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### **A. Environmental Review**

On March 1, 2016, the County of Napa, as lead agency, certified a Final Environmental Impact Report (FEIR) (State Clearinghouse (SCH) No. 2012102046) for the Project and filed a Notice of Determination (NOD) at the SCH on December 27, 2016. The State Water Resources Control Board (State Water Board) is a responsible agency under CEQA (Pub. Resources Code, § 21069) and in making its determinations and findings, must presume that County of Napa's certified environmental document comports with the requirements of CEQA and is valid. (Cal. Code Regs., tit. 14, § 15231.) The State Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by County of Napa addresses the Project's water resource impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by the County of Napa for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Pub. Resources Code, § 21081.6, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (d).)

### **B. Incorporation by Reference**

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project FEIR, the application for this Order, and other supplemental documentation, including the Walt Ranch Property Phase I Mitigation and Monitoring Plan, the Walt Ranch Erosion Control Plan, and the Walt Ranch Road Sediment and Erosion Potential Evaluation.

The Program Environmental Impact Report (EIR), which includes analyses of broad impacts and serves as a first tier document for the FEIR, is available at:  
<https://www.countyofnapa.org/874/Walt-Ranch-Vineyard-Conversion>

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project FEIR which is incorporated herein by reference. The Project FEIR is available at: <https://www.countyofnapa.org/874/Walt-Ranch-Vineyard-Conversion>

Requirements under the purview of the State Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, is incorporated herein by reference.

### **C. Findings**

The FEIR describes the potential significant environmental effects to water resources. Having considered the whole of the record, including comments received during the public review process, the State Water Board makes the following findings:

1. Findings regarding impacts that will be avoided or mitigated to a less than significant level. (Pub. Resources Code, § 21081, subd. (a)(1); Cal. Code Regs., tit. 14, § 15091, subd. (a)(1).)

*Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.*

a.i. Potential Significant Impact:

Biological Resources 4.2-4: Development of the Proposed Project could result in impacts to wetlands or waters of the U.S., which would be inconsistent with [Napa County General Plan] Policies CON-26, CON-30, and CON-42. This would also conflict with Napa County Code Section 18.108.025 (General provisions – Intermittent/perennial streams). However, after mitigation, impacts would be reduced to less-than-significant levels.

a.ii. Facts in Support of Finding:

Mitigation Measure 4.2-4: Project site plans will avoid or mitigate for direct impacts to jurisdictional waters of the U.S, as described below. A Department of the Army nationwide permit (Section 404 permit) shall be obtained from the USACE prior to the discharge of any dredged or fill material within jurisdictional wetlands and other waters of the U.S. If needed, a Streambed Alteration Agreement (SAA) shall be obtained from CDFW prior to construction activities that impact riparian zones. A Clean Water Act Section 401 Water Quality Certification will be obtained from the Regional Water Quality Control Board (RWQCB) prior to any discharge into waters of the United States.

Direct impacts to waters of the U.S., specifically the 0.25 acres of jurisdictional “other waters” shown in Table 4.2-6 [of the EIR], shall be mitigated by creating or restoring waters of the U.S. onsite. Compensatory mitigation shall occur at a minimum of 1:1 ratio and shall be approved by the USACE prior to any discharge into jurisdictional features.

Prior to development of Block 31 (which will result in the direct impact of 0.02 acres of wetland as shown in Table 4.2-6 [of the EIR]), necessary permits by the appropriate agencies will be obtained to remove the isolated wetland inside the proposed block, and mitigation at a minimum of 1:1 will be applied to the Capell Creek drainage area on the property. To avoid indirect impacts to all other wetlands, avoidance buffers of 50 feet shall be established around each of the wetlands, which include a 24-foot vegetated turnaround avenue and a 26-foot undisturbed filter strip. Temporary orange construction fencing, or other method acceptable to Napa County, shall be installed around all wetlands and any drainage features in the vicinity of and outside of the construction area. Fencing shall be located a minimum of 26 feet from the edges of wetlands as identified by a qualified biologist. All fencing shall be installed prior to the commencement of any earthmoving activities and shall be field verified by Napa County. The fencing shall remain in place until all construction activities in the vicinity have been completed.

