O9-52; Mitigation Measure 4.8-1; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the seventeenth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**18. Eighteenth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the Final EIR fails to adequately respond to comments regarding road access, noise impacts, and potential road failure.

**Findings and Decision**: The Board finds and determines as follows:

The County has made a good faith effort to adequately respond to all comments as evidenced by the Final EIR, Response to Final EIR Comments memo, and the staff reports provided to the Board. Responses to comments need not be exhaustive; they only need to demonstrate a good faith, reasoned analysis. (CEQA Guidelines, section 15088, subd. (c); *Towards* *Responsibility in Planning v. City Council* (1988) 200 Cal.App.3d 671.) A general response to a general comment is sufficient. (*Paulek v. Department of Water Resources* (2014) 231 Cal.App.4th 35.) Please refer to Final EIR General Response 19 and Responses to Comments O9-9, O9-51, O9-58, O11-7, O11-8, and O11-9 regarding impacts to roads and noise.

**Citations**: Final EIR, General Response 19; Responses to Comments O9-9, O9-51, O9-58, O11-7, O11-8, and O11-9.

**Conclusions**: For the foregoing reasons, the Board denies the eighteenth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**19. Nineteenth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the alternatives analysis failed to provide sufficient data to enable the comparison of the alternatives’ water demand, sedimentation, and runoff, to that of the Project, and therefore it is impossible to compare the alternatives to the Project on these issues. (Guideline section 15126.6(d); *Laurel Heights Improvement* *Association v. UC Regents* (1988) 47 Cal.3d 376, 404.)

**Findings and Decision**: The Board finds and determines as follows:

As addressed in General Response 20 in the Final EIR, CEQA Guidelines, section 15126.6 requires that an EIR “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” The Lead Agency determined a reasonable range of alternatives to be evaluated in an EIR and, consistent with CEQA, considered these alternatives within the context of achieving project objectives. Additionally, CEQA Guidelines, section 15126.6, subd. (b), requires consideration of alternatives that could reduce to a less-than-significant level or eliminate any significant adverse environmental effects of a proposed project, including alternatives that may be more costly or could otherwise impede the proposed project’s objectives. The range of alternatives evaluated in an EIR is governed by a “rule of reason,” which requires the evaluation of alternatives “necessary to permit a reasoned choice.” Alternatives considered must include those that offer substantial environmental advantages over the proposed project and may be feasibly accomplished in a successful manner considering economic, environmental, social, technological, and legal factors. An EIR does not need to consider every possible alternative, but must consider alternatives that will foster informed decision-making and public participation.

Section 5.0 of the EIR presents three different alternatives to the Proposed Project: the No Project Alternative, Reduced Intensity Alternative, and the Multiple Resource Protection Alternative. Two additional alternatives, the Full Development Alternative and the Off-Site Alternative, were eliminated from further consideration because they either did not reduce significant environmental effects of the Proposed Project or were not considered feasible, consistent with CEQA Guidelines, section 15126.6.

The EIR appropriately considered a reasonable range of alternatives that were determined with a consideration for each alternative’s ability to meet the purpose and need while also reducing environmental impacts. The discussion in Section 5.3 of the EIR provides the reasoning as to why some alternatives were not further considered in accordance with CEQA Guidelines, section 15126.6, subd. (b), which states that “the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project.” The only reasonable alternatives to the Proposed Project are to take no action, develop less vineyard acreage than the Mitigated Project in order to avoid a majority of sensitive natural plant communities, wildlife corridors, springs, streams, seeps, and wetland, or develop less vineyard acreage than the Proposed Project in order to avoid areas where two or more resources overlap and can be avoided in order to provide the most environmental benefits per acre of vineyard removed.

CEQA Guidelines, section 15126.6 requires that a Draft EIR contain only “sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.” A full quantitative analysis for each environmental impact area for each proposed alternative is not required under CEQA or the CEQA Guidelines. A “matrix displaying the major characteristics and significant environmental effects of each alternative” is presented in Table 5-3 of the Draft EIR, pursuant to CEQA Guidelines, section 15126.6. The comparative analysis that compares the levels of impact of each alternative with the Proposed Project provided in the EIR is sufficient under CEQA to allow “informed decision making and public participation.”

Although some habitat fragmentation is inevitable should vineyards be constructed on the property, concentrating all vineyard development in one section of the project site is infeasible. Proposed vineyard blocks have been chosen based on multiple factors, including soils, topography, and farmability. Areas that are suitable for vineyards are not located in one particular area; rather, such areas are located at various sites across the property. The application focuses on those areas that are considered suitable vineyard areas. Additionally, the vineyard blocks as proposed are located in areas that can be developed with minimal environmental effects, including impacts to sensitive biological resources, erosion, and slope stability. Mitigation measures and development alternatives presented in the EIR will further reduce these environmental impacts in accordance with CEQA. While consolidating vineyard development in one section of the project site may increase the size of wildlife corridors, an impact that was already reduced to less-than-significant levels through incorporation of Mitigation Measure 4.2- 6, it would likely increase other environmental impacts due to placement of vineyard blocks in sensitive plant habitat or unstable slopes. Although some habitat fragmentation may occur, it has been reduced to less-than-significant levels in accordance with CEQA and the CEQA Guidelines through the implementation of measures to maintain wildlife corridors and protect sensitive habitats and woodlands.

**Citations**: Final EIR, General Response 20; EIR, Section 5.3.

**Conclusions**: For the foregoing reasons, the Board denies the nineteenth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**20. Twentieth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to adequately analyze the potential impact of the Project on COCWD’s infrastructure underneath Circle Oaks Drive. These face potential disruption from prolonged traffic by heavy vehicles and by land slippage exacerbated by the massive vegetation changes proposed by this project.

**Findings and Decision**: The Board finds and determines as follows:

See responses to Circle Oaks’ twelfth ground of appeal and Sierra Club’s thirtieth ground of appeal (see Resolution Nos. 2016-181 and 2016-183) regarding potential impacts to COCWD infrastructure. As discussed in the twelfth ground of appeal, the project added a condition of approval to require that construction equipment be delivered via an alternative access point. Condition of Approval No. 2(a) was imposed which adds additional traffic restrictions requiring that all construction equipment be routed away from Circle Oaks Drive and through the northernmost access driveway directly off of State Route 121. In addition, no construction equipment or vehicles weighing greater than 64,000 pounds shall use Circle Oaks Drive. This additional Condition of Approval significantly minimizes any potential traffic disruption to the Circle Oaks community or damage to infrastructure. Regarding vegetation changes as they relate to stability, the EIR’s Geologic Investigation discussed the potential impact of tree removal on deep-seated landslide stability. Based on the latest research, up to an approximately 20 percent reduction of tree canopy cover of any given watershed has no observable effect on the groundwater volume. Therefore, 20 percent is a conservative threshold for predicting significant changes to the groundwater volume and therefore the reduction in slope stability of deep-seated slides.

