

**THE CONSERVATION, DEVELOPMENT
AND PLANNING DIRECTOR'S FINDINGS OF
FACT, CERTIFYING THE FINAL
ENVIRONMENTAL IMPACT REPORT FOR THE
ROBERT MONDAVI PROPERTIES VINEYARD
CONSISTING OF EROSION CONTROL PLAN NO.
99323-ECPA AND APPROVING EROSION
CONTROL PLAN NO. 99323-ECPA**

**NOTICE IS HEREBY GIVEN BY NAPA COUNTY'S CONSERVATION,
DEVELOPMENT AND PLANNING DIRECTOR AS FOLLOWS:**

Background:

1) On December 21, 1999, an application was filed with the Napa County Conservation, Development and Planning Department (the "Planning Department") by Robert Mondavi Properties, Inc. (the "Applicant") for approval of Erosion Control Plan #99323-ECPA to develop approximately 85 acres of vineyards (the "Project") on a 160.6 acre parcel located in a predominately agricultural area, southeast of the City of Napa, approximately one-half mile east of State Route 221, between the intersections of State Route 221 with State Route 12/29 and Syar Industrial Way, APN 046-400-034 (the "Property").

2) The Property is zoned Agricultural Watershed and Airport Compatibility (AW:AC) and designated Agricultural Watershed and Open Space (AWOS) under the County's General Plan.

3) Based on a preliminary review of the Project, the Planning Department determined that the Project might result in significant environmental effects and therefore required preparation of an Environmental Impact Report (the "EIR") consistent with the requirements of the California Environmental Quality Act ("CEQA").

4) On March 3, 2004, EDAW (an environmental consulting firm) was retained by the County to assist with preparation of an EIR addressing the significant or potentially significant impacts on the environment associated with development of the Project.

5) On April 7, 2004, a Notice of Preparation was distributed and circulated for 30 days to appropriate agencies for the purpose of obtaining written comments from these agencies regarding the scope and content of environmental information and analysis which said agencies wanted to be addressed in the EIR.

6) On May 14, 2004, the Draft EIR for the Project (the "DEIR") was prepared. The DEIR was circulated for public review and comment from May 14, 2004, to July 2, 2004, in accordance with CEQA.

7) On May 14, 2004, notice of availability of the DEIR was provided to appropriate agencies and the general public via a Notice of Completion sent to the State Clearinghouse and via a public notice published in the Napa Valley Register, a local newspaper of general circulation. Written comments were accepted on the DEIR between May 14, 2004, and July 2, 2004.

8) Upon closure of the 45 day public review and comment period on the DEIR, the County, as lead agency for the proposed Project, caused to be prepared a Final Environmental Impact Report (the "FEIR"). Pursuant to State CEQA Guidelines section 15132, the FEIR consists of the following documents and records: *Robert Mondavi Properties Vineyard Draft Environmental Impact Report (dated May 2004)*; *Robert Mondavi Properties Vineyard Final Environmental Impact Report (dated January 2005)*; all related reports, appendices and studies referenced therein; and all planning and other County records and files constituting the record of proceedings all of which are incorporated herein by this reference.

9) The FEIR was prepared pursuant to the California Environmental Quality Act, Public Resources Code section 21000, et seq., and the State CEQA Guidelines, California Code of Regulations, Title 14, section 15000, et seq.

10) On December 30, 2004, in accordance with Public Resources Code §21092.5, the FEIR was made available to the public and a copy of the FEIR was sent to all public agencies who commented on the DEIR. The FEIR is on file with the Planning Department along with related planning and other County records and files constituting the record of proceedings.

11) On January 14, 2005, the Planning Department received a letter from Earth Defense for the Environment Now ("EDEN") requesting that the County not approve the FEIR for various reasons. The County is not legally obligated under CEQA to respond to EDEN's comments on the FEIR, nevertheless the County responds as follows:

a) EDEN's Comment: The minimum setbacks for the Project of 65' on each side of the stream are not consistent with the setbacks required by NOAA which require 175' for Class III streams.

