



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 11/18/2016
Agenda Placement: 9A
Set Time: 9:00 AM PUBLIC HEARING
Estimated Report Time: 6 Hours

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: Brian Bordona, Supervising Planner - (707) 259-5935
SUBJECT: Walt Ranch ECP Appeal Hearing

RECOMMENDATION

Consideration and possible action regarding the following:

1. An appeal filed by Living Rivers Council (Appellant LRC) to a decision made by the Napa County Director of Planning, Building and Environmental Services Department (the PBES Director) on August 1, 2016 to approve the **Walt Ranch Vineyards Agricultural Erosion Control Plan No. P11-00205-ECPA** (the Walt Ranch ECP) filed by Hall Brambletree Associates, LP (the Applicant) and to certify the related Environmental Impact Report (EIR) (State Clearinghouse No. 201202046);
2. An appeal filed by Circle Oaks County Water District and Circle Oaks Homes Association (Appellant Circle Oaks) to a decision made by the PBES Director on August 1, 2016 to approve the Walt Ranch ECP and to certify the related EIR;
3. An appeal filed by Center for Biological Diversity (Appellant CBD) to a decision made by the PBES Director on August 1, 2016 to approve the Walt Ranch ECP and to certify the related EIR; and
4. An appeal filed by Napa Sierra Club (Appellant Sierra Club) to a decision made by the PBES Director on August 1, 2016 to approve the Walt Ranch ECP and to certify the related EIR.

The Walt Ranch Project site is 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 6.25 miles east of the City of Yountville in Napa County located within the Milliken Reservoir Watershed and Capell Creek-Upper Reach Drainage. The project is in an AW (Agricultural Watershed) zoning district and has an AWOS (Agriculture, Watershed and Open Space) General Plan designation. (Assessor parcel #'s: 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).

ENVIRONMENTAL DETERMINATION: Consideration and possible recertification of a Final Environmental Impact Report (EIR) certified (State Clearinghouse No. 201202046) on August 1, 2016.

EXECUTIVE SUMMARY

This matter involves four appeals of the PBES Director's decision to: (1) certify the EIR; (2) approve the Reduced Intensity Alternative with associated Mitigation Measures and Conditions of Approval; and (3) to approve Agricultural Erosion Control Plan No. P11-00205-ECPA (as revised). The appeals were filed by environmental organizations, a water district and a homeowners association.

On August 15, 2016, Appellant CBD filed a timely Notice of Intent to Appeal and submitted a timely Appeal Packet on August 23, 2016. (See Attachment A.) On August 15, 2016, Appellant Sierra Club filed a timely Notice of Intent to Appeal and submitted a timely Appeal Packet on August 26, 2016. (See Attachment B.) On August 18, 2016, Appellant Circle Oaks filed a timely Notice of Intent to Appeal and submitted a timely Appeal Packet on September 1, 2016. (See Attachment C). On August 19, 2016, Appellant LRC filed a timely Notice of Intent to Appeal and submitted a timely Appeal Packet on August 29, 2016. (See Attachment D.) The grounds of appeal in the four appeals and Staff's response is set forth in Attachment E.

Pursuant to the County's appeals ordinance (Napa County Code Chapter 2.88) a public hearing on the appeal must be scheduled not less than fifteen days nor more than ninety calendar days from submittal of an appeal. Because most of the grounds raised in the four appeals overlap each other, the Chairman consolidated the appeals. Appellants, Applicant and Staff have no objection to consolidation of the appeals and have agreed to the appeal hearing dates. To accommodate all parties' schedules, the appeal hearing is scheduled to commence on November 18th and proceed as follows:

- | November 18th – Staff and EIR consultant presentation; all Appellants' presentations; open and complete public comment
- | November 22nd – Applicant's presentation; rebuttal from each Appellant; Board questions of Staff; possible Board deliberations and tentative action
- | December 6th (if needed) - Board deliberations and tentative action if not completed on November 22nd
- | December 20th – Board adoption of resolution of findings consistent with the Board's prior tentative action

PROCEDURAL REQUIREMENTS

County Code Section 2.88.090 (A) provides that the Board shall exercise its independent judgment in determining whether the decision appealed was correct. If the hearing held before the approving authority was recorded electronically or by a certified court reporter, and notice of the hearing was given in the manner set forth in Section 18.136.040, the decision of the Board shall be based on the documentary record, including a transcription of the hearing, and such additional evidence as may be presented at the time the decision appealed was made. No other evidence shall be permitted except upon a showing of "good cause" as set forth in Section 2.88.090(B).

