



A Tradition of Stewardship
A Commitment to Service

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Brian Bordona
Interim Director

TO: Application File #P21-00131-ECPA

FROM: Pamela Arifian, Planner III

DATE: December 6, 2022

RE: Response to Comments – Veeder Ridge LLC Vineyard Conversion
Agricultural Erosion Control Plan (ECPA) File #P21-00131-ECPA
Assessor’s Parcel Number APN 035-080027
3665 Redwood Road, Napa CA 94558
SCH #2022090548

INTRODUCTION

This memorandum has been prepared by the County Conservation Division to respond to comments received by the Napa County Department of Planning, Building and Environmental Services (Napa County) on the Proposed Initial Study/Mitigated Negative Declaration (Proposed IS/MND) for the Veeder Ridge LLC Agricultural Erosion Control Plan #P21-00131-ECPA (proposed project). An IS/MND is an informational document prepared by a Lead Agency, in this case, Napa County, that provides environmental analysis for public review. The agency decision-maker considers it before taking discretionary actions related to any proposed project that may have a significant effect on the environment. The Proposed IS/MND analyzed the impacts resulting from the proposed project and where applicable, identified mitigation measures to minimize the impacts to less-than-significant levels.

This memorandum for the Veeder Ridge LLC Agricultural Erosion Control Plan #P21-00131-ECPA Proposed IS/MND presents the name of the persons and/or organizations commenting on the Proposed IS/MND and responses to the received comments. This memorandum, in combination with the IS/MND, completes the Final IS/MND.

CEQA PROCESS

In accordance with Section 15073 of the CEQA *Guidelines*, Napa County submitted the Proposed IS/MND to the State Clearinghouse for a 30-day public review period starting September 28, 2022. In addition, Napa County circulated a Notice of Intent to Adopt the Proposed IS/MND to interested agencies and individuals. The public review period ended on October 28, 2022. During the public review period, Napa County received two (2) comment letters on the Proposed IS/MND. Table 1 below lists the entities that submitted comments on the Proposed IS/MND during the public review and comment period. The comment letters are attached as identified in Table 1.

TABLE 1
COMMENTS RECEIVED ON THE PROPOSED IS/MND

Comment N ^o / Attachment	Comments Received from	Date Received
1	Yocha Dehe Wintun Nation	October 18, 2022
2	California Department of Fish and Wildlife (CDFW)	October 28, 2022

In accordance with CEQA *Guidelines* Section 15074(b), Napa County considers the Proposed IS/MND together with comments received, both during the public review process and before action on the project, prior to adopting the Proposed IS/MND and rendering a decision the project. The *CEQA Guidelines* do not require the preparation of a response to comments for mitigated negative declarations; however, this memorandum responds to comments received. Based on review of the comments received, no new potentially significant impacts beyond those identified in the Proposed IS/MND would occur, no new or additional mitigation measures, or project revisions, must be added to reduce impacts to a less than significant level, and none of the grounds for recirculation of the Proposed IS/MND as specified in State CEQA *Guidelines* Section 15073.5 have been identified. All potential impacts identified in the Proposed IS/MND were determined to be less-than-significant or less-than-significant with mitigation incorporated.

Furthermore, this Response to Comments Memorandum will be provided to the Owner/Permittee as **notice** of potential Local, State and Federal permits necessary to implement and operate this project as identified within the attached agency comment letters, and that project approval shall be subject to conditions of approval requiring any and all such permits be obtained prior to the commencement of vegetation removal and earth-disturbing activities (grading) associated with #P21-00131-ECPA.

RESPONSE TO COMMENTS

Comment #1 Yocha Dehe Wintun Nation (YDWN) (Attachment 1)

Response to Comment 1.1: As disclosed in the Section XVIII, Tribal Cultural Resources, of the IS/MND, and in Exhibit F (Application Submittal Materials and Correspondence), notice of the project was sent to Mishewal Wappo Tribe of Alexander Valley, Middletown Rancheria and Yocha Dehe Wintun Nation on July 9, 2021. On August 4, 2021, Yocha Dehe Wintun Nation responded that the project site is not located within aboriginal territories of the Tribe. On May 13, 2022, the County replied and closed the consultation invitation because the Tribe declined to comment on the project. No further communication was received from the other Tribes from whom consultation was requested within the notification period. The County sent consultation closure notices to Middletown Rancheria and the Mishewal Wappo Tribe of Alexander Valley on May 13, 2022. Further, the Notice of Intent for this project was sent to the same tribes in advance of the public review period, and no comments were received from the Mishewal Wappo. No further comment or action is required.