County's Response: Because there are no endangered species on site, NOAA does not have jurisdiction over the Project and therefore NOAA's setbacks do not apply to the Project. Furthermore, the proposed vineyard block setbacks from the creek ranges from 75' to 447' and would be adequate to protect the creek from Project impacts. (See FEIR page 3-29, Figure 3-3; revised ECP No. 99323-ECPA dated 2/1/05)

b) EDEN's Comment: There is no plan to restore vegetation on the Property except for a .1 acre area required to be planted in native grasses. Centuries of cattle grazing on the Property have altered the landscape and it is time during a major reconfiguration of agricultural use to improve the condition on the Property from defacement to restoration.

County's Response: Because of their relative abundance, native grasses are not accorded any special consideration or protection. Approximately 1.2 acres of native

grassland would be removed however under the Resource Conservation Alternative, the south slope grassland which is 0.6 acres would be preserved and enlarged by approximately 1.2 acres to compensate for the loss of the northeast grassland thereby resulting in no net loss of native grassland. The enlarged grassland would be connected to cultural resource avoidance areas, the existing stream and other existing natural habitat and would reduce fragmentation of the vineyard and wildlife habitat. (See DEIR pages 8-4 and 8-5 and Figure 8-1; FEIR page 3-48 Figure 8-1.)

c) EDEN's Comment: The actual amount of applied chemicals such as fertilizers, herbicides and fungicides in runoff that may reach the waterways has not been calculated or provided.

County's Response: The quantity of chemicals that may be applied to the vineyards is dependent on such factors as site-specific soil testing, weather, plant requirements, petiole analysis and other factors and therefore is unknown and speculative at this point. All vineyard blocks would be arranged to allow a minimum of 75' between the edge of the vineyard and stream channels. Furthermore, the Project will fertilize through a drip irrigation system which would greatly reduce the volume of fertilizer required by applying it directly to the roots rather than broadcast spraying the entire vineyard with fertilizer. (See DEIR pages 5.8-15 and 5.8-16; revised ECP No. 99323-ECPA dated 2/1/05.)

d) EDEN'S Comment: The Resource Conservation Alternative would eliminate 1.12 acres of native grassland. The destruction of 1.12 acres of native grassland is not justified.

County's Response: Under the Resource Conservation Alternative, there would be no net loss of the 1.2 acres of native grassland. (See also County's Response in Section 11 (a), above.)

12) On February 17, 2005, the Planning Department received a letter from the California Department of Transportation ("Caltrans") commenting on the FEIR. Although the County is not legally obligated under CEQA to respond to Caltrans' comments on the FEIR, the County responds as follows:

a) Caltrans' Comment: The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring for required improvements to state highways should be fully discussed for all proposed mitigation measures.

County's Response: The traffic study prepared for the Project by traffic engineering firm of Fehr & Peers analyzed potential impacts on state highways resulting from the Project and found that even under the worst case scenario, the impacts would be less than significant. Therefore no traffic related mitigation has been imposed on the Project. (See DEIR pages 5.10-1 through 5.10-18.)

b) Caltrans' Comment: Given the high speeds on State Route 221, operation of either the Mondavi project or Arroyo Creek Winery without completion of the improvements listed in Caltrans' June 24, 2004, letter represents an unavoidable public safety hazard. Since these improvements have not been installed, Caltrans' safety concerns have not been adequately addressed in the Arroyo Creek Winery environmental process. The Mondavi project's traffic study assumes that the improvements will be completed by the Arroyo Creek Winery but no schedule is provided for completion of the improvements in environmental documents for either project.

County's Response: Caltrans' comments and required improvements were made conditions of approval on the Arroyo Creek Winery and those improvements are expected to be completed within the next two years (prior to expiration of the approved use permit). According to the traffic study, the Mondavi Project would have a less than significant impact on traffic and therefore the County lacks the legally required nexus to require the Applicant to fund and/or construct traffic related improvements which are not the result of the Mondavi Project. (See DEIR pages 5.10-1 through 5.10-18; CEQA Guidelines § 15040.)

c) Caltrans' Comment: Since the project will generate U-turns at the SR 221/Streblow Drive intersection under Existing plus Project conditions, the potential impact on intersection operations should be evaluated. U-turns will occur under Existing plus Project conditions contrary to the FEIR which states that U-turns at the SR 221/Streblow Drive intersection will occur under cumulative conditions only.