In this case, the PBES Director held a hearing on the Walt Ranch ECP, notice of the hearing was given in the manner set forth in Section 18.136.040 and a court reporter was present and transcribed the proceeding. The PBES Director also held a hearing on the Draft EIR. (Transcripts of the hearings held before the PBES Director are attached as Attachment F.) As such, the decision of the Board will be based on the documentary record and such other evidence subject to a "good cause" showing. In connection with the Pre-Hearing Conference discussed below, Appellant LRC, Appellant Circle Oaks and Applicant requested "good cause" be found to supplement the record and/or have the hearing de novo. The Chairman reviewed these requests and made the determinations set forth below under "Pre-Hearing Conference."

Because of the multiple appeals, the appeal hearing will be conducted as follows:

1. If requested, Appellants LRC and Circle Oak or Applicant provided opportunity to be heard on Chairman's prior "good cause" determinations.
2. Chairman introduces item and requests Staff report presentation. Staff will present background that is common to all of the appeals. Because four appeals were filed, Staff prepared a consolidated Staff report which addresses all of the grounds of appeal; however the appeal hearing will occur in four parts with Part I addressing Appellant LRC's appeal, Part II addressing Appellant Circle Oaks' appeal, Part III addressing Appellant CBD's appeal; and Part IV addressing Appellant Sierra Club's appeal.
3. Chairman opens public hearing invites testimony from the Appellants and their witnesses as previously disclosed on their witness list and in the following agreed upon order:
 - a. Appellant LRC;
 - b. Appellant Circle Oaks;
 - c. Appellant CBD; and
 - d. Appellant Sierra Club.
4. Chairman invites any other interested parties and the public to testify.
5. Upon hearing all testimony from the public and interested parties, Chairman requests disclosures from the Board.
6. Chairman invites the Applicant to testify.
7. Chairman then invites Appellants to have the final rebuttal in the following agreed upon order:
 - a. Appellant Sierra Club;
 - b. Appellant CBD;
 - c. Appellant Circle Oaks; and
 - d. Appellant LRC.
8. After the Board has heard testimony and received all evidence, Chairman closes the public hearing.
9. A motion of intent is made and seconded to deny or uphold each of the four appeals and/or remand the project to the PBES Department. *Note: Because of the multiple appeals, Staff requests that the Board act on each of the appeals separately and that the Chairman call for a vote on each of the motions, as follows:
 - a. Appellant LRC's appeal;
 - b. Appellant Circle Oaks' appeal;
 - c. Appellant CBD's appeal; and
 - d. Appellant Sierra Club's appeal.
10. Chairman refers the matter to the County Counsel's office for preparation of a Resolution of Findings and Decision on Appeal in connection with the appeals.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Consideration and possible recertification of a Final Environmental Impact Report (EIR) certified (State Clearinghouse No. 201202046) on August 1, 2016.

BACKGROUND AND DISCUSSION

All documents associated with this project including, but not limited to, the four appeals, the Draft EIR, Final EIR,

the Walt Ranch Agricultural Erosion Control Plan, and comments and correspondence received can be accessed at <http://www.countyofnapa.org/PBES/WaltRanch/>. All of the attachments referenced in this Staff report are available online or hardcopies are available for review in the Clerk of the Board's office.

On November 7, 2007, Applicant submitted the original erosion control plan (ECP) application (P07-00800) for development of 397 net acres of vineyard within 538 gross acres. The environmental review process 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).

