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Agricultural Erosion Control Plan
Recommended Findings and
Conditions of Approval

Anthem Winery P14-00320-MOD and Exception to Road and Street Standards,
Variance P14-00321-VAR and Viewshed, and
Agricultural Erosion Control Plan P14-00322-ECPA
Planning Commission Hearing Date (Wednesday, October 3, 2018)

**RECOMMENDED FINDINGS
AND CONDITIONS OF APPROVAL
PLANNING COMMISSION HEARING – OCTOBER 3, 2018**

**Anthem Winery Agricultural Erosion Control Plan #P14-00322-ECPA
3454 Redwood Road, Napa APN 027-310-039 (Winery Parcel) and
3123 Dry Creek Road, Napa, APN 035-460-038 (Access Parcel)**

Notice is hereby given by the Planning Commission (Commission) of Napa County (the “County”) that:

1. Julie and Justin Arbuckle, Trustees of the Arbuckle Family Trust, have requested approval of Agricultural Erosion Control Plan (ECPA) Application #P14-00322-ECPA for the Anthem Winery Vineyard Conversion (the “Project”);
2. An Initial Study and Mitigated Negative Declaration were prepared for the Project and duly circulated for public review and comment;
3. The Initial Study, Mitigated Negative Declaration, and all written comments received during the public review process have been considered;
4. The Commission, as Lead Agency, finds on the basis of the whole record that there is no substantial evidence that the Vineyard Conversion/ECPA Project will have a significant effect on the environment so long as the mitigation measures identified in the Mitigation Negative Declaration are implemented;
5. The Commission further finds that these mitigation measures have been incorporated into the project as conditions of approval and through the project revision statement will be implemented as delineated in the Mitigation Monitoring and Reporting Program for the Project dated September 25, 2018, and hereby adopted. The Vineyard Conversion/ECPA Project, as mitigated, therefore has no potential to have a significant effect on the environment;
6. The Mitigated Negative Declaration for the Anthem Winery (Anthem Winery, Use Permit #P14-00320-MOD, Variance #P14-00321-VAR, and #P14-00322-ECPA, Napa County, August 30, 2018) reflects the independent judgment and analysis of the Commission and is hereby adopted;
7. The Commission has read and considered the information contained in the adopted Mitigated Negative Declaration prior to taking action on the Project;
8. The Commission hereby approves the Vineyard Conversion/ECPA Project subject to the terms and conditions contained in the project’s conditions of approval attached as Exhibit A and dated September 25, 2018; **AND**
9. The location and custodian of materials and documents which constitute the record of proceedings are located at the Napa County Planning, Building & Environmental Services Department, 1195 Third Street, Suite 210, Napa, California, 94559

EXHIBIT A

CONDITIONS OF APPROVAL ANTHEM WINERY VINEYARD CONVERSION #P14-00320-ECPA 3454 Redwood Road, Napa APN 027-310-039 (Winery Parcel) and 3123 Dry Creek Road, Napa, APN 035-460-038 (Access Parcel)

This permit encompasses and shall be limited to the project commonly known as the **Anthem Winery Vineyard**, located at 3454 Redwood Road. It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, lessees, and successors in interest of the vineyard to ensure compliance is achieved.

1. Strictly conform to all provisions of approved Agricultural Erosion Control Plan #P14-00322-ECPA, including but not limited to the provisions listed below. Any changes or modifications to the approved plan may necessitate that you file a plan revision with the Conservation Division prior to implementing the desired changes. In that case, further environmental review may need to be undertaken.
 - a. Temporary erosion control measures/materials, such as but not limited to straw wattles, shall be composed of biodegradable materials so that animals do not become entangled within them.
 - b. Refrain from disposing of debris, storage of materials, or constructing/operating the vineyard, including vineyard avenues, outside the boundaries of the approved plan, or within required setbacks Pursuant to Napa County Code Section 18.108.025 (General Provisions – Intermittent/perennial streams). Furthermore, consistent with Condition of Approval #7(f) below, all operational activities that include the use or handling of hazardous materials, such as but not limited to agricultural chemical storage and washing, portable restrooms, vehicular and equipment refueling/maintenance and storage areas, soil amendment storage and the like, shall occur at least 100 feet from groundwater wells, water courses, streams and any other water resource to avoid the potential risk of surface and groundwater contamination, whether or not such activities have occurred within these areas prior to this ECPA approval.
 - c. Obtaining prior to commencement of work any/all other required Local, State and Federal permits necessary to implement this project
2. The Permittee shall fully comply with **Mitigation Measures BIO-1** through **BIO-1** in the attested Project Revision Statement (dated August 30, 2018: restated below):
 - a. **MM BIO-1:** Prior to commencement of any earthmoving activities, a qualified wildlife biologist shall conduct preconstruction to accurately identify the locations of special status plant species (i.e. native grassland) within the project site. Temporary fencing shall be installed along the outer boundary of native grassland identified through the preconstruction survey. No disturbance, including grading, placement of fill material, storage of equipment, shall occur within the designated areas for the duration of project construction. All fencing shall be maintained for the duration of winery and vineyard construction.