County's Response: The traffic analysis regarding potential impacts on the SR 221/Streblow Drive intersection and signal operations is contained in the FEIR at pages 2-8 through 2-11 including Table 2-2 and Figure 2-1.

d) Caltrans' Comment: How will inbound trips to the site from SR 221 via the south be enforced?

County's Response: Because this project involves routing vineyard and farming operations and limited number of employees, there would be no significant impact on SR 221 and therefore enforcement is not necessary.

e) Caltrans' Comment: If the median opening at Napa Valley Memorial Cemetery is proposed to be closed, alternate routing for the existing left-turn out should be evaluated.

County's Response: The median opening at Napa Valley Memorial Cemetery would not be closed and no changes to the existing exiting left turn lane would occur as a result of the Mondavi Project.

f) Caltrans' Comment: Caltrans wants a copy of the Archeological Survey Report since the project is located in an archeologically sensitive area and ground-disturbing activities may occur in the State Right of Way.

County's Response: The Archeological Survey was conducted on the Mondavi Property which is located approximately 2,700 feet from the State Right of Way and therefore no ground-disturbing activities would occur within the State Right of Way. (See DEIR page 3-2, Figure 3-1.)

13) Recirculation of the FEIR prior to certification is not required under Public Resources Code § 21092.1 because no new significant information as defined in State CEQA Guidelines § 15088.5 has been provided to the Planning Department regarding the Project or added to the FEIR.

Certification of FEIR – CEQA Guidelines § 15090:

14) On March ~~24~~, 2005, the Planning Director considered the adequacy of the Responses to Comments incorporated into the FEIR, considered the reports, studies and all other information submitted on the Project and incorporated into the DEIR and the FEIR and all written public comments regarding the adequacy of the FEIR. After reviewing and considering all written testimony and all evidence in the record, the Planning Director finds and certifies on behalf of the County as lead agency for the Project as follows:

- a) The FEIR has been completed in compliance with CEQA;
- b) The FEIR reflects the County's independent judgment and analysis; and
- c) The FEIR was presented to the Planning Director, and the Planning Director has reviewed and considered the information contained in the FEIR prior to taking action on the Project.

CEQA Findings – CEQA Guidelines § 15091:

15) The Planning Director has read and considered the information contained in the adopted FEIR prior to taking action on the Project.

16) The FEIR contains substantial evidence that the Project would have less than significant impacts on the environment in the areas of agriculture; mineral resources; population and housing; public services; recreation and utilities and services.

17) The FEIR identified the following potentially significant impacts that can be mitigated to a less than significant level:

a) Air Quality Impact (5.3-1): Installation of the Project and planting of the vineyard would generate short term emissions of ozone precursors and fugitive dust. The Project incorporates some but not all of the BAAQMD-recommended control measures.

Mitigation: Based upon the FEIR and the entire record, the Director finds that air quality impacts resulting from short term emissions of ozone precursors and fugitive dust would be reduced to a less than significant level by imposition of Mitigation Measure No. 5.3-1 which requires that the applicant use low sulfur content diesel fuel; not leave engines idling, to the extent feasible; and maintain construction equipment in accordance with manufacturers' specifications. Mitigation Measure No. 5.3-1 is incorporated into the signed Project Revision Statement. Accordingly, changes or alterations have been required in, or incorporated into, the proposed Project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

b) Biological Resources Impact (5.4-4): Installation of the project and subsequent vineyard activities (planting, operation and harvest) could affect special status raptor and non-raptor bird species.