Subsequent to the original project and after the General Plan Update was completed; the Applicant withdrew the original ECP application (P07-00800). On June 20, 2011, Applicant submitted the proposed project (P11-00205) which reduced the scope of the project to approximately 356 acres of vineyard within 507 gross acres of land disturbance; this is the proposed project that was evaluated in the Draft EIR. On October 22, 2012, the County issued a second NOP due to substantial changes to the project proposed by the Applicant. The proposed project was reduced in size by 41 net acres (31 gross acres) in order to avoid wetlands, waters of the U.S., and active landslides, with appropriate buffers. An ECP application was filed for the proposed project on March 1, 2012, and a revised ECP was filed on March 13, 2013. Analytical Environmental Services (AES) was retained to assist the County with preparation of an EIR to evaluate the potential environmental impacts associated with the proposed project.

Summary of Environmental Impacts and Mitigation Measures

Between mid-2013 and 2014, a Draft EIR was prepared. A summary of the proposed project's impacts and proposed mitigation measures that would avoid or minimize potential impacts is provided in Table 2-1 of Volume II of the Final EIR. (See Attachment G.) In the table, the level of significance of each environmental impact is indicated both before and after adoption of the recommended mitigation measure(s).

Biological Resources

The Draft EIR identified impacts to special status plants and habitats that would result from vineyard development. A draft Biological Resources Management Plan (BRMP) has been prepared, which outlines a mitigation strategy for reducing project impacts to a less-than-significant level. The BRMP also includes a discussion of applicable General Plan Policies for each biological resource. In general, impacts were reduced to less-than-significant levels through a combination of avoidance, preservation, and mitigation. Table 15 of the BRMP (see Attachment I) provides a summary of the relevant habitat types and species, as well as the mitigation required to reduce impacts to less-than-significant levels.

For each significant impact to a sensitive biotic community, special status plant species, or specimen trees, the BRMP specifies the following approach to mitigation: avoidance areas that will be removed from the vineyard development footprint; preservation areas for permanent protection via a conservation easement; and mitigation or enhancement areas, as appropriate, for replanting, transplanting, or restoring the sensitive plant or biotic community. Additionally, the BRMP includes management goals, identification of replanting habitat, techniques for restoration and enhancement, an implementation schedule, planting goals, monitoring and reporting criteria, and success criteria.

As an example, the Draft EIR analyzes the extent to which the proposed project will affect native grasslands, and concludes the project will impact 4.45 acres of this habitat. To mitigate significant impacts to native grasslands, the BRMP requires the following mitigation measures:

- | Avoidance of 3.30 (74%) of these acres, reducing the impact to 1.15 acres; and
- | For the 1.15 acres that cannot be avoided, replacement habitat at a 2:1 ratio, for a total of 2.30 acres of

replacement habitat. The replacement habitat must meet specific criteria for location, and the plan must adhere to identified criteria for planting, monitoring, and success as set forth in the BRMP.

In addition to the mitigation requirements identified in the BRMP, the Napa County General Plan provides numerous specific goals and policies for the protection and conservation of natural resources. The primary General Plan policies relating to biological resources for the proposed project include Policies CON-13, 17 and 24 and are included below.

Policy CON-13: The County shall require that all discretionary residential, commercial, industrial, recreational, agricultural, and water development projects consider and address impacts to wildlife habitat and avoid impacts to fisheries and habitat supporting special status species to the extent feasible. Where impacts to wildlife and special-status species cannot be avoided, projects shall include effective mitigation measures and management plans including provisions to:

- c) Employ supplemental planting and maintenance of grasses, shrubs and trees of like quality and quantity to provide adequate vegetation cover to enhance water quality, minimize sedimentation and soil transport, and provide adequate shelter and food for wildlife and special-status species and maintain the watersheds, especially stream side areas, in good condition.
- d) Provide protection for habitat supporting special-status species through buffering or other means.
- e) Provide replacement habitat of like quantity and quality on- or off-site for special status species to mitigate impacts to special-status species.
- f) Enhance existing habitat values, particularly for special-status species, through restoration and replanting of native plant species as part of discretionary permit review and approval.