Monitoring: The precise locations of the protection fencing shall be inspected and approved by the Planning Division prior to the commencement of any earthmoving activities.

- b. **MM BIO-2:** If vegetation clearing or other land disturbance is proposed during the bird and raptor breeding season (February 15 through August 31), the work shall be preceded by a survey for special-status bird species and migratory passerines (perching birds) by a qualified biologist within 14 days prior to the beginning of work. In the event that nesting birds or raptors are found during the survey, construction buffers shall be established by the biologist in cooperation with the California Department of Fish and Wildlife. These buffers shall remain in place until offspring have fledged or after August 31.

Monitoring: If vegetation clearing or other land disturbance is proposed during the bird breeding season (February 15 through August 31), the special-status bird species and other migratory passerines (perching birds) survey shall be submitted to Planning Division staff prior to issuance of the grading permit.

- c. **MM BIO-3:** Tree trimming and/or removal should only be conducted during seasonal periods of bat activity; August 31 through October 15, when young bats would be able to fly and forage independently, and March 1 to April 15 to avoid hibernating bats, and prior to formation of maternity colonies. Any trees proposed for removal containing suitable bat roost habitat shall be removed using a two-day phased removal method. On day one (in the afternoon), limbs and branches would be removed using chainsaws only. Limbs with cavities, crevices, and deep bark fissures would be avoided. On day two, the rest of the tree would be removed under the supervision of a qualified bat expert. If tree removal must occur outside of the seasonal activity periods mentioned above, i.e., between October 16 and February 28/29, or between April 16 and August 30, a qualified bat expert should conduct preconstruction surveys within 14 days of starting construction. Survey methods, timing, duration, and species should be reviewed and approved by CDFW prior to starting construction. If bats or evidence of their presence is found during the survey then the qualified bat expert should develop a plan for removal and exclusion, in conjunction with CDFW.

Monitoring: If trees are to be removed outside of the dates listed above, the pre-construction bat survey shall be submitted to Planning Division staff prior to issuance of the grading permit.

- d. **MM BIO-4:** Prior to any earthmoving activities, temporary fencing shall be placed at the edge of the dripline of oak woodland and trees to be retained that are located within 50-feet of the project area. No disturbance, including grading, placement of fill material, storage of equipment, etc. shall occur within the designated area for the duration of winery facility development and vineyard installation. All fencing shall be maintained for the duration of winery and vineyard construction. Trees of 5+ inches in diameter at 4.5 feet from natural grade that are removed during the winery and vineyard construction and that are not within the boundary of the project and/or not identified for removal as part of #P14-00320-UP or #P14-00322-ECPA, shall be replaced on-site with fifteen-gallon trees at a ratio of 2:1 at locations approved by the director, or replaced with small trees at a higher ration to be determined by the director or designee. Replacement trees shall be native species consistent with those removed or occurring within the parcel. Furthermore, the Permittee shall refrain from severely trimming trees to be retained that are adjacent to the winery development areas and vineyard conversion areas, other than that necessary to provide defensible space in accordance with CalFire recommendations and requirements.

Monitoring: The precise locations of said fences shall be inspected and approved by the Planning Division prior to the commencement of any earthmoving activities.