Vineyard development near streams that meet the Napa County definition of a stream will maintain setbacks in compliance with the Napa County Conservation Regulations and Code 18.108.025 (see Table 4.2-7 [of the EIR]). For drainages which do not meet the Napa County definition of a stream, 20-foot minimum setbacks are maintained from the top of bank. Minimum 50-foot setbacks (which includes a 24-foot vegetated turnaround avenue and a 26-foot undisturbed filter strip) are maintained around all wetlands. Using BMPs as proposed by the project, such as cover crop management and integrated pest management, in addition to the proposed setbacks, would effectively filter sediments, agricultural chemicals, and nutrients to a less-than-significant level.

Additional buffers are recommended in two locations to provide extra protection to sensitive habitats and species. The buffer around a portion of the wetland in Block 5A3 should be increased by 25 feet as shown on Figure 4.2-6 [of the EIR] in order to provide additional protection to the wetland and the population of Gairdner's yampah immediately adjacent to it. In addition, the buffer surrounding the drainage in the south of Block 8 should be expanded by 50 feet, as shown on Figure 4.2-6 (please refer to the figure in Section 4.2) [of the EIR].

Construction activities, including, but not limited to earthmoving and staging activities, within 50 feet of any USACE jurisdictional features shall be conducted during the dry season to minimize impacts related to erosion, water quality, and aquatic resources, and activities shall be conducted consistent with Mitigation Measure 4.2-10 to protect western pond turtle and Mitigation Measure 4.2-11 for California red-legged frog (CRLF). All disturbed areas shall be seeded and mulched to prevent erosion and sediment deposit into wetlands and waters of the U.S.

Staging areas shall be located away from the areas of jurisdictional waters that are fenced off. Temporary stockpiling of excavated or imported material shall occur only in approved construction staging areas within the gross acres allocated for vineyard development (i.e., approved vineyard blocks and associated acreage). Excess excavated soil shall be used onsite or disposed of at an approved facility or site. Stockpiles that are to remain on the site through the wet season shall be protected to prevent erosion (e.g. with tarps, silt fences, or straw bales).

Standard precautions shall be employed by the construction contractor to prevent the accidental release of fuel, oil, lubricant, or other hazardous materials associated with construction activities into jurisdictional features. A contaminant program shall be developed and implemented in the event of release of hazardous materials (as detailed in Mitigation Measure 4.5-1).

Implementation of Mitigation Measure 4.2-4 (in addition to the other mitigation measures found in this EIR) would reduce the impacts to a less-than-significant level and would ensure compliance with [*Napa County General Plan*] Policies CON-26, CON-30, and CON-42.

This mitigation measure will reduce this impact to a level that is less than significant.

**b.i. Potential Significant Impact**

Hydrology and Water Quality 4.6-1: Development of the Proposed Project would alter the existing drainage pattern of the project site, which is a potentially significant impact. However, after implementation of the following mitigation measure, a slight decrease in the volume and rate of runoff onsite would occur and a less-than-significant impact on flooding hazards and drainage system capacity would result.

b.ii. Facts in Support of Finding

Mitigation Measure 4.6-1: Prior to approval of #P11-00205-ECPA, the plan shall be modified to include the following measures to avoid potential runoff increases and associated sedimentation impacts, per RiverSmith Engineering's recommendations in Appendix F of Appendix G:

1. For Blocks 1, 3, 17, 19-20, 24, 26, 30, 33-36, 38, 42, 43, 46, 53-63, and 65-68 install a gravel berm on the downslope edge of the turnaround avenue;
2. For Blocks 31, 40 and 60 install a small detention structure or gravel berm on downslope edge of the turnaround avenue;
3. For Block 37, install a gravel berm on the downslope edge of the turnaround avenue, or reduce the area of forest removed;
4. For Blocks 48-52, install a localized detention structure of appropriate size to reduce predicted increases in runoff to pre-project levels;
5. For Block 69, install a gravel berm on the downslope edge of the turnaround avenue or install rock checks in the drainage swales.