Policy CON-17: Preserve and protect native grasslands, serpentine grasslands, mixed serpentine chaparral, and other sensitive biotic communities and habitats of limited distribution. The County, in its discretion, shall require mitigation that results in the following standards:

- a) Prevent removal or disturbance of sensitive natural plant communities that contain special-status plant species or provide critical habitat to special-status animal species.
- b) In other areas, avoid disturbances to or removal of sensitive natural plant communities and mitigate potentially significant impacts where avoidance is infeasible.
- c) Promote protection from overgrazing and other destructive activities.
- d) Encourage scientific study and require monitoring and active management where biotic communities and habitats of limited distribution or sensitive natural plant communities are threatened by the spread of invasive non-native species.
- e) Require no net loss of sensitive biotic communities and habitats of limited distribution through avoidance, restoration, or replacement where feasible. Where avoidance, restoration, or replacement is not feasible, preserve like habitat at a 2:1 ratio or greater within Napa County to avoid significant cumulative loss of valuable habitats.

Policy CON-24: Maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures including one or more of the following:

- a) Preserve, to the extent feasible, oak trees and other significant vegetation that occur near the heads of drainages or depressions to maintain diversity of vegetation type and wildlife habitat as part of agricultural projects.
- b) Comply with the Oak Woodlands Preservation Act (PRC Section 21083.4) regarding oak woodland preservation to conserve the integrity and diversity of oak woodlands, and retain, to the maximum extent feasible, existing oak woodland and chaparral communities and other significant vegetation as part of residential, commercial, and industrial approvals.

- c) Provide replacement of lost oak woodlands or preservation of like habitat at a 2:1 ratio when retention of existing vegetation is found to be infeasible. Removal of oak species limited in distribution shall be avoided to the maximum extent feasible.
- d) Support hardwood cutting criteria that require retention of adequate stands of oak trees sufficient for wildlife, slope stabilization, soil protection, and soil production be left standing. e) Maintain, to the extent feasible, a mixture of oak species which is needed to ensure acorn production. Black, canyon, live, and brewer oaks as well as blue, white, scrub, and live oaks are common associations.
- f) Encourage and support the County Agricultural Commission's enforcement of state and federal regulations concerning Sudden Oak Death and similar future threats to woodlands.

While the BRMP provides a mechanism for achieving compliance with the General Plan, the Board, as the decision-maker, ultimately determines the project's overall compliance with the General Plan and whether impacts to biological resources have been avoided to the extent feasible. There is no set criteria or bright line test for determining the extent of infeasibility that is required. In making a recommendation, Staff weighs and balances all relevant factors pertaining to an individual project and also looks to other ECP projects to gauge what is reasonable and consistent with past projects approved by the County. While other recent vineyard projects have avoided higher percentages of similar sensitive biological resources, the project as approved falls within the overall range of avoidance either by percentage or degree that the County has accepted on other projects. The Applicant has provided information regarding infeasibility of further avoidance beyond what is required through applicable mitigation to comply with CEQA. (See Attachment H).

Alternatives

CEQA Guidelines § 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." Additionally, CEQA Guidelines § 15126.6 (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.

The Draft EIR appropriately considered a reasonable range of alternatives that were determined with a consideration for each alternative's ability to meet the proposed project's purpose and need while also reducing environmental impacts. Potential alternatives examined to the proposed project in the Draft EIR include the No Project Alternative, Reduced Intensity Alternative, a Multiple Resource Protection Alternative, and the Environmentally Superior Alternative. (See Chapter 5 of the Draft EIR for greater details.)

