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Napa County Planning, Building
& Environmental Services

April 4, 2016

VIA COURIER DELIVERY

County of Napa
Planning, Building and Environmental Services Department
Engineering and Conservation Division
Attn: David Morrison – Planning Director
119 5 Third Street, Suite 210
Napa, CA 94599-3092

Re: Walt Ranch Erosion Control plan Application P11-00205-ECPA Project

Dear Mr. Morrison:

Thank you for the opportunity to submit additional comments and concerns before you make a final decision on the Walt Ranch Development Project (Project).

I join in the concerns in the comment letters sent to you by Living Rivers Council, Sierra Club, and Center for Biological Diversity, among others. I also am writing to identify problems and deficiencies with the response to comments the County provided in the Final Environmental Impact Report, which I describe below.

1. It is important that the responses to comments and environmental analysis be clear and understandable to members of the public, including a lay person and a neighboring property owner such as myself, so we can understand the potential impacts this local project may have. The responses to comments do not meet this standard. While the County has a number of approaches it can use to provide responses, it is virtually impossible to connect the comments in each comment letter with the response to each issue in each letter. The comment letters are not even part of the Final EIR, and the responses do not even state the name of the commenter. With this lack of organization, it is extremely difficult to evaluate if the responses are adequate. With all of these deficits, the FEIR is not sufficient as an informational document and does not comply with CEQA.

2. The response to comments, FEIR appendices and DEIR are contradictory concerning the impacts of additional groundwater pumping on the aquifer and neighboring wells. The responses to comments are at best confusing and at worst inaccurate. Response to comment A7-10 assumes no hydrologic connection between groundwater wells and Milliken Stream because it is ephemeral where it crosses the project property and because groundwater levels in the well were higher than those in the stream, which was dry, on the same day, and this is not an alluvial type aquifer. But this conclusion is inconsistent with other responses to comments which state that percolation of water from irrigating the vines will remain in the watershed and ultimately flow back into Milliken Reservoir area, including potentially Milliken Stream resulting in no changes in the stream flow or watershed, or harm to riparian habitat. This conclusion also appears in Appendix A to the Staff Report – Applicant Letter Regarding Stream Flow Monitoring, p. 3. Either there is not a hydrologic connection or there is, and the write up is not clear and does not meet CEQA's requirements of information disclosure. And if, as the responses acknowledge, there is a hydrologic connection, the analysis should say that clearly

and provide mitigation measures to make sure that neighboring groundwater supplies will not be negatively affected by this project.

3. The DEIR analysis is not clear on this point and the FEIR includes 82 pages of additional and new groundwater impacts analysis and a GMMP as additional mitigation. This information should have been included in the DEIR and circulated for full public review and comment.

4. Because the hydrologic connection is not analyzed sufficiently, and there was not enough testing to establish rainfall levels and groundwater levels in the actual project area during drought periods, the conclusion in the EIR and the response to comments that there will be sufficient groundwater to serve the project and neighboring properties in the same watershed during an extended drought is not supported. The analysis is based on only one rainfall estimate for recharge and based on the assumption of a singular geologic formation – volcanic- which stores groundwater. This analysis is incomplete and the conclusions are not based on enough data or evidence.

5. The mitigation for potential impacts on groundwater and neighboring groundwater wells does not comply with CEQA. For example, MM 4.6-4 improperly defers mitigation if monitoring wells show there is an impact on groundwater. Leaving it to the Director of Environmental Management to require additional mitigation “as necessary to meet the requirements of the Napa County Groundwater Ordinance” without providing a list of potential measures except revoking the permit or shifting of groundwater production to other onsite wells does not comply with CEQA. The GMMP in the FEIR recommending mitigation measures includes more options but these are not included in the MMRP, and therefore do not constitute a suite of enforceable mitigation options in the MMRP as CEQA requires.