Comment #2 California Department of Fish & Wildlife (CDFW) (Attachment 2)

Response to Comment 2.1: As disclosed in **Section IV, Biological Resources**, of the IS/MND, and in the Biological Resources Reconnaissance Survey (**Exhibit B** of the IS/MND), special-status bird or raptor species were not present during the general wildlife assessment performed on October 8, 2020. As stated in Appendix B of the BRRS, the study area (including the project area) does not contain conifer or mixed broadleaf-conifer forest, nor is any present in the immediate vicinity of the study area. The BRRS concluded that northern spotted owl was not present, and that no further actions were recommended for this species. Further, as disclosed in the project description of the IS/MND, the project site consists of previously developed, fallow fields that are regularly mowed, and located immediately adjacent to actively farmed vineyards and to residential uses in the immediate vicinity. The proposed project would result in activities and noise levels similar to what already occurs in the immediate vicinity, and does not propose tree removal, which would result in increased noise and potential for disturbance relative to the 0.06-acre of tree limb removal proposed for the periphery of Block 1A. Given the stated lack of occurrence or potential habitat for NSO in the BRRS and the uses within and adjacent to the parcel that do not support hospitable nesting habitat, with implementation of the preconstruction surveys required by Mitigation Measure BR-2, less than significant impacts are anticipated. No further action is warranted.

Response to Comment 2.2: As disclosed in in the Biological Resources Reconnaissance Survey (**Exhibit B** of the IS/MND), the project biologist performed a targeted assessment, including two surveys for American Badger. As stated in Appendix B of the BRRS, the study area, including the project area, contains limited and disturbed potential habitat for the American badger, to the extent that likely precludes this species. There were no den openings of the size or shape as those constructed by badgers observed within the project area, and the report concluded that the species was presumed absent, and no further actions were recommended. Further, the project area contains fallow fields that are mowed and adjacent to actively farmed vineyards; the proposed use would result in activities similar to what already occurs in the immediate vicinity.

Response to Comment 2.3: Per the CDFW website, “the California Water Code requires that when considering the appropriation of water, the State Water Resources Control Board (State Water Board) consult with CDFW on the amounts of water needed for fish and wildlife. CDFW engages in the State Water Board’s water right process via review, analysis, and comment on new water rights applications, development of conditions for water right permits and licenses, as well as any proposed changes to existing water rights.”

As disclosed in the IS/MND project description, in **Section X, Hydrology and Water Quality**, and in **Section XIX, Utilities and Service Systems**, and in **Exhibit A-2, SWRCB Division of Water Rights License for Diversion and Use of Water**, the State Water Resources Control Board issued License 13473 on August 18, 1997, for the diversion of up to 6.6 acre-feet per year, with a maximum rate of diversion not to exceed 0.11 cubic foot per second, between November 15 and February 28 for the irrigation of 17.2 acres place of use. The proposed project would result in use of 1 acre-foot per year of diverted water at a rate of 0.4 acre-feet per acre per year, which, when added to the water diverted for the existing 13.5 net acres of vineyard at the same rate, results in approximately 6.5 acre-feet per year, within the limits of the Water Rights License 13473. The proposed project does not require changes to existing or new diversions nor would it result in an increase in diverted water above that allowed by the License. As disclosed in the project description and in Exhibit A of the IS/MND and in **Section X, Hydrology and Water Quality**, the project does not propose any new construction activity within the streams that would trigger notification pursuant to Fish and Game Code Section 1602; therefore, less than significant impacts would result, without need for mitigation. Additionally, the County will include the following standard condition of approval, should the project be approved:

Condition of Approval: Project Permitting – The Owner/Permittee shall obtain, prior to commencement of vegetation removal and earth-disturbing activities, any and all other required Local, State and Federal permits necessary to implement and operate this project.

Response to Comment 2.4: Comment noted. As the editorial suggestion does not constitute a “substantial revision” as defined in CEQA *Guidelines* Section 15073.5(b), no further action is required.

Response to Comment 2.5: Comment noted. No special status plants or animals have been identified on the project site as discussed in **Section IV, Biological Resources**, of the IS/MND. The CDFW recommendation to submit to the California Natural Diversity Database reports of any special-status species and natural communities detected during project pre-construction surveys shall be included as a condition of approval, should the project be approved:

Wildlife Survey Reporting Condition – The permittee shall use its best efforts to submit any reports of special-status species and natural communities detected during project pre-construction surveys to the California Natural Diversity Database.