Prior to the approval of #P11-00205-ECPA, RiverSmith Engineering shall provide specifications of the above measures to the Applicant for inclusion in the ECP.

Potential impacts to flooding hazard could result from increases in peak flow and volume of runoff from implementation of the Proposed Project. However, with the implementation of Mitigation Measure 4.6-1, potential impacts to flooding hazards and drainage system capacity would be reduced to a less-than significant level.

This mitigation measure will reduce this impact to a level that is less than significant.

c.i. Potential Significant Impact

Hydrology and Water Quality 4.6-4: The Proposed Project would require the use of local groundwater resources for irrigation purposes, which has the potential to alter local groundwater levels and local groundwater flow directions. 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. Increased groundwater pumping from the Proposed Project would not impact groundwater supplies in the project region; this is a less-than-significant impact.

c.ii. Facts in Support of Finding

Mitigation Measure 4.6-4: The Applicant shall be required (at the Applicant's expense) to provide well monitoring data and analyses of the collected data from a qualified professional Geologist or a Certified Hydrogeologist on a seasonal basis to Napa County PBES Department. Such data shall include, but not be limited to, static water levels, pumping water levels, instantaneous flow rates, and cumulative pumped volumes for each of the three existing onsite wells and any wells that may be developed in the future on the Walt Ranch property. These wells are each located in separate geographic areas of the project site (Figure 4.6-2); therefore, monitoring of these wells would help to provide data on groundwater conditions generally representative of the entire project site. In addition, the Applicant shall work with COCWD to provide time-dependent flow rate data and water quality data from the COCWD Horizontal Well. Pumping rates and

volumes shall be monitored by the use of a totalizer flow dial (or similar technology) and water levels shall be monitored by the use of an automatically recording pressure transducer (or similar technology). The automatic recorder shall be set to collect data approximately every 60 minutes for the first year to provide sufficient data for the purpose of operational monitoring; the frequency between data recording by the transducer may be increased in the future. These data shall be downloaded every two to three months. This will help to provide a quantity of data that is reasonable to review, as well as account for variations in seasonal groundwater conditions.

Water usage shall be minimized by use of best available control technology and best management conservation practices. In the event that changed circumstances, or significant new information, or the results of the monitoring data, provide substantial evidence that use of the onsite wells and the groundwater systems referenced in the ECP would significantly affect the groundwater basin, the Director of Environmental Management shall be authorized to require additional reasonable conditions on the Applicant, or revocation of this permit, as necessary to meet the requirements of the Napa County Groundwater Ordinance and protect public health, safety and welfare. Such additional mitigation might include shifting of groundwater production to other onsite wells for a period of time. That recommendation shall not become final unless and until the Director has provided notice and the opportunity for a hearing in compliance with County Code Section 13.15.070 (G)-(K).

After implementation of monitoring, this impact is considered less than significant.

This mitigation measure will reduce this impact to a level that is less than significant.

d.i. Potential Significant Impact

Hydrology and Water Quality 4.6-5: The Proposed Project would require the construction of irrigation pipelines to transport water onsite, the construction of which could create potentially significant impacts to water quality and stream conditions.

d.ii. Facts in Support of Finding

Mitigation Measure 4.6-5: In order to ensure preservation of regional water quality and local stream conditions, prior to installation of irrigation infrastructure, the Irrigation Plans for the Proposed Project shall be provided to the County for review and approval and shall include the following measure:

- The construction of irrigation pipeline stream crossings shall only occur within roadways or vineyard avenues. No irrigation pipelines shall cross a stream or creek outside of roadways or vineyard avenues designated in the ECP (Appendix A). The necessary permits by the appropriate agencies will be obtained prior to construction of proposed underground or aboveground pipelines where there will be disturbance to the bed and bank of any onsite drainages or streams.