Since most of the watersheds extend beyond the site boundaries, the percentage of tree coverage area lost within the property boundaries is a conservative estimate when compared to the total watershed. The sub-watersheds that have the greatest tree coverage removed are those on Sonoma Volcanic bedrock within the Milliken Reservoir watershed area. Removal of trees over the stable Sonoma Volcanic bedrock would range from a 22 to 33 percent reduction in tree canopy. These volcanic upland areas of the site tend to have less dense tree cover and are more stable than the Franciscan Complex bedrock areas, which is what underlies Circle Oaks. More importantly, they are located in areas that do not pose a threat to Circle Oaks.

The tree cover removal on the largest areas of the site, primarily within the Capell Creek watershed and underlain by Franciscan Complex sandstones and shales, range from 0 to 10 percent. Therefore, the removal of trees on the Franciscan Complex geologic units, which also underlie Circle Oaks, is not anticipated to have a significant effect on slope stability.

**Citations**: Refer to citations for responses to Circle Oaks’ eleventh and twelfth ground of appeal and Sierra Club’s thirtieth ground of appeal (see Resolution Nos. 2016-181 and 2016-183.)

**Conclusions**: For the foregoing reasons, the Board denies the twentieth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**21. Twenty-first Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to adequately evaluate the impacts of the Project groundwater pumping in combination with a prolonged drought. Appellant states that the EIR only considered an “average” drought year, not a severe drought scenario with extended periods of below average rainfall.

**Findings and Decision**: The Board finds and determines as follows:

Possible effects of “prolonged drought” were discussed in the Final EIR Response to Comment O9-13, and as stated therein, “there is no universal definition of when a drought begins or ends, nor is there a state statutory process for defining or declaring drought.” Hence, historic drought periods were determined for the Walt Ranch analyses using data published by Department of Water Resource (DWR), which included five droughts going back as far as 1928. Contrary to the Appellant’s claims, an analysis was conducted of a “prolonged drought period,” which was conservatively defined as six years, the longest drought period on record according to the DWR.

The analysis then reviewed the hypothetical pumping scenario for six years of irrigation demand of the Walt Ranch vineyard in combination with the groundwater demands of COCWD Well No. 1. The analysis found that the cumulative pumping during a prolonged drought “may cause groundwater levels to lower slightly, but removal of such a small percentage of groundwater from storage over an assumed six-year drought period of time is not expected to significantly affect groundwater levels beneath the subject property. In periods of above-average rainfall, the excess groundwater that might have been removed from storage over the assumed six-year drought period would be recharged.” Further, the GWMMP requires ongoing monitoring and reporting of groundwater levels that insure that any impacts attributable to the project will be adequately mitigated, regardless of the impact of drought conditions.

Conditions of Approval 15 and 18 were added to the Project. Condition of Approval 15 was added to require the Walt Ranch groundwater monitoring efforts be consistent with other County approved projects and as required by the Updated MMRP. Condition of Approval 18 was added to acknowledge that the Project will be developed over four phases which allow groundwater monitoring data to be collected and assessed by the County in consultation with a qualified hydrogeologist before the next phase of development may occur.

**Citations**: Final EIR Response to Comment O9-13.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-first ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised); County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**22. Twenty-second Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR used the wrong estimate for average rainfall, which should be consistent with the analyses in other projects, such as Napa State Hospital. Appellant asserts that the EIR should be revised to use 35 inches of annual rainfall as a maximum, with the average rainfall of 24.78 inches presented in the Napa State Hospital EIR.

**Findings and Decision**: The Board finds and determines as follows:

Data from the Napa State Hospital raingage were presented in the report from RCS because of the long period of record available from that gage, and to “help define trends in rainfall” by using those long-term data. However, as stated on page 8 in that RCS report, “Because this rainfall gage is located at a much lower elevation than the subject property, RCS also reviewed an isohyetal map of the County.” Rainfall varies with elevation in Napa County. For reference, the Napa State Hospital Gage is at an elevation of 58 ft above mean sea level (amsl). The elevations of the portion of the Walt Ranch property underlain by volcanic rocks range from 1,400 ft to 2,000 ft amsl.

The Appellant requests that groundwater recharge calculations for the Walt Ranch property should use the Napa State Hospital Raingage data, and not the isohyetal data. Due to the elevation differences between that gage and the Walt Ranch property, the use of such data would not be a realistic representation of the average rainfall that occurs at the Walt Ranch property, and would present a scientifically unsound analysis.

Several additional sources of rainfall data were reviewed in the Final EIR to corroborate the fact that the average rainfall that occurs at the Walt Ranch property is much higher than the long-term average rainfall recorded at the Napa State Hospital Gage, and that the average rainfall value used in the analyses was a conservative estimate for the Walt Ranch property. Specific raingage data include: 1) Atlas Peak Raingage; 2) PRISM Data Set; and 3) Walt Ranch Onsite Raingage(s). After reviewing the aforementioned data sources, it was determined that the data presented in the EIR and associated technical studies represented the most accurate and appropriate baseline data. The use of these data is consistent with the groundwater analyses conducted for other projects in the vicinity, including the neighboring Circle S Ranch.

**Citations**: RCS, 2014, Second Updated Report on the Results and Analysis of 96-Hour Constant Rate Pumping Test, Irrigation-Supply Well No. 3 for Walt Ranch in Napa County, California, Prepared for Hall Wines, LLC, April 2014, County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-second ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**23. Twenty-third Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR does not consider the water demand of neighboring wells during a “worst case scenario.” Appellant states that the EIR only considers four wells, with the closest more than 4,000 feet away.

**Findings and Decision**: The Board finds and determines as follows:

It appears that the Appellant assumes the EIR only considers four wells because four wells were monitored during the pumping test. As explained in the Final EIR General Response 13 regarding the groundwater pumping test methodology, four wells were monitored during the 96-hour pump test of the onsite well WR-3. These four wells were the closest wells that were available for monitoring, and it should be noted that no water level drawdown was observed in those wells during the testing. This “real-world” data was then used to create a model of the local aquifer and calibrate the groundwater software. The values generated by this software were used to analyze potential impacts to other groundwater wells at varying distances, including the COCWD wells. As explained in the response to Appellant’s first ground of appeal, assumed locations were used for the COCWD wells. As discussed in the Final EIR Response to Comment O2-1, COCWD was unresponsive to attempted contact from RCS in advance of the pumping test. However, as discussed in response to Appellant’s first ground of appeal, COCWD eventually provided data to RCS on its wells and these wells were ultimately included within the analysis.

**Citations**: Final EIR General Response 13; Final EIR, Response to Comment O2-1.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-third ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**24. Twenty-fourth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR does not identify the source of water to be used for construction activities, including fugitive dust suppression.

**Findings and Decision**: The Board finds and determines as follows:

As stated on page 3-30 in the Draft EIR, “The Proposed Project’s water supply and infrastructure have been designed to utilize groundwater…” As addressed in Final EIR Response to Comment O9-17, any land grading generates dust. However, not all of these landclearing activities associated with the Walt Ranch Project would occur at one time. Rather, landclearing is expected to span a period of approximately four years, as stated in Section 3.4.6 of the Draft EIR. Mitigation Measure 4.1-1 requires the project applicant to implement a fugitive dust abatement program during construction. This program involves a variety of methods to reduce fugitive dust emissions including covering haul trucks and limiting traffic speeds, but none of the measures involves the use of water for dust suppression. While water may be used for dust suppression during construction, any assumption that significant quantities of water will be used for dust suppression during construction is incorrect.