3. Pre-construction meeting: No more than two weeks prior to the commencement of any vegetation removal, earth-disturbing activities, or other development activities associated with this ECPA, the owner shall schedule an on-site pre-construction meeting that shall include the project planner, Permittee or owner's agent, plan preparer, vineyard manager, contractor(s), and any other parties deemed necessary by Engineering and Conservation Division staff, such as but is not limited to: County Engineering and Conservation Division staff, the project biologist, or representatives of any affected responsible or trustee agency. The purpose of this meeting will be to review the development requirements of #P14-00322-ECPA including but not limited to: implementation and compliance with project specific conditions of approval, timing of development activities and winterization of the site, the details of the approved plan, and ECPA modification process. All required protective buffers, including buffer fencing/delineation, shall be installed prior to the pre-construction meeting for inspection by Engineering and Conservation Division staff. Development activities associated with #P14-00322-ECPA shall not commence until the owner/Permittee has received written clearance from the Engineering and Conservation Division indicating that all pre-construction conditions have been satisfied.

4. Erosion and Runoff Control (i.e. Hydromodification) Installation and Operation: The following conditions shall be incorporated by referenced into #P14-00322-ECPA pursuant to NCC Chapter 18.108 (Conservation Regulations):
 - a. Permanent Erosion and Runoff Control Measures: Pursuant to NCC Section 18.108.070(L) installation of runoff and sediment attenuation devices and hydromodification facilities including, but not limited to straw wattles and cover crop. Additionally, pursuant to NCC Section 18.108.135 "Oversight and Operation" the qualified professional that has prepared this erosion control plan (#P14-00322-ECPA) shall oversee its implementation throughout the duration of the project, and that installation of erosion control measures specified for the vineyard have be installed and are function correctly. Prior to the first winter rains after construction begins, and each year thereafter until the project has received a final inspection from the county or its agent and been found complete, the qualified professional shall inspect the site and certify in writing to the planning director, through an inspection report or formal letter of completion verifying that all of the erosion control measures, required at that stage of development have been installed in conformance with the plan and related specifications, and are functioning correctly.
 - b. Cover Crop Management/Practice: The permanent vineyard cover crop shall not be tilled (i.e. shall be managed as a no till cover crop) for the life of the vineyard and the owner/Permittee shall maintain a plant residue density of 80% within the vineyard and vineyard avenues. The cover crop may be spot sprayed, no greater than 12 inches wide at the base of vines, with post-emergent herbicides from April 1st to September 1st. Should the permanent no till cover crop need to be replanted/renewed during the life of the vineyard, cover crop renewal efforts shall follow the County "Protocol for Replanting/Renewal of Approved Non-Tilled Vineyard Cover Crops" July 19, 2004, or as amended.

5. Discovery of historical, archaeological, paleontological resources, or human remains during construction, grading, or other earth moving activities.

- a. In accordance with CEQA Subsection 15064.5(f), should any previously unknown historic or prehistoric resources, including but not limited to charcoal, obsidian or chert flakes, grinding bowls, shell fragments, bone, pockets of dark, friable solids, glass, metal, ceramics, wood or similar debris, be discovered during grading, trenching or other on-site excavation(s), earth work within 100-feet of these materials shall be stopped until a professional archaeologist certified by the Registry of Professional Archaeologists (RPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s), as determined necessary.
 - b. Prior to the commencement of construction of the Winery Facility (#P14-00320-MOD) or vineyard (#P14-00322-ECPA), owner/Permittee shall provide documentation to the Napa County Planning Department that a Monitoring Agreement with the Yocha Dehe Wintun Nation has been entered into. Should the owner/Permittee be unsuccessful in entering into a monitoring agreement with the Yocha Dehe Wintun Nation, the owner/Permittee shall provide, for review and approval by Napa County, a Cultural Monitoring Plan prepared by a professional archaeologist certified by the Registry of Professional Archeologists (RPA). The Cultural Monitoring Plan shall outline monitoring requirements including but not limited to, sensitivity training for site workers, identification of project activities and project site areas requiring an on-site monitor, find procedures, and monitoring documentation and reporting procedures.
 - c. If human remains are encountered the Napa County Coroner shall be informed to determine if an investigation of the cause of death is required and/or if the remains are of Native American origin. Pursuant to Public Resources Code Section 5097.98, if such remains are of Native American origin the nearest tribal relatives as determined by the State Native American Heritage Commission will be contacted to obtain recommendations for treating or removal of such remains, including grave goods, with appropriate dignity.
 - d. In the event that a discovery of a breas, true, and/or trace fossils are discovered during ground disturbing activities, all work within 100 feet of the fined shall be temporarily halted of diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the appropriate agencies to determine procedures that should be followed before ground disturbing activities are allowed to resume at the location of the find.
 - e. All persons working on-site shall be bound by contract and instructed in the field to adhere to these provisions and restrictions.
6. Implementation of the following Air Quality Best Management Practices during construction activities, and vineyard maintenance and operations:
- a. All exposed surfaces (graded areas, staging areas, stockpiles, and unpaved roads) shall be covered or water twice per day.
 - b. All trucks hauling soil, sand and other loose materials shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.
 - c. The site access road and adjacent public roads shall be swept daily with wet power vacuum street sweepers, if visible soil material is carried/tracked out onto roadways.
 - d. Traffic on unpaved areas and roads shall be limited to 15 mph.
 - e. Grading and earthmoving activities shall be suspended when winds exceed 25 mph.

- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes, as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations (CCR). Signs clearly indicating this provision shall be installed at all access points.
 - g. All construction equipment shall be maintained and properly tuned in accordance in manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - h. A sign with the telephone number and person to contact at the Lead Agency regarding dust complaints shall be visibly posted at the site. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
7. Implementation of the following Hazardous Materials Best Management Practices during vineyard maintenance and operations:
- a. Workers shall follow manufacturer's recommendations on use, storage and disposal of chemical products;
 - b. Workers shall avoid overtopping fuel gas tanks and use automatic shutoff nozzles where available;
 - c. During routine maintenance of equipment, properly contain and remove grease and oils;
 - d. Discarded containers of fuel and other chemicals shall be properly disposed of;
 - e. Spill containment features shall be installed at the project site wherever chemicals are stored overnight
 - f. All refueling, maintenance of vehicles and other equipment, handling of hazardous materials, and staging areas shall occur at least 100 feet from water courses, the existing groundwater well, and any other water resource to avoid the potential for risk of surface and groundwater contamination; and,
 - g. To prevent the accidental discharge of fuel or other fluids associated with vehicles and other equipment, all workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur.

8. Groundwater management – Wells. This condition is implemented jointly by the Public Works and PBES Departments:

The Permittee shall be required (at the Permittee's expense) to record well monitoring data (specifically, static water level no less than quarterly, and the volume of water withdrawn no less than monthly) for all wells supplying water to the project. Such data will be provided to the Public Works Director in April and October, and upon request if the Director of Planning, Building, and Environmental Services (PBES Director) determines that substantial evidence indicates that water usage at the project is affecting, or would potentially affect, groundwater supplies or nearby wells. If data indicates the need for additional monitoring, and if the applicant is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gauge potential impacts on the groundwater resource utilized for the project. Water usage shall be minimized by use of best available control technology and best water management

conservation practices.

In order to support the County's groundwater monitoring program, well monitoring data as discussed above will be provided to the County if the Director of Public Works determines that such data could be useful in supporting the County's groundwater monitoring program. The project well(s) will be made available for inclusion in the groundwater monitoring network if the Director of Public Works determines that the well could be useful in supporting the program.

In the event that changed circumstances or significant new information provide substantial evidence that the groundwater system referenced in this ECPA would significantly affect the groundwater basin, the PBES Director shall be authorized to recommend additional reasonable conditions on the Permittee, or revocation of this permit, as necessary to meet the requirements of the County Code and to protect public health, safety, and welfare.

9. Installation of wildlife exclusion fencing:
 - a. Installation of wildlife exclusion fencing shall generally be limited to the perimeter of the proposed vineyard areas to ensure adequate wildlife movement and use through the remainder of the property.
 - b. Exit gates shall be installed at the corners of wildlife exclusion fencing to allow trapped wildlife to escape. Smooth wire instead of barbed wire shall be utilized to top wildlife exclusion fencing to prevent entanglement.
10. All persons working on-site shall be bound by contract and instructed in the field to adhere to all provisions and restrictions specified above.
11. Monitoring Costs: All staff costs associated with monitoring compliance with the above conditions shall be borne by the Permittee and/or property owner. The Permittee shall make an initial deposit of \$5,000 within 30 days of the effective date of this approval to fund staff monitoring. Costs associated with conditions and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged at the rate in effect at the time monitoring occurs. Violations of conditions of approval or mitigations