This mitigation measure will reduce this impact to a level that is less than significant.

2. Findings regarding mitigation measures which are the responsibility of another agency. (Pub. Resources Code, § 21081, subd. (a)(2); Cal. Code Regs., tit. 14, §15091, subd.(a)(2).)

*There are changes or alterations that are within the responsibility and jurisdiction of another public agency and not the jurisdiction of the State Water Board. Such changes have been adopted by such other agency or can and should be adopted by such other agency.*

a.i. Potential Significant Impact:

Biological Resources 4.2-1: Approximately 166.8 acres of the California Annual Grassland Alliance were mapped on the Walt Ranch property. Approximately 83.94 acres (50.31 percent) of those acres are proposed to be converted to vineyard. However, approximately 4.45 acres meet the criteria for being considered native grasslands within the proposed blocks (Figure 4.2-2a). This area was defined based on portions of California Annual Grassland Alliance that contain ten percent or higher of native grass species. The conversion of sensitive grassland vegetation potentially conflicts with Napa County Policy CON-2, which provides that agricultural projects should preserve existing significant vegetation where to the extent feasible. In addition, Policy CON-17 requires no net loss of native grasslands, serpentine grasslands, mixed serpentine chaparral, and other sensitive biotic communities and habitats of limited distribution, through avoidance, restoration, or replacement where feasible. Where avoidance, restoration, or replacement is not feasible, preservation of like habitat at a 2:1 ratio or greater is required. Grasslands in general provide cover for erosion control, important forage and nesting habitat for invertebrates, birds, and mammals, and appropriate vegetative structure for many native plant species. This is a potentially significant impact.

a.ii. Facts in Support of Finding:

Mitigation Measure 4.2-1: Prior to the approval of #P11-00205-ECPA, the plan shall be modified to include the following (any associated project features that become unnecessary as a result of the avoidance, such as proposed roads, shall also be reflected in the revised plan):

Impacts to native grasslands shall be reduced to a less-than-significant level and result in the greatest quality of native grassland mitigation through a combination of avoidance, preservation, and enhancement. Specifically, mitigation for the removal of an estimate 4.45 acres of native grassland on the property would be accomplished through a combination of 1) avoidance of high-quality native grasslands within the project area and the immediate vicinity; 2) preservation and conservation of native grasslands having the highest habitat value and species composition; and 3) through the restoration and enhancement of existing non-native grasslands implemented through the Walt Ranch Biological Resources Management Plan (BRMP).

### Avoidance

In order to maintain biodiversity of native grasslands on the property, approximately 3.30 acres of native grasslands shall be avoided. To the maximum extent feasible, access road development shall be relocated as necessary to avoid populations of native grasslands. Specifically, avoidance shall occur at the locations detailed in Table 4.2-5 and shown on Figure 4.2-4 (please refer to Section 4.2). These populations shall be avoided with a buffer of not less than 10 feet.

The avoidance proposed in Table 4.2-5, in combination with the native grasslands already outside of the clearing limits, will result in the preservation of approximately 8.65 acres (88.3 percent) of native grasslands mapped on the property. Therefore, the Proposed Project will impact 1.15 acres of native grasslands in the avenue around block 13, the avenue around blocks 16A and 16B2, and in blocks 16A, 16B1, 16B2, and 18A5. These impacted areas shall be mitigated at a 2:1 ratio as discussed below.