The project will occur over multiple phases so including water use for dust suppression in the estimate of overall groundwater demand would be inappropriate. Water demand is estimated based on full installation of vineyards. This water demand is estimated at 145 af per year, which encompasses water use for irrigation and frost control as discussed in Section 4.6.1-4 of the EIR. If water is used for dust control, it would not occur at the same time as water use for irrigation or frost control. Rather, water use for dust control would occur during construction; in subsequent years, after a vineyard block is planted, water use will occur for irrigation and frost control. Adding these numbers together assumes that all these water demands (dust suppression, irrigation, and frost control) will occur during the same calendar year for a given vineyard block.

That assumption is incorrect.

Water use for dust control would be a fraction of the water used for irrigation and frost control. As noted above, water use for irrigation and frost control is estimated at 145 af per year for 209 acres of vineyards at build-out of the full Walt Ranch Project. Thus, irrigation and frost control demand is approximately 0.69 af per year per acre. Water use for dust suppression and vineyard construction is estimated at 0.04 af per year for each acre of disturbed area. Therefore, water use for dust suppression that may occur during construction would be less than that required by the vineyard on the same acreage. Therefore, the analysis of water use in the EIR that uses peak vineyard demand is conservative for the years in which construction will occur.

**Citations**: Berndt Ackerstrom, North Counties Development, personal communication, April 16, 2015; Final EIR, Response to Comment O9-17; Draft EIR, Sections 3.4.6, 4.6.1-4; Mitigation Measure 4.1-1.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-fourth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**25. Twenty-fifth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the estimates of groundwater use for operation of the vineyard are inconsistent with estimates in similar vineyard projects. Appellant states that the EIR estimates water demand at a rate of 68 gallons per vine per year, compared to the estimates used for the Upper Range Vineyard Project, which ranged from 104 gallons per vine per year to over 260 gallons per vine per year, and the estimates used in this project are unreasonably low.

**Findings and Decision**: The Board finds and determines as follows:

This was specifically addressed in Final EIR Response to Comment O9-18. Section 3.4.3 and 4.6.1-4 of the Draft EIR calculate the water demand of the Walt Ranch Project at 213.5 af per year, based on 347 acres of vineyard, a vine density of 2,420 vines per acre, and an irrigation rate of 68 gallons per vine. The estimated water demand for the Walt Ranch Project is consistent with the Water Availability Analysis (WAA) – Guidance Document approved by the County on May 12, 2015. Appendix B to the WAA provides estimated water demand for various land uses. The estimated water demand for vineyards is:

Irrigation Only 0.2 to 0.5 acre-feet per acre per year

Heat Protection 0.25 acre-feet per acre per year

Frost Protection 0.25 acre-feet per acre per year

(WAA, Appendix B, p. 19.)

The estimated water demand uses the high end of the range for irrigation – 0.5 af per year. By assuming the high end of the range for irrigation water, the estimate is conservative and may overestimate actual irrigation demand. The estimated water demand also assumes 0.25 af per acre per year for frost protection for a limited number of acres, which is consistent with the WAA. The project does not propose to use water for heat protection.

The estimated irrigation demand is consistent with data concerning irrigation demand for the Circle S property, which is immediately adjacent to the Walt Ranch property. The Final EIR for the Circle S project states: “[T]he property currently uses 13.5 acre-feet (af) of water to irrigate 27 acres of vineyard. For the irrigation of an additional 378 net acres, the project proposed to increase water use to a total of approximately 205.6 af per year for the first three years (approximately 0.5 af per acre) and decrease water use to about 130 af per year after the third year as the vines mature (approximately 0.3 af per acre).” (Circle S, Final EIR, p. 4-22.) The Circle S property is located adjacent to Walt Ranch, and is therefore considered a reasonable comparable vineyard for purposes of estimating water demand.

The Appellant states that estimated water demand is lower than the estimated water demand provided for other vineyard projects, and states water should be estimated on a per-vine basis. The estimate provided in the EIR is consistent with the WAA, provides a reliable basis for estimating demand, and is consistent with other projects in the vicinity. It is possible that other vineyard projects have used different metrics, and arrived at different estimates of irrigation demand. There may be reasons why differing metrics or estimates have been used at other times. These reasons may include irrigation methods, site constraints with respect to groundwater, viticultural philosophy with respect to irrigation, or evolving practices with respect to conserving groundwater. The issue here is not whether other approaches might be used, but whether the estimate provided in the EIR is considered reasonable.

The County published the Draft EIR for the Upper Range project over ten years ago in December 2006. The Upper Range EIR estimated water demand at 122 af per year for 175 net acres of vineyards, which translates to approximately 0.69 af per year of demand. This estimate is somewhat lower than, and generally comparable to, the 0.75 af per year (0.5 af per year for irrigation and 0.25 af per year for partial frost protection) total estimate for the Walt Ranch Project. Thus, the comment that estimated consumption at the Upper Range project was much higher than the estimate at Walt Ranch is incorrect.

**Citations**: Final EIR, Response to Comment O9-18; Draft EIR, Sections 3.4.3, 4.6.1-4; Water Availability Analysis, approved by Napa County on May 12, 2015; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-fifth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**26. Twenty-sixth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR does not adequately identify or mitigate the impacts of earth-disturbing activities on the water quality of the Napa River, Capell Creek, Putah Creek, and Lake Berryessa. Appellant states that the mitigation measures included in the EIR do not adequately address sediment that will be generated during construction that may be subject to erosion via stormwater runoff. Appellant also asserts that the EIR fails to fully acknowledge the applicability of the California Construction General Permit, determining that the Permit does not apply to the project because it is agricultural in nature. Appellant claims that road construction and blasting operations make the Permit applicable.

**Findings and Decision**: The Board finds and determines as follows:

See response to Appellant’s fifth ground of appeal regarding water quality in the Napa River watershed (Milliken Creek subwatershed) and Putah Creek/Lake Berryessa watershed (Capell Creek subwatershed).

Earth-disturbing activities may result in erosion during construction of the Walt Ranch Project, as acknowledged throughout the EIR and ECP. However, the project includes erosion control measures to provide for stormwater management requirements to ensure there are no significant impacts to erosion, sedimentation, or peak runoff increases (refer to Section 4.4 and 4.6 of the EIR, respectively). Temporary erosion control measures used during construction can include waterbars, straw wattles, straw mulching, and other practices as needed. The measures would be maintained in a functional condition throughout the rainy season. Waterbars would be constructed such that they direct surface flow off vineyard avenues into drop inlets or vegetated vineyard areas. Additionally, construction will not occur during the rainy season.

As discussed in Section 4.6.2-2 of the EIR and Response to Comment A2-01, agricultural projects, including the construction of the Walt Ranch Project, are exempt from the Construction Stormwater General Permit mentioned in this comment. As discussed in Section 3.4 of the EIR, the Walt Ranch Project will require the maintenance and improvements of some roads on the project site. These roads are an integral part of this agricultural project and the applicant could not access or operate the proposed vineyards without these roads. More importantly, the sole purpose and use of these roads is for agriculture. As a result, the construction and maintenance of these roads are not subject to the Construction Stormwater General Permit.