- 1 With the No Project Alternative, 5.6 acres of existing vineyard would continue to be operated and maintained on the project site.
- 1 With the Reduced Intensity Alternative, less vineyard acreage would be developed by avoiding approximately 100 gross acres of developed area. These additional avoidance areas have been targeted to further protect special status species and associated habitats; preserve individual trees that are identified as specimen or notable trees; enhance sensitive biotic communities; and enhance wildlife movement on the project site.
- 1 The Multiple Resource Protection Alternative is similar to the Mitigated Project, although several additional areas have been targeted for avoidance that include overlapping resources. Proposed vineyard acreage

would be reduced by approximately 82 gross acres of developed area, further reducing impacts beyond the Mitigated Project to native grasses, sensitive biotic communities including oak woodlands, holly-leaved ceanothus plants, narrow-anthered brodiaea plants, special status plant habitat, western pond turtle upland habitat, and would preserve additional trees onsite.

Table 15 of the BRMP provides a comparison between the Mitigated Project, the Reduced Intensity Alternative, Multiple Resource Alternative and the approved project. Generally, the Environmentally Superior Alternative is the alternative that would cause the least damage to the biological and physical environment. Since implementation of the No Project Alternative would result in fewer adverse environmental effects than would occur under the proposed project, the Reduced Intensity Alternative, and the Multiple Resource Protection Alternative, the No Project Alternative would be considered the Environmentally Superior Alternative. However, the No Project Alternative would not achieve the central project objective of development of vineyard, minimizing soil erosion from the property, and providing opportunities for vineyard employment and economic development in Napa County. If the No Project Alternative is the Environmentally Superior Alternative, CEQA Guidelines Section 1526.6(e)(2) requires identification of an Environmentally Superior Alternative among the other alternatives considered in the EIR. When comparing the remaining development alternatives, the Reduced Intensity Alternative (the alternative approved by the PBES Director) is the most Environmentally Superior Alternative. It should be noted that, although the Reduced Intensity Alternative has fewer impacts to biological resources, the proposed project has mitigated all impacts to less-than-significant levels. (See Section 4.0 of the Draft EIR.)

Summary of Proceedings

On July 11, 2014, a Notice of Availability of the Draft EIR was released which announced a 45-day comment and review period from July 11 to August 25, 2014. After numerous requests from the public to extend the comment period, on August 6, 2014, the Napa County Planning Commission formally extended the comment period for an additional 88 days, concluding the public comment period on November 21, 2014.

On November 12, 2014, the PBES Director held a public hearing to provide the public an additional opportunity to provide comments on the Draft EIR. A total of 180 comment letters were received on the Draft EIR during the comment period. In addition, 32 extension requests and seven (7) form letters signed by 2,190 people were also received. A Response to Comments document was prepared by the County and its consultant, AES, addressing comments received by the County on the Draft EIR. The Responses to Comments document together with the Draft EIR, as revised, comprise the Final EIR which was provided to trustee and responsible agencies and members of the public on March 29, 2016.

On April 4, 2016, the PBES Director held a public hearing regarding the Walt Ranch ECP. Upon close of the public hearing, the PBES Director announced that a tentative decision would be mailed, published and posted on the County's website during the week of June 13, 2016. On June 13, 2016, the PBES Director's tentative decision to approve the Walt Ranch ECP was mailed, published and posted on the County's website. In connection with the tentative decision, the PBES Director directed staff to: (1) prepare the necessary findings pursuant to CEQA that reflect adoption and approval of the Reduced Intensity Alternative with the associated Mitigation Measures; and (2) work with the Applicant to prepare a revised erosion control plan consistent with the Reduced Intensity Alternative and associated Mitigation Measures for consideration and final approval. The PBES Director's final decision and approval of the Reduced Intensity Alternative was announced to occur by close of business on August 1, 2016. The Reduced Intensity Alternative is identified as the Environmentally Superior Alternative in the EIR after the No Project Alternative. Please see Attachment J for a Project Evolution Comparison of the acreages, tree removal, groundwater demand and GHG emissions from the original ECP, the alternatives and approved ECP.