Response to Comment 2.6: The CDFW Environmental Filing Fee for a Mitigated Negative Declaration will be paid upon filing of the CEQA Notice of Determination for this project, if approved.

List of Attachments

Attachment 1 – Yocha Dehe Wintun Nation letter dated October 18, 2022.

Attachment 2 – California Department of Fish and Wildlife letter dated October 28, 2022.



YOCHA DEHE
CULTURAL RESOURCES

October 18, 2022

County of Napa
Attn: Pamela Arifian
1195 Third Street, Suite 210
Napa, CA 94559

RE: Veeder Ridge Vineyard 3665 Redwood Rd Project YD-07152021-04

Dear Ms. Arifian:

Thank you for your project notification letter dated, September 26, 2022, regarding cultural information on or near the proposed Veeder Ridge Vineyard 3665 Redwood Rd Project. We appreciate your effort to contact us.

The Cultural Resources Department has reviewed the project and concluded that it is not within the aboriginal territories of the Yocha Dehe Wintun Nation. Therefore, we respectfully decline any comment on this project. However, based on the information provided, please defer correspondence to the following:

Mishewal Wappo Tribe of Alexander Valley
Attn: Scott Gadaldon
2275 Silk Road
Windsor, CA 95492

1.1

Please refer to identification number YD - 07152021-04 in any future correspondence with Yocha Dehe Wintun Nation concerning this project.

Thank you for providing us with this notice and the opportunity to comment.

Sincerely,

Laverne Bill
Director of Cultural Resources

cc: Mishewal Wappo Tribe of Alexander Valley



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 28, 2022

Attachment 2
California Department of
Fish & Wildlife
Page 1 of 12

Pamela Arifian, Planner III
County of Napa
1195 Third Street
Napa, CA 94559
Pamela.Arifian@countyofnapa.org

Subject: Veeder Ridge LLC Vineyard Agricultural Erosion Control Plan
#P21-00131-ECPA, Mitigated Negative Declaration, SCH No. 2022090548,
Napa County

Dear Ms. Arifian:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the County of Napa (County) for the Veeder Ridge LLC Vineyard Agricultural Erosion Control Plan #P21-00131-ECPA (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the County, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Veeder Ridge LLC

Objective: Develop approximately 3.1 acres of vineyard, including approximately 2.7 net planted acres in two vineyard blocks located on a 45.5-acre property. The Project involves the clearing of vegetation, earthmoving, and installation and maintenance of

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.

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 2

erosion control measures. No trees would be removed by the Project, but approximately 0.06 acres of tree canopy would be removed from trimming.

Location: The Project is located at 3665 Redwood Road, Napa, CA, 94558, on Assessor's Parcel Number 035-080-027.

Timeframe: The Project is proposed for implementation April 1 and development would take place over two years in two phases.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. **The Project has the potential to impact northern spotted owl (*Strix occidentalis caurina*), a CESA listed as threatened species, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

Lake and Streambed Alteration

CDFW will require an LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq. for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for **any activity that will substantially divert or obstruct the natural flow**; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. **The Project would impact an ephemeral tributary and Redwood Creek through the diversion of surface water and therefore an LSA Notification would be required, as further described below.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 3

the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Fully Protected Species

Fully Protected species, such as white-tailed kite (*Elanus leucurus*), may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515) except for collecting these species for necessary scientific research, relocation of the bird species for the protection of livestock, or if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the 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 document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including the below recommendations and those in the Draft Mitigation, Monitoring and Reporting Program (Attachment), CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

- I. **Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?**

Environmental Setting and Mitigation Measures

Comment 1: Northern Spotted Owl

Issue: The Biological Resources Reconnaissance Survey Report (Exhibit B of the MND) states northern spotted owl (NSO), which is state and federally listed as threatened, is not present and has no potential to occur at the Project site because the "Study Area does not contain conifer or mixed broadleaf-conifer forest nor is any present in the immediate vicinity" (page C-29). However, there are California Natural Diversity Database (CNDDB) documented NSO occurrences less than 0.5 miles from the Project site, with an activity center approximately 0.8 miles away, within the same habitat type identified within and adjacent to the Project site. Although typically associated with old-growth or mature forests, NSO can utilize a wide variety of forested habitat types including mixed hardwood forest. They exhibit flexibility in their use of different forested areas for nesting, roosting, and feeding requirements. Typical habitat characteristics include a multi-storied structure and high canopy cover (Press et al. 2010).

2.1

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 4

CDFW
Page 4 of 12

Given the potential for NSO to nest within the Project site and a quarter mile radius, Mitigation Measure (MM) BR-2 (Pages 14-15 of the MND) would likely be insufficient to detect NSO presence.