**Citations**: EIR, Sections 3.4, 4.4, 4.6; Response to Comment A2-01; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-sixth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**27. Twenty-seventh Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR improperly overestimates the groundwater storage capacity of the Sonoma Volcanics underlying the site, which results in an inadequate analysis of the impacts of the Project on groundwater availability. Appellant claims that calculated values of aquifer transmissivity and storage coefficients by various models are discarded and inexplicably replaced with empirically derived values. Appellant states that cited values for hydraulic parameters in text don’t agree with values in existing tables in the EIR and thus, do not provide realistic insight into the potential impacts of groundwater pumping.

**Findings and Decision**: The Board finds and determines as follows:

Section 4.6.1-4 of the EIR defines the specific yield as the volume of groundwater that can potentially be extracted from the saturated portion of the fractured volcanic rocks beneath the subject property. Specific yield of the Sonoma Volcanics can vary greatly depending on many factors, including the degree of the fracturing, the size of the fracture openings, and the interconnection of the fractures within the rocks. A conservative estimate by Kunkel and Upson for the specific yield of the Sonoma Volcanics ranges from 3 percent to 5 percent. Based on studies prepared by RCS for other nearby properties underlain by Sonoma Volcanics, an estimate for specific yield of 2 percent was used, providing an even more conservative estimate than the 3 to 5 percent figure estimated by Kunkel and Upson.

By using a specific yield of 2 percent to estimate the volume of groundwater in storage beneath the property, the investigation errs on the side of understating specific yield, and therefore reflects a conservative analysis.

**Citations**: USGS, 1960, Geology and Groundwater in Napa and Sonoma Valleys, Napa and Sonoma Counties, California, Kunkel, F. and J.E. Upson, 1960, USGS Water Supply Paper 149; EIR, Section 4.6.1-4; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-seventh ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**28. Twenty-eighth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR inadequately analyzed the availability of groundwater storage, using a “conservative” estimate of total groundwater storage that is very large. Appellant states that the EIR assumes that all of the water stored in the area can be accessed, but in reality, only 10 percent of the Sonoma Volcanic groundwater storage capacity is useable. Appellant states that the current well spacing, presence of fault segregated aquifers, and non-uniform distribution of groundwater in the Sonoma Volcanics make it difficult, if not impossible, to dewater the saturated material, and thus, the conclusion that the overdraft on the Project site would have a less than significant effect on the groundwater storage is not properly analyzed in the EIR.

**Findings and Decision**: The Board finds and determines as follows:

The assumptions presented by the Appellant are based on an incorrect interpretation of Johnson’s 1977 study of groundwater conditions in the MST. Therein, Johnson estimated that only 10 percent of the Sonoma Volcanic groundwater storage capacity is useable (accessible) storage, but the entire passage makes clear that Johnson is referring to the groundwater storage units in the MST area as listed in Table 3 therein, and not the overall ability of the Sonoma Volcanics to store groundwater. The Walt Ranch property is not located within the MST groundwater deficient area, as explained response to LRC’s tenth ground of appeal (see Resolution No. 2016-180).

Refer to response to Appellant’s twenty-seventh ground of appeal regarding the estimate of groundwater in storage presented in the EIR.

**Citations**: USGS, 1977, Ground-water hydrology of the Lower Milliken-Sarco-Tulocay Creeks Area, Napa County, California. Johnson, M.J. USGS Water-Resources Investigations 77-82; citations for response to LRC’s tenth ground of appeal (see Resolution No. 2016-180); County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-eighth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**29. Twenty-ninth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR inadequately assessed the impacts of water use by overestimating the recharge rates because the EIR assumes that 7 percent to 9 percent of annual rainfall goes to deep percolation. Appellant states that the problem with applying the 9 percent recharge rate is that the rate reflects a watershed-wide average, incorporating the high stream and volcanic tuff infiltration rates in the lower elevations of the eastern hills with much lower infiltration rates representative of the higher elevation volcanic terrain. Appellant asserts that the proper analysis would show a recharge rate that is less than half of the estimated annual project groundwater demand.

**Findings and Decision**: The Board finds and determines as follows:

The Appellant states that the tuffaceous member of the Sonoma Volcanics in the southern portion of the Milliken Creek watershed is the principal water-bearing member of the Sonoma Volcanics, with higher infiltration rates than the volcanic flow-type rocks. As stated in the 2015 RCS Response to Comments Memorandum, “in the last 32+ years of providing hydrogeologic services in Napa and Sonoma counties, and monitoring the drilling, design, construction and testing of a large number of water wells in the Sonoma Volcanics, RCS has observed very high flow rates from wells constructed into the volcanic flow rocks, scoria, and welded ash deposits (not the tuffaceous members) of the Sonoma Volcanics. Further, as described above, the Walt Ranch wells are constructed into the flow rocks and not the tuffaceous strata of the Sonoma Volcanics. As shown on Table 3A of the RCS 2014 report, each of the Walt Ranch wells was capable of producing at rates ranging from 50 gpm to 300 gpm (RCS 2014). Well WR-3 was pumped at a rate of 300 gpm and displayed a specific capacity of 3.6 gallons per minute per foot of drawdown (Table 3A, Appendix Q, RCS 2014).” See response to LRC’s ninth ground of appeal (see Resolution No. 2016-180) regarding the appropriate use of 7 to 9 percent as the deep percolation rate.

**Citations**: RCS, 2015, Technical Memorandum Re: Response to Comments on the Walt Ranch Draft EIR, August 13, 2015, included as Appendix Q to the Final EIR; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the twenty-ninth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**30. Thirtieth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR’s conclusions on site-specific and cumulative impacts of groundwater withdrawals are not substantiated by evidence. Appellant states that the EIR admits that there is no regional impact analysis on ground water supply and that it is infeasible to predict long-term impacts associated with groundwater extractions. Appellant asserts that the lack of analysis or inability to complete an impact assessment does not constitute the conclusion of “no potential impact,” and the impact should be considered potentially significant until demonstrated otherwise.

**Findings and Decision**: The Board finds and determines as follows:

As discussed in response to Appellant’s ninth ground of appeal, the site-specific groundwater pumping test utilized theoretical monitoring points that coincided with the estimated locations of the COCWD vertical and horizontal wells. Refer to response to Appellant’s first ground of appeal regarding the regional groundwater demand from the Walt Ranch Project, Circle S Ranch, and COCWD. Substantial analysis was conducted in accordance with CEQA Guidelines, section 15126.2, and Impact 4.6-4 of the EIR found this to be a potentially significant impact. As such, Mitigation Measure 4.6-4 required preparation and adoption of a GWMMP to minimize the potential impacts to offsite wells. Refer to response to CBD’s thirty-third appeal (see Resolution No. 2016-182) regarding the GWMMP.