On August 1, 2016, the PBES Director issued a Notice of Decision which certified the Final EIR and approved Agricultural Erosion Control Plan No. P11-00205-ECPA which generally conforms to the Reduced Intensity Alternative described in the Final EIR and consists of approximately 209 net acres of vineyard (±316 gross acres).

(See PBES Director's Notice of Decision/Approval Package at Attachment K.) That same day, a Notice of Determination was posted with the State Clearinghouse and the Napa County Clerk.

Procedural Background:

The item before the Board is the appeal of the PBES Director's approval of the Reduced Intensity Alternative as reflected in the Walt Ranch ECP and certification of the EIR for earthmoving activities associated with vineyard development. Timely appeals of the PBES Director's decision were filed by Appellants Sierra Club, CBD, Circle Oaks, and LRC.

Pursuant to the County's appeals ordinance (Napa County Code Chapter 2.88) a public hearing on the appeal must be scheduled not less than fifteen days nor more than ninety calendar days from submittal of an appeal. Because most of the grounds raised in the four appeals overlap each other, the Chairman consolidated the appeals. Appellants, Applicant and Staff have no objection to consolidation of the appeals and have agreed to the appeal hearing dates. To accommodate all parties' schedules, the appeal hearing is scheduled to commence on November 18th and proceed as described above.

Pre-Hearing Conference:

In an effort to clarify the County's procedural requirements and expectations regarding land use appeals, the County Counsel's office has initiated a voluntary program whereby a pre-hearing conference is held with the parties (applicants and appellants) and the Chairman of the Board to discuss estimates of the time length of presentations, scope of evidence, and testimony to be presented, together with witness lists. Any witness not appearing on a witness list at the pre-hearing conference will be treated as an ordinary member of the public and be allotted the usual three minutes of speaking time.

A pre-hearing conference was held on October 12, 2016, with all of the Appellants and their respective counsels, the Applicant and their counsel, Chairman Pedroza and members of the County Counsel's office. At that time, Appellants and Applicant agreed to provide a list of their respective witnesses along with the subject matter of testimony and time estimates. The Chairman informed the parties that each Appellant is allocated a maximum of 60 minutes for their presentation and 30 minutes of rebuttal; and that the Applicant has 90 minutes for their presentation. A summary of the witness information by name, subject matter of testimony and time estimates that was provided by Appellants and the Applicant is attached as Attachment L.

Appellants and Applicant also agreed to provide the Chairman with any requests for "good cause" to either supplement the record with new information and/or to have the appeal heard de novo (e.g., a fresh hearing). On October 17th, a "good cause" request was submitted by Appellants LRC and Circle Oaks and the Applicant. A copy of each of the requests is attached as Attachment M.

Appellant LRC requested that the hearing be de novo, and that the record be supplemented with new information and reports regarding the following: increased runoff and drainage facilities, a recent landslide in the vicinity of Circle Oaks, voluntary streamflow monitoring agreed to by the Applicant, groundwater recharge rates and biological information. The Chairman found good cause to allow the new information and reports regarding increased runoff and drainage facilities, the recent landslide and voluntary streamflow monitoring but denied the de novo hearing request, information on groundwater recharge rates and biological information. Appellant Circle Oaks requested that the hearing be de novo, and that the record be supplemented with new information and reports regarding road conditions and access. The Chairman did not find good cause to allow either request.

The Applicant requested that the record be supplemented with new information and reports regarding the soil grouping and characterization. The Chairman found good cause to allow this information. A copy of the Determination of Good Cause decision issued by the Chairman is attached as Attachment N. Pursuant to County

Code Section 2.88.090 (B), the Chairman's decision is final unless one of the parties requests that a majority of the Board overrule the decision.

At the pre-hearing conference, all parties further agreed to use their best efforts to provide any supplemental information that the parties wished to have distributed to the Board as part of the agenda packet by October 28th. Attached as Attachment O is the supplemental information that was provided by the Applicant and Attachment P is information from Appellant CBD. No other information was submitted by the parties as of the date this report was finalized.