6. The GHG analysis and description of mitigation does not comply with CEQA. First, the EIR uses the BAAQMD thresholds of significance, and explains that the litigation challenging its CEQA Guidelines does not affect the thresholds of significance the EIR relies on. But as of April 3, 2016, the BAAQMD website states that the thresholds were suspended based on legal challenge. <http://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>. Therefore, according to BAAQMD “the Air District is no longer recommending that the Thresholds be used as a generally applicable measure of a project’s significant air quality impacts.” The EIR and response to comments do not address the Air District’s position on its own Guidelines and thresholds. Instead, response 010-4 continues to utilize those thresholds, making the analysis of air quality and GHG impacts flawed.

7. The response to comments, EIRs and MMRP are at best misleading in describing the efficacy of the proposed mitigation for the project’s potential GHG impacts. The appendices to the Staff Report, responses to comments and EIRs calculate GHG credit for replacing oak woodlands and other woodlands that will be cut down for the project even though that acreage is part of pre-project conditions, and therefore cannot be considered project mitigation. Mitigation of GHG impacts should only include the net increase in woodlands over the existing environment required as mitigation. It is also unclear from the evidence and description whether the analysis of carbon sequestration based on acres of woodlands rather than the number and size of trees within the acreage creates the level of mitigation stated.

8. The MMRP improperly defers mitigation in selecting mitigation acreage for the conservation easement subject to county approval. MM 4.2-1 requires only that, “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.” This measure does not contain objective criteria or standards to guide this decision as CEQA requires. In contrast MM 4.2-1 addresses locations for the 34 specimen species trees.

9. MM 4.2-1 and 4.2-2 for biological impacts also do not comply with CEQA. Relocating access road development to avoid native grassland to sensitive habitats “to the maximum extent feasible” does not satisfy CEQA’s requirement to provide specific performance standards and objective criteria for deferred mitigation. The same holds true for MM 4.2-7

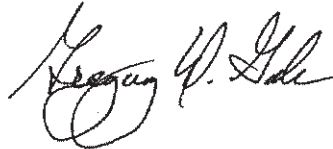
regarding the holly-leaf ceanothus populations which is to be avoided for road development to the maximum extent feasible. Since the project definition specifically includes creation of many identified roads, their exact location vis-à-vis sensitive habitat should have been mapped if the studies of location of sensitive habitat had been complete and done accurately as CEQA requires. For the same reason, the applicant's requests in Appendix A to the Staff Report to change mitigation and required avoidance of plant species, wetlands, species habitat in areas needed for construction of vineyard blocks, drainages, erosion controls, and road realignments based on its assertions that otherwise the project as designed will not be feasible is improper and does not comply with CEQA. Determining whether impacts to biological resources have been avoided to the extent feasible, moreover, calls for more than gauging what is deemed reasonable or consistent with past projects approved by the County. In any event, in any such assessment or comparison, avoidance of impacts is to be distinguished from mitigation to compensate for impacts.

10. Response 7 of the FEIR does not demonstrate compliance with CEQA. While asserting that MM 4.2-4 and 4.2-6 ensure that the proposed Mitigated Project is consistent with Napa County General Plan Policy 18(e), which provides in pertinent part that "[t]o reduce impacts on habitat conservation and connectivity . . . [t]he County shall require new vineyard development to be designed to minimize the reduction of wildlife movement to the maximum extent feasible," neither these measures nor the FEIR show any such thing. To the contrary, they reveal a design that slices and dices habitat, leaving what remains as a maze of disjointed bits largely surrounded or confined by numerous blocks of fenced vineyards seemingly situated and shaped to maximize edge effects and impediment to wildlife movement.

11. Notwithstanding Response 8, the FEIR improperly defers mitigation under CEQA and falls short of complying with the General Plan. Reliance on the Biological Resources Management Plan (BRMP), which the response notes may be adopted as part of the MMRP, does not resolve this deficiency, as it leaves too much undetermined or unresolved now and too much to be ascertained or decided in the future.

For all of these reasons, I respectfully ask that the project as proposed be denied until analysis and mitigation required by CEQA has occurred. Thank you for considering these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Gale". The signature is fluid and cursive, with a large initial "G" and a long, sweeping underline.

Greg Gale