In addition, Conditions of Approval 15 and 18 were added to the Project. Condition of Approval 15 was added to require the Walt Ranch groundwater monitoring efforts be consistent with other County approved projects and as required by the Updated MMRP. Condition of Approval 18 was added to acknowledge that the Project will be developed over four phases which allow groundwater monitoring data to be collected and assessed by the County in consultation with a qualified hydrogeologist before the next phase of development may occur.

**Citations**: EIR, Impact 4.6-4; Mitigation Measure 4.6-4; citations for response to CBD’s thirty-third ground of appeal (see Resolution No. 2016-182); County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings; Memorandum from David Morrison and Brian Bordona to Chair Pedroza and Board Members, December 5, 2016.

**Conclusions**: For the foregoing reasons, the Board denies the thirtieth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**31. Thirty-first Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR proposes invalid mitigation measures associated with potential impacts of groundwater pumping. Appellant states that the EIR proposes a monitoring program, but monitoring itself is not mitigation. Appellant asserts that the EIR fails to identify triggers and corresponding management/operational changes should the groundwater pumping exceed the trigger amount.

**Findings and Decision**: The Board finds and determines as follows:

Appellant’s thirty-first ground of appeal raises very similar issues to those raised by Provencher & Flatt, LLP, in their April 4, 2016 letter that included comments on the Final EIR. Responses to these comments are included on pages 11 through 13 of the 2016 RCS Memo. Specific mitigation measures that include mitigations for loss of water are listed on page 13 of the GWMMP. A description of the process needed to develop an appropriate trigger point by the County is described on page 12 of the GWMMP and discussed further in response to LRC’s nineteenth ground of appeal (see Resolution No. 2016-180). Further, the trigger point is to be based on the significance threshold used in the Draft EIR and incorporated into the GWMMP as the performance criteria for establishing the trigger point based on well specific information.

As discussed in the response to LRC’s thirteenth ground of appeal (see Resolution No. 2016-180), the EIR utilizes the qualitative significance threshold provided in CEQA GuidelinesAppendix G relating to groundwater resources, requires the development of a GWMMP which requires specific quantitative thresholds or trigger points, and provides eight different potential mitigation options in the event that impacts do occur to offsite wells. This mitigation measure, in addition to being in compliance with CEQA Guidelines, section 15126.4, is also consistent with and similar to other groundwater mitigation measures for nearby vineyard projects in the vicinity, including the neighboring Circle S Ranch.

In addition, Conditions of Approval 15 and 18 were added to the Project. Condition of Approval 15 was added to require the Walt Ranch groundwater monitoring efforts be consistent with other County approved projects and as required by the Updated MMRP. Condition of Approval 18 was added to acknowledge that the Project will be developed over four phases which allow groundwater monitoring data to be collected and assessed by the County in consultation with a qualified hydrogeologist before the next phase of development may occur.

**Citations**: RCS, 2016, Technical Memorandum Re: Response to Comments on the Walt Ranch Final EIR, June 10, 2016, included as Attachment C to the Responses to Final EIR Comments Memorandum; refer to citations for responses to LRC’s thirteenth and nineteenth grounds of appeal (see Resolution No. 2016-180); County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings; Memorandum from David Morrison and Brian Bordona to Chair Pedroza and Board Members, December 5, 2016.

**Conclusions**: For the foregoing reasons, the Board denies the thirty-first ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**32. Thirty-second Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR does not provide adequate assessment of the potential project-induced changes in the volume and timing of water supplies to wetlands, riparian corridors, and the associated biological habitats. Appellant states that there is no comprehensive monthly or seasonal water budget to fully quantify runoff or groundwater recharge throughout the year, and the seasonal distribution and duration of surface water flow rates are an integral variable in the support of existing wetland and riparian vegetation and wildlife.

**Findings and Decision**: The Board finds and determines as follows:

This was addressed in Final EIR Response to Comment A7-10. The Walt Ranch property is not located within a groundwater basin as defined by DWR and is not included as part of Basin 2-2.01, the “Napa –Sonoma Valley Groundwater Basin” by DWR.

The proposed groundwater pumping will not affect surface water flows in Milliken Creek, as this system of fractured volcanic rocks is disconnected from the surface flow. In general, larger creeks or streams are more likely to have alluvial deposits, subsurface channels, and connections to groundwater. However, the main stem of Milliken Creek on the property does not include those features due to its location at the headwaters of the watershed, which is why it is highly unlikely that any of the small tributaries or swales feeding it would have those ground water dependent features. Due to the fact that the project would not interrupt any significant connections between the groundwater and surface water features, there would be no significant impacts to salmonids as a result of groundwater pumping.

As discussed in the Final EIR Response to Comment A7-10, the United States Geological Survey (USGS) Circular 1376 generally discusses how groundwater pumping may affect surface water flows (e.g., when groundwater pumping occurs in an aquifer with a direct hydraulic connection to a stream). USGS Circular 1376 is a document that describes a number of varied geologic conditions in which groundwater and surface water interaction occurs (a situation in which the water table is in direct contact with the surface water in a stream or river). In the document, USGS finds that “connected systems” occur in alluvial-type aquifers. Specifically, a connected system requires two components, “first, that the stream and underlying aquifer remain hydraulically connected by a continuous saturated zone, and second, that the stream does not become dry.” Milliken Creek traverses a small portion of the southern part of the Walt Ranch property. The portion of the creek that traverses the property is ephemeral, meaning that the creek does not flow year round, and is dry for a significant portion of each year.

Furthermore, Walt Ranch Well WR-5 is located approximately 1,000 feet northeast of the closest channel of Milliken Creek. RCS reviewed the water level elevation within the well and within Milliken Creek for the Final EIR (refer to Response to Comment A7-9) and found that the elevation of the water surface measured in Well WR-5 is higher than the bottom elevation of Milliken Creek. RCS did not observe flow in the creek when the elevation of the water surface in Well WR-5 was higher than the bottom of the creek. This fact demonstrates that Milliken Creek is not connected to the groundwater table by a continuous saturated zone in the vicinity of Well WR-5. Because the elevation of the water surface in the well is higher than the elevation of the bottom of the creek, if there were such a connection, then water would have been observed in Milliken Creek. Since Milliken Creek does not exist in an alluvial aquifer in the vicinity of Walt Ranch, groundwater pumping will not impact surface water flows.

Hydrologic modeling was performed using accepted methodology and the results indicated no further analysis was required. The seasonality of precipitation is described in various sections of the Draft EIR, including at pages 4.2-4 and 4.6-1. Wetlands or other surface water features are described in detail in Section 4.2. Surface and groundwater impacts are described in Section 4.6. Given the disconnected nature of the Sonoma Volcanics from the surface features on the property, further monthly or seasonal water budgets would not provide any additional substantive information that would affect the significance of impacts which were determined in compliance with CEQA Guidelines, section 15126.