Mitigation: Based upon the FEIR and the entire record, the Director finds that potential impacts on special status raptor and non-raptor birds would be reduced to a less than significant level by imposition of Mitigation Measure No. 5.4-4 which requires that prior to ground-disturbing activities, the applicant must retain a qualified biologist to conduct pre-installation raptor surveys to avoid impacts on active nests; maintain a minimum setback of 75' from the Central Creek drainage; enlarge and restore the southeast native grassland area to 2 acres; and construct owl and bat boxes on the Project site. Mitigation Measure No. 5.4-4 is incorporated into revised Erosion Control Plan No. 99323-ECPA dated 2/1/05 and into the signed Project Revision Statement. Accordingly, changes or alterations have been required in, or incorporated into, the proposed Project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

c) Biological Resources Impact (5.4-6): Installation of the project and subsequent vineyard activities would have the potential to result increased erosion and/or the input of pollution and/or sedimentation into waters of the U.S or State of California.

Mitigation: Based upon the FEIR and the entire record, the Planning Director finds that impacts from increased erosion, pollution or sedimentation into waters of the U.S. or State will be reduced to a less than significant level by imposition of Mitigation Measure No. 5.4-6 which requires the applicant obtain a Section 404 Clean Water Act permit, a Section 401 Clean Water Act water quality certification and a Fish and Game Code Streambed Alteration agreement prior to installation of rock sediment basins, stream crossing and erosion control measures and to implement all required conditions of those permits. Mitigation Measure No. 5.4-6 is incorporated into the signed Project Revision Statement. Accordingly, changes or alterations have been required in,

or incorporated into, the proposed Project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

d) Cultural Resources Impact (5.5-1): There are three identified potentially historical structures (Features 1 -3) and one previously misidentified structure (CA-NAP-788H) on the Project site. Although no formal CHRH eligibility assessment has been performed, some of these structures may be eligible for listing to the CHRH.

Mitigation: Based upon the FEIR and the entire record, the Planning Director finds that impacts on these cultural resources will be reduced to a less-than-significant level by imposition of Mitigation Measure No. 5.5-1 which requires that the applicant preserve all cultural resources on site and erect a permanent barrier around them to prevent any impact on the resources. Mitigation Measure No. 5.5-1 is incorporated into the signed Project Revision Statement and is incorporated on revised Erosion Control Plan #99323-ECPA, dated 2/1/05. Accordingly, changes or alterations have been required in, or incorporated into, the proposed Project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

e) Cultural Resources Impact (5.5-2): The Project could disturb unidentified archeological resources during grading and installation operations.

Mitigation: Based upon the FEIR and the entire record, the Planning Director finds that impacts on unidentified cultural resources will be reduced to a less-than-significant level by imposition of Mitigation Measure No. 5.5-2 which requires that the applicant cease work immediately if cultural resources are detected during soil-disturbing activities and retain a qualified archeologist to assess the significance of the situation and recommend appropriate measures. Mitigation Measure No. 5.5-2 is incorporated into the signed Project Revision Statement. Accordingly, changes or alterations have been required in, or incorporated into, the proposed Project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

f) Cultural Resources Impact (5.5-3): Installation of the Project and subsequent vineyard could uncover human remains.

Mitigation: Based upon the FEIR and the entire record, the Planning Director finds that impacts on cultural resources will be reduced to a less-than-significant level by imposition of Mitigation Measure No. 5.5-3 which requires that the applicant cease work immediately if any archeological resources or human remains are discovered and to notify the County coroner to determine the nature and appropriate disposition of the remains. If the remains are determined to be Native American, the Native American Commission shall be notified and consulted regarding appropriate conditions for reburial. Mitigation Measure No. 5.5-3 is incorporated into the signed Project Revision Statement. Accordingly, changes or alterations have been required in, or incorporated into the

proposed Project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

g) Hydrology Impact (5.8-1): Installation of the Project and subsequent planting of the vineyard could introduce pollutants into the water that would violate water quality standards or discharge requirements. The Project will incorporate measures as required by the County's Conservation Regulations (Chapter 18.108) to reduce the potential for pollutant transport.

Mitigation: Based upon the FEIR and the entire record, the Planning Director finds that hydrology impacts will be reduced to a less-than-significant level by imposition of Mitigation Measure No. 5.8-1 which requires that the applicant incorporate measures required by the County's Conservation Regulations and also clearly mark and designate installation areas and prohibit equipment from moving outside of those areas. Mitigation Measure No. 5.8-1 is incorporated into the signed Project Revision Statement. Accordingly, changes or alterations have been required in, or incorporated into the proposed Project which mitigate or avoid the significant effect on the environment. This impact is reduced to a less-than-significant level.