### Preservation and Enhancement

The direct impact of 1.15 acres of native grasslands shall be mitigated by preserving the remainder of the native grasslands mapped onsite and enhancing existing non-native grassland to in-kind native reference grasslands at a 2:1 ratio (2.30 acres). The 8.65 acres of native grasslands mapped on the property shall be preserved in perpetuity. All acreage designated for preservation shall be identified as such in a deed restriction, open space easement with an organization such as the Land Trust of Napa County as the grantee, or other means of permanent protection. Land placed in protection shall be restricted from development and other uses that would potentially degrade the quality of the habitat (including, but not limited to, conversion to other land uses such as agriculture or urban development, and excessive off-road vehicle use that increases erosion), and should otherwise be restricted by the existing goals and policies of Napa County. The areas to be covered by the deed restriction shall be determined by a qualified botanist or biologist, and submitted to Napa County for review and approval. The deed restriction shall be entered into and recorded with the Napa County Recorder's office prior to commencement of the project in a form acceptable to County Counsel.

Replacement of native grasslands shall occur on 2.30 acres on the property, and shall be designated in the Walt Ranch BRMP. In order to provide for habitat continuity, the 2.30 acres of native grassland replacement shall occur in suitable areas in proximity to native grassland areas to the maximum extent feasible. This may include, but is not limited to, areas near vineyard blocks 13, 16, 19, or 29. Replacement plantings shall be consistent with the dominant native grassland type (blue wildrye, purple needle grass, and/or California fescue) that was impacted. Any new transplants for replacement shall be propagated from seed found on site. Replanting areas for native grasslands shall be protected with a buffer of not less than 10 feet.

Prior to ground disturbing activities associated with the Proposed Project, the Walt Ranch BRMP shall be developed by a qualified professional biologist, and submitted to Napa County for review and approval. The Walt Ranch BRMP shall cover multiple sensitive habitat types, sensitive or special-status species, and other biological

considerations on the property, as discussed elsewhere in Section 4.2.6 of this EIR. Required performance criteria for the Walt Ranch BRMP are as follows:

- Management goals: Goals shall include habitat enhancement criteria, such as increased native grass cover, native plant diversity, and wildlife values. If in the event that population totals of the sensitive resources identified within this EIR are determined to have changed during preconstruction surveys, the Applicant and/or the Applicant's representative shall provide Napa County with an assessment sufficiently explaining the reason(s) resources are no longer present or are in increased or reduced numbers. The assessment shall be prepared by a qualified biologist;
- Identification of suitable habitat: The BRMP shall clearly identify sufficient areas of suitable habitat for each species subject for replanting. In the event the property lacks adequate suitable habitat area, additional resources shall be avoided in order to meet the specified avoidance criteria;
- Restoration and enhancement techniques: Identification of transplanting and mitigation planting techniques for various species and habitat types covered by the BRMP;
- Implementation schedule: restoration, enhancement, and planting shall begin during the year following ground disturbance;
- Planting goals: A qualified biologist shall work with vineyard personnel to ensure that the spacing of plantings and other requirements of the overall BRMP are met;
- Monitoring criteria: Restoration and enhancement areas shall be monitored by a qualified botanist or biologist annually for a minimum of five years. As part of the first year monitoring report, each area planted to offset that years' impacts, the final replacement total, exact location, and size of the replacement plantings shall be recorded;
- Reporting criteria: Annual monitoring reports shall be submitted to Napa County by January 1 of each year for five years after the successful completion of the replanting efforts and plan implementation; and
- Success criteria: Restoration and enhancement areas must have at least an 80 percent success rate after five years.

After mitigation, impacts to native grasslands are less than significant.

b.i. Potential Significant Impact:

Biological Resources 4.2-11: Development and operation of the Proposed Project would have the potential to affect special status amphibian species, including two species of frogs in the region, California red-legged frog (CRLF) and foothill yellow-legged frog (FYLF). This is a potentially significant impact.

b.ii. Facts in Support of Finding:

Mitigation Measure 4.2-11: The wetland and stream setbacks and mitigation provided in Mitigation Measure 4.2-4 and Mitigation Measure 4.2-10, in combination with the overall avoidance in the project design, will reduce impacts to a less-than-significant level. In

addition, the applicant shall implement the following measures to ensure that bullfrogs do not become established in the four proposed groundwater reservoirs:

- Project applicant shall conduct appropriately timed surveys each year to determine if bullfrogs have become established in any of the onsite reservoirs. If any bullfrog adults, eggs, and/or tadpoles are detected at any time, they shall be managed promptly as to prevent colonization. All surveys and direct removal efforts must be made by a person knowledgeable in species identification using a method approved by CDFW.
- If bullfrogs are detected, the applicant shall implement direct removal efforts until adults and/or sub-adults can no longer be detected and are believed to be gone for the season. Bullfrog management efforts shall target the bullfrog's life history stage: 1) egg mass removal, 2) larval removal, and 3) adult and juvenile frog. These bullfrog control methods remove individuals and break the reproductive cycle. Removal methods include manual take of adults and sub-adults, collecting egg masses, capturing larvae, and draining ponds to strand larvae.
- Removal efforts shall occur during the active/breeding season occurring (April – July) with at least three efforts done a few days apart and another two efforts separated by two weeks. Direct removal efforts should be completed with at least two people using a small boat, spotlights, and appropriate tools to capture and contain the bullfrogs. Capture and disposal shall be done in compliance with CDFW codes and regulations using appropriate gear. Bullfrog egg mass removal efforts shall occur late June through August.
- Bullfrogs may be taken under the authority of a sport fishing license (California Code of Regulations, Title 14 (T-14) section 5.05(a)(28)). There is no daily bag limit, possession limit or hour restriction, but bullfrogs can only be taken by hand, hand-held dip net, hook and line, lights, spears, gigs, grabs, paddles, bow and arrow, or hook and line fishing tackle. Alternatively, California Fish and Game Code Section 5501 allows CDFW to issue a permit to destroy fish that are harmful to other wildlife. The regulations have addressed this under Section CCR T-14 226.5 Issuance of Permits to Destroy Harmful Species of Fish in Private Waters for Management Purposes. This allows the CDFW to issue free permits to destroy harmful aquatic species.

c.i. Potential Significant Impact:

Biological Resources 4.2-13: Development of the Proposed Project would have the potential to affect migratory birds and other birds of prey, including white-tailed kite (*Elanus leucurus*) and bald eagle (*Haliaeetus leucocephalus*). This is considered a potentially significant impact.

c.ii. Facts in Support of Finding:

Mitigation Measure 4.2-13: The Applicant shall implement the following measures to avoid disturbing any special status species nesting above ground. Vegetation removal conducted during the nesting period shall require a pre-construction survey for active bird nests, conducted by a qualified biologist. No known active nests shall be disturbed without a permit or other authorization from USFWS and/or CDFW.

- For earth-disturbing activities occurring during the breeding season (March 1 through September 1), a qualified biologist shall conduct pre-construction

surveys of all potential nesting habitat for all birds within 500 feet of earthmoving activities.

- If active special status bird nests are found during preconstruction surveys 1) a 500-foot no-disturbance buffer will be created around active raptor nests during the breeding season or until it is determined that all young have fledged, and 2) a 250-foot buffer zone will be created around the nests of other special status birds and all other birds that are protected by California Fish and Game Code 3503. These buffer zones are consistent with CDFW avoidance guidelines and CDFW buffers required on other similar ECPA projects; however, they may be modified in coordination with CDFW based on existing conditions at the project site.
- If pre-construction surveys indicate that nests are inactive or potential habitat is unoccupied during the construction period, no further mitigation is required. Shrubs and trees that have been determined to be unoccupied by special status birds or that are located 500 feet from active nests may be removed.
- If vegetation removal activities are delayed or suspended for more than two weeks after the preconstruction survey, the areas shall be resurveyed.

Implementation of Mitigation Measure 4.2-13 would reduce the potential impacts on migratory birds and other birds of prey to less-than-significant levels.

#### **D. Determination**

The State Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water quality or supply impacts. (Cal. Code Regs., tit. 14, § 15096, subd. (h).) The State Water Board will file an NOD with the SCH within five (5) working days from the issuance of this Order. (Cal. Code Regs., tit. 14, §§ 15096, subd. (i).)