**Citations**: Department of Water Resources (DWR), 2003, San Francisco Bay Hydrologic Region, *California’s Groundwater Update 2003,* Bulletin 118, California Department of Water Resources; USGS, 2013, USGS Circular 1376, *Streamflow Depletion by Wells – Understanding and Managing the Effects of Groundwater Pumping on Streamflow*; Final EIR, Response to Comment A7-10; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the thirty-second ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**33. Thirty-third Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR includes an inaccurate analysis of long-term changes in surface water runoff because the EIR’s conclusion that the development activities, including deep soil-ripping, will reduce runoff rates is based on an incorrect analysis of the long-term effects of soil-ripping on infiltration rates. Appellant claims that any increased infiltration from soil-ripping is short-lived and soil will reconsolidate over a relatively short period, resulting in soil with infiltration rates similar to or lower than the pre-project conditions.

**Findings and Decision**: The Board finds and determines as follows:

Refer to response to LRC’s twenty-third ground of appeal (see Resolution No. 2016-180).

**Citations**: Refer to citations for response to LRC’s twenty-third ground of appeal (see Resolution No. 2016-180).

**Conclusions**: For the foregoing reasons, the Board denies the thirty-third ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**34. Thirty-fourth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR does not properly consider the cumulative impacts of sedimentation and erosion on localized “hot spots” within the project site. Appellant states that the EIR conclusions regarding project-induced changes in erosion potential is based on summing vineyard block subtotals within the Milliken and Capell Creek watersheds and presenting the total (net) change for each watershed. Appellant asserts, however, that this type of lumping of results masks localized impacts, which when considered alone, could be considered a significant impact. Appellant asserts that a more thorough review of changes in soil loss results indicates localized increases in erosion potential from multiple vineyard blocks that contribute drainage and sediment to onsite Corps designated waters and wetlands, which host potentially sensitive biological resources.

**Findings and Decision**: The Board finds and determines as follows:

As discussed in the response to Sierra Club’s twenty-first ground of appeal (see Resolution No. 2016-183), pre- and post-project sedimentation calculations have been performed for each proposed vineyard block, and then organized by watershed. Table 4.4-2 shows that the total soil loss within the Milliken Reservoir watershed portion of the property will decrease from 615.87 tons per year under current conditions to 347.82 tons per year, a decrease of approximately 43.61 percent. This information appears at the top of page 4.4-20 of the EIR, and represents a summary of the block-by-block soil loss calculations set forth in Appendix O to the EIR. These calculations have been verified by the Napa County Engineering Division staff through field inspection of existing conditions and statistical analysis of original calculations.

Although the method of analysis utilizes larger watershed-based compliance (consistent with Napa County Code Chapter 18.108), the EIR does not ignore localized “hot spots” within the property. Page 4.2-117 of the EIR specifically analyzes the potential for localized increases to impact waters of the U.S. and important aquatic habitats for listed wildlife species:

In addition, as discussed in Section 4.4 Geology and Soils, there will be some localized increase in soil erosion from certain blocks (please see Table 4.4-2). Although the overall sedimentation from the project site is decreased in post-project conditions in both watersheds, these localized increases could have an impact on wildlife that utilize aquatic habitat in the vicinity of those vineyard blocks. This would be a significant impact. However, riparian buffers have been shown to intercept and trap as much as 75 to 100 percent of sediment in runoff.

Furthermore, as stated in Final EIR Response to Comment O9-44, the erosion prediction calculations are based on the Universal Soil Loss Equation (USLE) which is a method of predicting soil particle displacement. This approach provides a conservative estimate in this case because the USLE does not address sediment delivery; rather, the analysis assumes that 100 percent of the estimated soil loss will be delivered to receiving waters and wetlands. The project incorporates buffers of 50’ or more between proposed vineyard areas and all Waters of the U.S. and wetlands. These buffers will result in reduced sediment delivery to streams or wetlands located on or adjacent to the site. The USLE calculations do not take into account reduced sediment delivery associated with these buffers.

As stated in Section 4.6.3-1 of the Draft EIR, the Natural Resources Conservation Service and the University of California, Division of Agricultural and Natural Resources recommend 50-foot wide vegetated buffers for stream and wetland protection because under most conditions, this buffer width is generally adequate to provide enough vegetation to entrap sediments and soils, and filter chemicals adequately by facilitating degradation within buffer soils and vegetation. However, buffers may be larger than 50’ based on Napa County stream setback requirements.

In addition, as a result of mitigation measures contained in the Draft EIR and the final ECP design, receiving waters and wetlands will have increased buffers as follows:

|  |  |
| --- | --- |
| **Vineyard Block** | **Increased Buffer** |
| Block 16B1 | Greater than 100’ |
| Block 16B2 | Greater than 70’ |
| Block 37D | Eliminated from project |
| Block 37E | Eliminated from project |
| Block 38 | Greater than 150’ |
| Block 53 | Greater than 80’ |
| Block 19B | Greater than 80’ |
| Block 18A2 | Greater than 80’ (wetlands) |
| Block 29A2 | Eliminated from project |
| Block 29B2 | Eliminated from project |

Furthermore, as discussed in Final EIR Response to Comment O9-44, the Applicant agreed to implement the following additional measures to further protect individual Waters and Wetlands, which have been incorporated into the final ECP:

|  |  |
| --- | --- |
| **Vineyard Block** | **Additional Measures** |
| Block 16C1 | Installation of straw wattles every year in areas where the buffer is less than 70 feet |
| Blocks 17A, 17B | Installation of straw wattles every year in areas where the buffer is less than 70 feet. Increase vineyard cover crop percentage to 80 percent |
| Block 17C | Eliminated from project |
| Blocks 34A3 & 34C | Eliminated from project |
| Block 49 | Eliminated from project |
| Blocks 36A & 36B | Relocate drainage outlet to level spreader in Block 37 F. Increase size of level spreader. |
| Block 19A4 | Reduce block size in order to increase buffer to 70 feet |
| Blocks 18A1 – 18A4 | Reduce block size in order to increase buffer to 70 feet in some areas. Installation of straw wattles every year in areas where the buffer is less than 70 feet |
| Blocks 31A and 31B | Eliminated from project |
| Block 29A1 | Reduce block size in order to increase buffer to 70 feet |

These increased buffers and additional BMPs will further reduce the possibility of potential impacts to a less than significant level.

**Citations**: Grismer, M.E., A.T. O’Geen, D. Lewis, 2006, Vegetative Filter Strips for Nonpoint Source Pollution Control in Agriculture, Division of Agriculture and Natural Resources, University of California Publication 8195, available online at: <anrcatalog.ucdavis.edu/pdf/8195.pdf>; USDA, 2000, Conservation Buffers to Reduce Pesticide Losses, March 2000; refer to citations for response to Sierra Club’s twenty-first ground of appeal (see Resolution No. 2016-183); County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the thirty-fourth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**35. Thirty-fifth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that many proposed erosion control measures are poorly suited for the project site or will result in increased downslope erosion from collection of runoff in drainage systems. Appellant states that many of the erosion control elements are located on steep slopes and water draining through them can become re-concentrated a short distance downslope, and the pipe level spreader erosion control measure seems poorly suited to the project site, as they are designed to be installed on very flat slopes.