Specific impacts and why they may occur and be significant: If active NSO nests are not detected by the proposed surveys in MM BR-2, NSO could be disturbed by Project activities resulting in nest abandonment and loss of eggs or reduced health and vigor and loss of young, thereby substantially reducing the number of the species. NSO is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active NSO nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to NSO to less-than-significant, CDFW recommends that the MND include an analysis of potential impacts to NSO and add the following mitigation measure.

MM BR-3: A qualified biologist shall provide an assessment of potential NSO nesting habitat within the Project area and a 0.25-mile radius and obtain CDFW's written acceptance of the assessment. Alternatively, if the assessment is not completed, or if it concludes that NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between March 15 and August 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the U.S. Fish and Wildlife Service (USFWS) *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012. Surveys shall be conducted in accordance with Section 9 of the survey protocol, *Surveys for Disturbance-Only Projects*. If breeding NSO are detected during surveys, a 0.25 mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 15 and August 31 each year.

Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, *Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California*, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.

If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal Endangered Species Act.

2.1
cont'd

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 5

II. Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

Environmental Setting

COMMENT 2: American Badger

Issue: The Project site is within or adjacent to grassland habitat and woodland habitat that may be suitable for American badger (*Taxidea taxus*). While the Project did conduct targeted surveys during 2020, badgers can dig burrows in a single day; therefore, the species may occupy the Project site or adjacent habitat prior to Project construction (Ministry of Environment Ecosystems 2007 as cited in Brehme et al. 2015). Additionally, the California Wildlife Habitat Relationships Predicted Habitat Suitability documents medium and high-quality suitability habitat within and adjacent to the Project site.

Specific impacts and why they may occur and be significant: American badger is a California Species of Special Concern (SSC). An SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria: is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role; is listed as Federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not formally been listed; is experiencing, or formerly experienced, serious (nonsyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. The Project may result in injury or mortality to adult or young badgers, or burrow abandonment. Therefore, if American badgers are present on or adjacent to the Project area, Project impacts to American badger would be potentially significant.

2.2

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to American Badger to less-than-significant, CDFW recommends that the MND include the following mitigation measure.

MM BR-4. A qualified biologist shall survey for American badger where suitable habitat is present within the Project site and adjacent habitat within a minimum of 50 feet. If any occupied burrows are discovered the Project shall implement an appropriate buffer from the burrow, as determined by a qualified biologist and approved in writing by CDFW. If the Project cannot avoid impacts to the occupied burrow the Project shall consult with CDFW regarding next steps before proceeding and implement CDFW recommendations such as preparing and implementing an American badger relocation plan.

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 6

CDFW
Page 6 of 12

III. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

Project Description

COMMENT 3: Water Diversion from a Stream

Issue: While the MND states the Project property has a Water Right License from the State Water Resources Control Board to divert surface water from an ephemeral tributary and Redwood Creek, the property does not appear to have an LSA Agreement from CDFW for the diversion. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that substantially diverts or obstructs the natural flow of any river, stream, or lake.

Specific impacts and why they may occur and be significant: Water diversions can impact flow regimes, decreasing the frequency of high flows. Prolonged low flows can cause streams to become degraded and cause channels to become disconnected from floodplains (Poff et al. 1997). This process decreases available habitat for aquatic species including fish that utilize floodplains for nursery grounds. Prolonged low flows can also increase mortality for species that rely on specific flow regimes, such as endangered salmonids (Moyle 2002). Reduced flows can also lead to stagnant water conditions, a situation that allows the growth of harmful cyanobacteria resulting in mortality of aquatic animals (Power et al. 2015).

Amphibians can also be sensitive to decreased flows; plethodontid salamanders are intolerant to desiccation and thus vulnerable to headwater stream diversions (Ray 1958). Kupferberg et al. (2012) reported that low flows were strongly correlated with early life stage mortality and decreased adult densities of foothill yellow-legged frogs (*Rana boylei*) and California red-legged frogs (*Rana draytonii*), both SSC. California red-legged frog is also federally listed as threatened. Plant cover and diversity can also be decreased by reduced flows (Busch and Smith 1995, Stromberg et al. 1996), likely as a result of physiological stress leading to reduced growth rates and recruitment, morphological changes, and mortality (Reily and Johnson 1982, Perkins et al. 1984, Fenner et al. 1985, Kondolf and Curry 1986, Rood and Mahoney 1990).