Stated Basis for the Appeals and Staff Response:

Attachment E outlines the basis of the appeals. It is divided into four parts with Part I addressing the appeal submitted by Appellant Living Rivers, Part II addressing the appeal submitted by Appellant Circle Oaks, Part III addressing the appeal submitted by Appellant CBD, and Part IV addressing the appeal submitted by Appellant Sierra Club. For convenience, Staff has numbered each issue and provided a summary of the appeal and Staff's response, but Staff recommends that the Board review the actual appeals. The Draft EIR and the Final EIR were made available to the Board of Supervisors, are available on the County's website and are on file with the PBES Department. Correspondence received as of the date of this Staff report is attached as Attachment R.

Revisions to Conditions of Approval:

Should the Board deny the appeals and uphold the PBES Director's approval of the ECP, Staff recommends the Board revise the Conditions of Approval (COA) as shown in Attachment Q and summarized as follows:

- | COA No. 2 requires the applicant and any subsequent property owner to fully comply with the Mitigation Measures contained in the Updated Mitigation, Monitoring, and Reporting Program (MMRP), which includes 5 (five) Conditions of Approval. To help reduce any confusion between the Conditions of Approval in the Updated MMRP and the Conditions of Approval contained in the PBES Director's approval package, COA No. 2 needs to be revised to consolidate all of the conditions into a single document.
- | COA No. 10 requires the Applicant and subsequent property owners to comply with the Walt Ranch Water Quality Monitoring Program (Monitoring Program) prepared by AES dated July 2016. The Monitoring Program was updated and therefore the date needs to be changed to reflect the August 2016 date.
- | COA No. 15 has been added to ensure groundwater monitoring efforts are conducted in a manner consistent with other County approved projects and as required by the Updated MMRP.
- | A new COA No. 16 has been added to require pre and post soil testing to identify the natural/undisturbed and modified hydrologic soil group to confirm that the soils have in fact been modified in a manner that increases infiltration on a long term basis. If the testing shows that the soils have not been modified in the manner expected, additional best management practices will be required and a revised ECP and additional CEQA review may also be required.

Board Considerations and Staff Recommendation:

The following options are provided for the Board's consideration regarding possible action on the appeals:

- | Deny the appeals in their entirety and uphold the Reduced Intensity Alternative approved by the PBES Director;
- | Uphold one or more grounds of appeal and either uphold or deny the Reduced Intensity Alternative;
- | Approve an alternative other than the Reduced Intensity Alternative subject to that alternative either having been analyzed in the EIR or subject to further CEQA review;
- | Uphold the Reduced Intensity Alternative and impose additional conditions of approval; or
- | Remand the matter to the PBES Director with direction.

Staff recommends that the Board uphold the PBES Director's approval of the Reduced Intensity Alternative with the revisions to the COA recommended by Staff. Should the Board desire to consider alternatives to the project approved by the PBES Director, the Board may wish to explore additional avoidance areas and direct Staff to work with the Applicant to identify areas that further protect biological resources, provide greater water quality protections, and further reduce GHG impacts.

SUPPORTING DOCUMENTS

- A . A-CBD Appeal
- B . B-Sierra Club Appeal
- C . C-Circle Oaks Appeal
- D . D-LRC Appeal
- E . E-Appeal Grounds and Staff Responses
- F . F-Transcripts (3 hrs)
- G . G-Table 2-1 FEIR
- H . H-Applicant's Letters of Infeasibility
- I . I-Final Eir BRMP Table 15
- J . J-Project Evolution Comparison
- K . K-Notice of Decision - Approval Package
- L . L-Witness List
- M . M-Good Cause Request - LRC, Circle Oaks, Applicant
- N . N-Chairman's Good Cause Determination
- O . O-Applicant's Supplemental Information
- P . P-CBD Supplemental Information
- Q . Revised Conditions of Approval
- R . R-Public Correspondence

CEO Recommendation: Approve

Reviewed By: Bret Prebula