18) The FEIR did not identify any significant and unavoidable impacts on the environment as a result of the Project. All potentially significant impacts can be mitigated to a less than significant level by incorporating the identified mitigation measures and project revisions.

Alternatives to the Project:

19) A major purpose of CEQA is to prevent significant avoidable damage to the environment by encouraging agencies to require changes in projects including the approval of alternatives to the project.

20) The Planning Director has considered the three project alternatives analyzed in the FEIR. As to the No Project Alternative and the Residential Alternative, the Planning Director finds that specific economic, legal, social, technological or other considerations make these project alternatives infeasible and rejects them for the following reasons:

a) The No Project Alternative: The No Project Alternative assumes no development on the Property. The site would remain as undeveloped open space. Cattle grazing would be reintroduced to the Project site as allowed by right under the General Plan and zoning.

Findings: The Planning Director finds the No Project Alternative is infeasible and less desirable than the proposed Project and rejects this alternative because the Project (as revised and conditioned) will provide many benefits, including protection of riparian stream corridors, establishment of permanent wildlife corridors, preservation of the historical resources on site, production of Napa Valley grapes and contribution to

the Napa County economy and agricultural industry. These benefits would not be obtained if the No Project Alternative were approved.

b) The Residential Alternative: The Residential Alternative would construct a single-family residence, landscaping, access road and fencing on the 160 acre Project site.

Findings: The Planning Director finds the Residential Alternative is infeasible and less desirable than the proposed Project and rejects this alternative because the Project (as revised and conditioned) will provide many benefits, including maintaining the property's visual perception of open space, contributing to the County's primary industry of agriculture, protection of riparian stream corridors, production of Napa Valley grapes, contribution to the Napa County economy and agricultural industry, the establishment of permanent wildlife corridors and preservation of the historical resources on-site. Also, the proposed building envelope shown on the parcel map and its concomitant accessory structures and driveways could result in the elimination of more acres of native grasslands than would occur under the proposed Project. The benefits described herein including protection of the native grassland would not be obtained if the Residential Alternative were approved.

21) The County has considered various project alternatives as analyzed in the FEIR and finds that specific economic, legal, social, technological and other considerations make the No Project and Residential alternatives infeasible and rejects them in favor of the Resource Conservation Alternative.

Location and Custodian of Records:

22) The location and custodian of materials and documents which constitute the record of proceedings is as follows:

Mary Doyle, Principal Planner
Napa County Conservation, Planning and Development Department
1195 Third Street, Suite #210
Napa, CA 94559

Final Determinations:

23) Based on the foregoing facts, findings, rationales, determinations and conclusions, the Planning Director hereby:

- a) Adopts the findings of facts and rationales set forth herein;
- b) Adopts the Resource Conservation Alternative described in the FEIR and rejects all other alternatives including the Proposed Project;

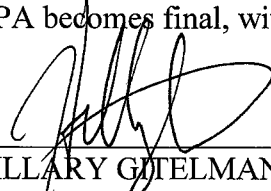
c) Adopts the Mitigation, Monitoring and Reporting Program attached as Exhibit "A" hereto and incorporated here by reference; and

d) Approves revised Erosion Control Plan No. 99323-ECPA dated 2/1/05 and as attached in Exhibit "B" hereto and incorporated here by reference.

Notice of Determination:

24) A Notice of Determination shall be filed, within five working days after approval of revised Erosion Control Plan No. 99323-ECPA becomes final, with the Napa County Clerk/Recorder and with OPR.

DATED: March 28, 2005



HILLARY GITELMAN, Director
Napa Co. Conservation, Development
and Planning Department

Attachments:

- Exhibit "A" - Mitigation, Monitoring and Reporting Program
- Exhibit "B" – Revised Erosion Control Plan No. 99323-ECPA dated 2/1/05
- Exhibit "C" – Signed Project Revision Statement