**Findings and Decision**: The Board finds and determines as follows:

The ECP was designed by licensed civil engineers, was reviewed for technical adequacy by Napa County RCD and Napa County engineers, and was analyzed for stability issues by a licensed engineering geologist. Several commenters on the Draft EIR brought up perceived issues with the use of the pipe level spreader (a common vineyard erosion control feature in Napa County) because of a Caltrans report that evaluated pipe level spreaders as temporary construction BMPs for roadway projects, which is a much different use than what is proposed in the Walt Ranch ECP. In addition, this report was based only on a literature review, as Caltrans was unable to field test any installations. At least one source cited in the Caltrans report listed acceptable slopes for installation at 5:1 (H:V), which equates to a 20 percent slope. As stated in the 2002 Caltrans report:

This report summarizes a study . . . Caltrans conducted to assess the feasibility and effectiveness of the level spreader as a temporary construction best management practice (BMP). The evaluation consisted of a literature review and an assessment of 42 Caltrans construction sites to determine which, if any, were suitable for implementation of a level spreader BMP. Based on the results of literature and site reviews, the study team has concluded that the level spreader BMP is not suitable for use as a temporary construction site BMP…

Although Caltrans determined that level spreaders were not appropriate for use in their particular circumstances, the type of level spreader specified in the Walt Ranch ECP is a variation on a design first put forth by engineers at the Natural Resources Conservation Service, Napa Field Office, approximately 20 years ago. This design has been modified over the years based on the results of actual field installations and utilized on projects designed by multiple engineering firms. They are permanent structures for runoff control and have been successfully installed and evaluated on over 15 vineyard projects in Napa County.

The installation locations chosen for level spreaders were evaluated in the field during project design and deemed appropriate by qualified professional engineers. The design was reviewed and approved by the County’s technical consultant, Napa County RCD.

**Citations**: Caltrans, 2002, CTSW-RT-02-020 Final Report: Level Spreader Effectiveness Evaluation, May 2002, available online at http://www.dot.ca.gov/hq/env/stormwater/pdf/CTSW-RT-02-020.pdf, accessed August 18, 2002; Dave Steiner, former Senior Soil Conservationist for NCRCD, personal communication April 18, 2015; PPI Engineering project records, 2015; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings.

**Conclusions**: For the foregoing reasons, the Board denies the thirty-fifth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**36. Thirty-sixth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR fails to establish a minimum safe distance for blasting and the EIR fails to state exactly how close blasting may occur to the residences.

**Findings and Decision**: The Board finds and determines as follows:

Refer to the response to Appellant’s sixteenth ground of appeal. As discussed further therein, Impact 4.8-2 of the EIR finds that 775 feet is the safe distance for blasting and Mitigation Measure 4.8-2 ensures that blasting does not occur within blocks that are within 775 feet of residences.

**Citations**: Final EIR, Impact 4.8-2; Mitigation Measure 4.8-2.

**Conclusions**: For the foregoing reasons, the Board denies the thirty-sixth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**37. Thirty-seventh Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR did not adequately analyze growth-inducing impacts of the Project and the EIR did not analyze the potential development of the Project’s parcels into individual vineyard sites.

**Findings and Decision**: The Board finds and determines as follows:

It may be helpful to first define “growth inducement” as it relates to CEQA. CEQA Guidelines, section 15126.2, subd. (d), defines a growth inducing impact as something that “could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas).”

As stated in Section 3.3 of the Draft EIR, the objective of the Walt Ranch Project is to develop vineyard on the Walt Ranch property. The entire project site is zoned Agricultural Watershed (AW). Land uses allowed in an AW zone without a use permit include agriculture, one single family dwelling per each legal lot, small residential care facilities, and other uses as discussed in Section 3.1 of the Draft EIR. The proposed development of vineyards on the property is an agricultural use and does not require a use permit, but rather requires the approval of an Erosion Control Plan. As stated above, the purpose of the Walt Ranch Project is to develop vineyards on the Walt Ranch; the EIR does not analyze the development of homes on the parcels because that is not proposed by the project applicant and not a reasonable foreseeable future development. No other reasonably foreseeable future development would occur on the project site beyond what is described in the EIR. Furthermore, the planting of vineyards on the property would not induce growth, as it is not removing an obstacle to population growth or rezoning the property to allow higher-density residential land uses.

In accordance with CEQA Guidelines, section 15126.2, the potential for growth inducement attributable to the Walt Ranch Project is discussed in Section 6.2 of the Draft EIR. As discussed in Section 3.4.1-6 of the Draft EIR, there is a 21-mile existing road network on the property that provides access to all 35 legal parcels. The Walt Ranch Project would realign and upgrade some of the roads in accordance with a Long-Term Road Management Plan, included as Appendix C of the Draft EIR. However, the Walt Ranch Project would not provide new access to any parcels that would constitute the removal of an “obstacle to population growth” as defined by CEQA Guidelines, section 15126.2, subd. (d). Further, the vineyard road improvements have not been designed to meet the County Road and Street Standards for residential uses, but rather the roads will be upgraded to provide agricultural access. Some of these agricultural roads would be graveled to reduce erosion, but none would be paved roadways as stated by the Appellant.

The Walt Ranch Project includes infrastructure to facilitate the development of vineyards as listed at pages 3-7 and 3-8 of the Draft EIR. These improvements include the development of a water supply in order to serve the vineyard’s need for water for irrigation and frost protection. The proposed water supply is designed to provide the water needed for development of the property as vineyards; the water supply is not designed to serve another purpose, such as water supply for residential uses. In this respect, the project does not remove an obstacle to growth. Further, pursuant to the County Groundwater Conservation Ordinance, a discretionary permit would be required to modify the proposed water supply system to provide any water for residential use to more than one contiguous parcel. (See County Code Section 13.15.030(A)(1)(b).)

The Walt Ranch Project will provide employment for seasonal and permanent workers. The number of anticipated jobs is described in Section 3.4.5 of the Draft EIR. It is estimated that there will be approximately 80 workers on site during the harvest season. As explained in Section 6.2 of the EIR, this number of workers is not expected to result in significant growth inducement because these workers will be seasonal, and the workers are expected to come from the existing reservoir of available workers in the area. In particular, this incremental increase in the number of seasonal jobs in the region will not create a significant demand for additional housing. Many of these workers already work for the Applicant on other vineyards in the area, and some of them would be the same workers who come to the site to work on the existing vineyards on the Walt Ranch property that were planted in 2006 on areas having natural slopes of less than 5 percent.

The vineyard blocks have been designed based on their suitability to provide high-quality wine grapes, to be “farmable” in terms of access, and to avoid steep slopes, riparian corridors, and sensitive habitat. The vineyard blocks have not been designed to provide locations for possible future home sites. In this respect, the project is not like other instances in which the courts have held that an initial application was clearly designed for some future phase of development, and thus was expected to induce growth. For example, in one case, the applicant proposed to develop a stand-alone golf course, but the locations of future homes around the golf course could readily be identified; under those circumstances, the county had to analyze the potential development that the golf course might induce (*Stanislaus Audubon Society, Inc. v. County of* *Stanislaus* (1995) 33 Cal.App.4th 144). In this case, there is no evidence that development of a vineyard in this location will induce residential development around the vineyard blocks, nor is there evidence that the vineyard blocks have been designed with that possibility in mind.

