A Tradition of Stewardship
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Agenda Date: 7/14/2020
Agenda Placement: 10B

NAPA COUNTY BOARD OF SUPERVISORS
Board Agenda Letter

TO:	Board of Supervisors
FROM:	David Morrison - Director Planning, Building and Environmental Services
REPORT BY:	Jason Dooley, DEPUTY COUNTY COUNSEL III - (707)259-8246
SUBJECT:	Compliance with Napa Superior Court Writ of Mandate Regarding Walt Ranch Erosion Control Plan

RECOMMENDATION

Director of Planning, Building and Environmental Services (PBES) requests adoption of a Resolution to set aside a finding of the Board concerning mitigation of the Walt Ranch Erosion Control Plan project's greenhouse gas ("GHG") emissions, in compliance with the Writ of Mandate issued by the Napa Superior Court on May 6, 2020.

EXECUTIVE SUMMARY

The Board denied the appeal of the PBES Director's decision to approve the Walt Ranch Erosion Control Plan project in August 2016 after certification of an Environmental Impact Report ("EIR"). The EIR determined that the GHG emissions generated by the project would be less than significant if mitigated by a conservation easement preserving hundreds of acres of woodland from future development. After the Napa County Superior Court denied a petition for writ of mandate, the Court of Appeal held that a specific finding that the conservation easement would offset the GHG emissions to a less-than-significant level was not supported by substantial evidence. The Superior Court issued a Writ of Mandate consistent with the decision of the Court of Appeal, ordering the County to set aside the finding. The proposed Resolution complies with the Court's Writ of Mandate.

Any costs to the County associated with this action are reimbursed by the project applicant in accordance with the County's Policy Manual.

PROCEDURAL REQUIREMENTS

1. Staff reports.
2. Public comments.
3. Motion, second, discussion and vote on the item.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	No
County Strategic Plan pillar addressed:	Vibrant and Sustainable Environment Effective and Open Government

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The proposed resolution is a procedural step that complies with the Napa Superior Court's directive in a Writ of Mandate.

The Walt Ranch ECP was originally approved by the PBES Director on August 1, 2016, including certification of the EIR. The PBES Director found that the project's GHG emissions would be mitigated to a less-than-significant level because the applicant would place a permanent conservation easement on at least 248 acres of woodland habitat, that would offset the GHG emissions generated by the project. On December 20, 2016, this Board rejected four appeals of the Director's decision and adopted Resolution No. 2016-184 approving the project. The resolution included the following finding regarding Impact 6-1 and Mitigation Measure 6-1 addressing GHG emissions:

Compliance with MM 6-1, which has been required or incorporated into the Project, will reduce impacts from GHG emissions through preservation of woodland on the property. The Board hereby directs that this mitigation measure be adopted. Pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a), the Board hereby finds that changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen this impact to a less-than-significant level.

Three groups of petitioners filed lawsuits challenging the Board's decision. The Napa County Superior Court conducted a consolidated trial of all three cases on February 13 and March 1, 2018. On April 2, 2018, the Court ruled in favor of the County on all claims and entered judgment denying all three petitions.

The petitioners appealed the decision to the First District Court of Appeal. On September 30, 2019, the Court of Appeal issued a decision in the consolidated appeals. The Court of Appeal rejected all the claims made by the Living Rivers Council and Circle Oaks County Water District, and all the claims made by the Center for Biological Diversity, with one exception. The court held that while a conservation easement could be effective mitigation for GHG emissions, in this specific case, the record lacked substantial evidence supporting the inference that the trees to be permanently conserved would not reasonably have remained on the property.

On May 6, 2020, the Superior Court issued a judgment granting in part CBD's Petition for a Writ of Mandate and a Writ executing it. The Judgment requires the County to "vacate and set aside its findings concerning whether the Project, as mitigated, will have a less-than-significant impact with respect to GHG emissions." The Court further ordered that the County shall not reconsider whether to adopt such findings unless and until they are supported by substantial evidence on the record. In other words, the Project applicant cannot perform any work that will result

in GHG emissions without first showing that the GHG impacts can be effectively mitigated. If any substantive changes to the Walt Ranch ECP are required as a result of the mitigation, further CEQA review may be required before the findings can be adopted.

The Court initially directed the County to take action by July 6, 2020. However, with agreement from the other parties, the County informed the Court that an additional week was necessary to take this action. The attached Resolution sets aside the finding identified above. Adoption of the Resolution will comply with the Court's Writ of Mandate.

SUPPORTING DOCUMENTS

A . Resolution Complying with Writ of Mandate

CEO Recommendation: Approve

Reviewed By: Helene Franchi