



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, CA 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 23, 2025

Nicole Menchaca, Supervising Planner
Kern County Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, California 93301
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Subject: Malibu Vineyards Industrial Parkway Project (Project)
Draft Recirculated Environmental Impact Report (DREIR)
State Clearinghouse No. 2022080056

Dear Nicole Menchaca:

The California Department of Fish and Wildlife (CDFW) received a DREIR from Kern County for the above-referenced Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802.). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

PROJECT DESCRIPTION SUMMARY

Proponent: Malibu Vineyards, LP

Objective: The Project proposes to convert 739 acres of existing agricultural land to an industrial park. The Project includes the construction of approximately 8,907,446 square-feet of industrial use space, comprised of 24 buildings. The Project would consist of 24 buildable future parcels with proposed office and warehouse uses with drainage basins on each. Up to 25 percent, approximately 2,196,684 square-feet, would include refrigerated warehouse space. Site improvements, including associated driveways, parking areas, truck courts, landscaping, and retention basins to control surface drainage, are also included as part of the Project.

Location: The Project site is located within unincorporated Kern County, north of Imperial Avenue, immediately east of State Route 99, east of the City of Shafter, and approximately 1.5 miles north of the City of Bakersfield. The Assessor's Parcel Numbers (APNs) associated with the Project site are: 482-010-01, 482-010-03, 482-040-01, 482-040-03, 482-010-02, 482-010-11, 482-040-02, 091-150-03, 091-160-03, 091-160-16, 091-200-07, 091-160-01, 091-160-09, 091-200-04, 091-200-14, 091-160-02, 091-160-13, 091-200-05, 091-200-13, 482-040-04, and 482-040-05.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Kern County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the DREIR for this Project.

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CDFW submitted a comment letter on August 26, 2024 (2024 Comment Letter), in response to the DEIR prepared for this Project. The comment letter included comments regarding the State threatened and federally endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the State threatened Swainson's hawk (*Buteo swainsoni*), and the State candidate western burrowing owl (*Athene cunicularia hypugaea*).

Chapter 4 of the DREIR contains essentially the same information and analysis as the original DEIR for biological resources and CDFW's recommendations from the 2024 Comment Letter do not appear to have been incorporated; therefore, CDFW recommends incorporating the comments and mitigation measures from the 2024 Comment Letter related to San Joaquin kit fox and Swainson's hawk. Additionally, the California Fish and Game Commission (FGC) approved western burrowing owl (BUOW) as a candidate for potential listing as a protected species under CESA on October 10, 2024, and published these findings in the California Regulatory Notice Register (Notice Register) on October 25, 2024. As such, BUOW is now a candidate under CESA and receives the same legal protection afforded to an endangered or threatened species (Fish & G. Code, §§ 2074.2 & 2085).

As BUOW have the potential to be present within the Project site or Project vicinity, CDFW recommends the DREIR include the following:

Recommended Mitigation Measure 1: BUOW Pre-construction Surveys

CDFW recommends that focused surveys, following the 2012 Staff Report on Burrowing Owl Mitigation (2012 Staff Report) (CDFG 2012), be conducted the survey season immediately prior to construction. Please note that the 2012 Staff Report necessitates multiple surveys prior to the initiation of construction.

Recommended Mitigation Measure 2: BUOW Avoidance Buffer

Should a BUOW or known BUOW den (active or inactive) be detected, either during pre-construction surveys or construction activities, CDFW recommends that no-disturbance buffers, as outlined in the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012), be implemented prior to and during any ground-disturbing activities. CDFW also recommends that these buffers be implemented for both wintering and breeding BUOW.

Recommended Mitigation Measure 3: BUOW Take Authorization

If a BUOW or known BUOW den (active or inactive) is detected, and the no-disturbance buffers outlined in the 2012 Staff Report on Burrowing Mitigation are not feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take. If take cannot be avoided, take authorization through the

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acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Editorial Comments and/or Suggestions

Lake and Streambed Alteration: The DREIR states that the Lerdo Canal flows southeast to northwest along the eastern boundary of Phase 2 and the western boundary of Phase 1 of the Project. Project activities that substantially change the bed, bank, and channel of any river, stream, or lake are subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial and may include those that are highly modified such as canals and retention basins.

CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement (LSAA); therefore, if the CEQA document approved for the Project does not adequately describe the Project and its impacts to lakes or streams, a subsequent CEQA analysis may be necessary for LSAA issuance. For information on notification requirements, please refer to CDFW's website (<https://wildlife.ca.gov/Conservation/LSA>) or contact CDFW staff in the Central Region Lake and Streambed Alteration Program at (559) 243-4593.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database, which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the

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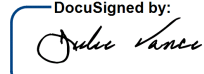
Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the DREIR to assist Kern County in identifying and mitigating Project impacts on biological resources. A Mitigation Monitoring and Reporting Program (Attachment 1) is included below to assist Kern County with incorporating the recommended mitigation measures provided above.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions regarding this letter or further coordination, please contact Marile Colindres, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 974-3452, or by electronic mail at marile.colindres@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

ATTACHMENT (MMRP)

ec: State Clearinghouse
Office of Land Use and Climate Innovation
State.Clearinghouse@lci.ca.gov

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REFERENCES

California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation.
California Department of Fish and Wildlife, Sacramento, California, USA.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

**PROJECT: Malibu Vineyards Industrial Parkway (Project)
Draft Recirculated Environmental Impact Report (DREIR)
SCH No.: 2022080056**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 1: BUOW Pre-construction Surveys	
Recommended Mitigation Measure 3: BUOW Take Authorization	
<i>During Construction</i>	
Western Burrowing Owl (BUOW)	
Recommended Mitigation Measure 2: BUOW Avoidance Buffer	