One single family residence is an authorized use on land zoned “Agriculture/Watershed” (AW) (Napa County Code, section 18.20.020(a)). The fact that a single-family residence is a permitted use under the County’s zoning ordinance does not mean that such a unit is part of the Walt Ranch Project for CEQA purposes. In *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, the county prepared an EIR for a 27-lot subdivision. Under the County’s zoning ordinance, each lot owner could apply for a permit to construct a second unit. The petitioners argued that the county should have anticipated these second units and, accordingly, analyzed a 54-unit project, rather than a 27-unit project, on theory that these second units were a foreseeable consequence of approving the subdivision. The Court disagreed, concluding that “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.” (157 Cal.App.4th at p. 1450.)

The same conclusion is appropriate here. The Applicant seeks County approval of an erosion control plan in order to develop vineyards on the site. The Applicant has not asked the County to issue a building permit for one or more single-family residences. There is no evidence that the Applicant has designed the project to facilitate residential development. There is no evidence that, elsewhere in the region, vineyard projects are being proposed as a catalyst for future residential development.

**Citations**: Draft EIR, Sections 3.1, 3.3; Final EIR General Response 4; County Staff Presentation, Board of Supervisors November 18, 2016 Meeting.

**Conclusions**: For the foregoing reasons, the Board denies the thirty-seventh ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**38. Thirty-eighth Ground of Appeal.**

**Appellant’s Position**: Appellant Circle Oaks asserts that the EIR failed to adequately study the geotechnical conditions of Circle Oaks Drive for use by heavy construction equipment and traffic.

**Findings and Decision**: The Board finds and determines as follows:

The EIR sufficiently analyzed any potential impacts to Circle Oaks Drive due to heavy equipment and increased traffic due to the project. Construction traffic and subsequent operational traffic due to the Walt Ranch Project could increase the rate of road wear on SR-121 and Circle Oaks Drive, as analyzed in Section 4.7 of the Draft EIR. Roads in the vicinity, such as SR-121, were constructed to accommodate a mix of vehicle types, including heavy trucks. Trucks utilized during construction and operation of the Proposed Project must comply with the California Vehicle Code (CVC), per Mitigation Measure 4.7-4. The CVC regulates legal weight and width limits of loaded trucks in order to minimize adverse impacts to roadways. Any extra-legal loads needed for specialized deliveries shall be subject to special permit requirements from Napa County. These regulations are intended to minimize adverse impacts to roadways.

The County designated Circle Oaks Drive as a local road, which is generally not built with the pavement thickness that would withstand substantial or continuous traffic. However, the amount of project-related truck and equipment trips anticipated on Circle Oaks Drive is not considered substantial and would not create a significant impact on the wear-and-tear of this roadway.

Though project related truck and equipment trips are not anticipated to create a significant impact on the wear-and-tear of Circle Oaks Drive, the County continued to hear concerns that damage may still occur. In response, the project must comply with Mitigation Measure 4.7-4, which requires a third party consultant to assess Circle Oaks Drive prior to the start of construction and following the completion of construction. Under the measure, if any deterioration has occurred to the roadway or subsurface infrastructure due to construction traffic, the applicant must pay to resurface the roadway to restore the pavement to at least preconstruction condition (unless the resurfacing is already expected to occur within a year or sooner in conjunction with other planned or proposed roadway improvements). While the traffic analysis indicated that the project does not require this mitigation measure in order to avoid or substantially lessen an impact that is less than significant, the County imposed this mitigation measure to provide further assurances to Circle Oaks residents that the project will not permanently damage Circle Oaks Drive.

Furthermore, Condition of Approval No. 2 imposed upon the project additional traffic restrictions requiring that all construction equipment be routed away from Circle Oaks Drive and through the northernmost access driveway directly off of State Route 121. In addition, no construction equipment or vehicles weighing greater than 64,000 pounds shall use Circle Oaks Drive. This additional Condition of Approval significantly minimizes any potential traffic disruption to the Circle Oaks community or damage to infrastructure.

**Citations**: Final EIR, Section 4.7; County Staff Presentations, Board of Supervisors November 18 and December 6, 2016, Meetings; Memorandum from David Morrison and Brian Bordona to Chair Pedroza and Board Members, December 5, 2016.

**Conclusions**: For the foregoing reasons, the Board denies the thirty-eighth ground of appeal and upholds the PBES Director’s decisions to certify the EIR, approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval, and approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised).

**Section 3. Incorporation of SSE Appeal Decision by Reference.**

The Board hereby incorporates by reference all findings and decisions made in connection with Appellants CBD, Sierra Club, and LRC’s Appeals as set forth in Resolution Nos. 2016-182, 2016-183, and 2016-180.

**Section 4. Conditions of Approval.**

The Board modifies the Director’s conditions of approval and the Updated MMRP as set forth in Exhibits A and B attached and incorporated herein by reference.

**Section 5. Substantial Evidence.**

Substantial evidence supporting each and every finding made herein is contained in the record of proceedings. All of the files and records that comprise the administrative record for the Walt Ranch Erosion Control Plan Project are incorporated herein by reference.

**Section 6. Summary of Decision.**

Based on the foregoing facts, findings, and determinations, the Board of Supervisors:

1. Adopts the findings of fact and rationales as set forth in this Resolution;
2. Denies the first through thirty-eighth grounds of appeal to Circle Oaks’ appeal as set forth above;
3. Upholds the Director’s approval of the Reduced Intensity Alternative as contained in the Draft EIR and Final EIR with additional modifications and certifies the EIR;
4. Approves the revised Erosion Control Plan P11-00205-ECPA, subject to the attached revised Conditions of Approval and amended Updated MMRP, attached as Exhibits A and B and incorporated herein by reference;
5. Revises the Conditions of Approval and Updated MMRP adopted by the Director and finds that the Revised Conditions of Approval and amended Updated MMRP, attached as Exhibits A and B, are both necessary and well justified; and
6. Adopts the Revised Conditions of Approval and amended Updated MMRP, attached as Exhibits A and B.

**Section 7. Effective Date.**

This resolution shall take effect in accordance with the provisions of Napa County Code section 2.88.090.

**Section 8. Judicial Challenge.**

Unless a shorter period applies, any judicial challenge to this decision is governed by California Code of Civil Procedure section 1094.6.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** by the Napa County Board of Supervisors, State of California, at a regular meeting of said Board held on the 20th day of December, 2016, by the following vote:

AYES: SUPERVISORS LUCE, CALDWELL, WAGENKNECHT,

DILLON and PEDROZA

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

NAPA COUNTY, a political subdivision of the

State of California

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ALFREDO PEDROZA, Chair of the

Board of Supervisors

|  |  |  |
| --- | --- | --- |
| APPROVED AS TO FORM  Office of County Counsel  By: *Laura J. Anderson*  Deputy  Date: December 14, 2016 | APPROVED BY THE NAPA COUNTY  BOARD OF SUPERVISORS  Date: December 20, 2016  Processed By:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Deputy Clerk of the Board | ATTEST: GLADYS I. COIL  Clerk of the Board of Supervisors  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

Attachments:

* Exhibit A- Updated MMRP
* Exhibit B – Revised COA