Water diversions can also alter water properties including temperature, pH, dissolved oxygen levels, and nutrient contents (O'Hare et al. 2013). As flow rates are reduced by diversion, water temperature increases, which, for salmonids, can reduce growth rates, increase predation risk, and increase susceptibility to disease (Moore and Townsend 1998, Marine and Cech, Jr. 2004). When water temperatures increase they hold less dissolved oxygen and increase in pH; reduction in dissolved oxygen can decrease

2.3

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 7

survival of juvenile salmonids (Selong et al. 2001, Martins et al. 2011). Diversions can also be barriers to fish passage if they are not properly designed.

Recommended Mitigation Measure: To reduce impacts to stream and riparian habitat and associated species to less-than-significant and to comply with Fish and Game Code section 1600 et seq., CDFW recommends that the MND include the following mitigation measure.

MM BR-5. Prior to commencement of construction, the Project shall notify CDFW for the active diversion and impoundment of surface water from streams and comply with the LSA Agreement, if issued. The notification should be submitted online via the Environmental Permit Information Management System (EPIMS) at <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>.

2.3
cont'd

IV. Editorial Suggestions

COMMENT 4: CDFW recommends updating the “Description of Project” on page 1 of the MND to accurately state the habitat type that will impacted within the development area. Currently, it states “The project would result in removal of approximately 3.1 acres of non-native grassland.” However, Table 4 on page 12 of the MND states that 3.1 acres in the development area are categorized as “Developed/Disturbed Areas” and that zero acres of non-native annual grassland is in the development area, which seems to accurately reflect what is shown in Figures A-5 and A-6 of the Biological Resources Reconnaissance Survey (Exhibit B of the MND).

2.4

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 CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

2.5

ENVIRONMENTAL DOCUMENT 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 Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final.

2.6

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 8

(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 MND to assist the County in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Alicia Bird, Environmental Scientist at (707) 980-5154 or alicia.bird@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or melanie.day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell
Regional Manager
Bay Delta Region

Attachment: Draft Mitigation Monitoring and Reporting Program

cc: Office of Planning and Research, State Clearinghouse (SCH No. 2022090548)

REFERENCES

- Brehme, C.S.; Hathaway, S.A.; Booth, R.; Smith, B.H.; and Fisher, R.N. 2015. Research of American Badgers in Western San Diego County, 2014. Data Summary prepared for California Department of Fish and Wildlife and the San Diego Association of Governments. 24pp. (42pp. with Appendix).
- Busch, D. E., and S. D. Smith. 1995. Mechanisms associated with decline of woody species in riparian ecosystems of the southwestern U.S. Ecological Monographs 65:347–370.
- California Department of Fish and Game [CDFG]. 2004. Recovery strategy for California coho salmon. Report to the California Fish and Game Commission, Sacramento, CA, USA.
- CDFW. 2015. Recovery strategy for California coho salmon progress report. A report prepared for the California Fish and Game Commission, Sacramento, CA, USA.
- CDFW. 2018. Considerations for Conserving the Foothill Yellow-Legged Frog. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157562&inline>

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 9

CDFW
Page 9 of 12

- Fenner, P., W. W. Brady, D. R. Patton, P. Fenner, W. W. Brady, and D. R. Patton. 1985. Effects of regulated water flows on regeneration of Fremond cottonwood. *Journal of Range Management* 38:135–138.
- Hatfield, R., S. Jepsen, S. F. Jordan, M. Blackburn, and A. Code. 2018. A petition to the state of California Fish and Game Commission to list the Crotch bumble bee (*Bombus crotchii*), Franklin's bumble bee (*Bombus franklini*), Suckley cuckoo bumble bee (*Bombus suckleyi*), and western bumble bee (*Bombus occidentalis occidentalis*) as endangered under the California Endangered Species Act. Xerces Society for Invertebrate Conservation, Defenders of Wildlife, and Center for Food Safety. Sacramento, CA.
- Holland, Dan C. 1994. The western pond turtle: habitat and history. Unpublished final report, U. S. Dept. of Energy, Portland, Oregon.
- Kondolf, G. M., and R. R. Curry. 1986. Channel erosion along the Carmel River, Monterey County, California. *Earth Surface Processes and Landforms* 11:307–319.
- Kupferberg, S. J., W. J. Palen, A. J. Lind, S. Bobziern, A. Catenazzi, J. Drennan, and M. E. Power. 2012. Effects of flow regimes altered by dams on survival, population declines, and range-wide losses of California river-breeding frogs. *Conservation Biology* 26:513–524.
- Marine, K. R., and J. J. Cech, Jr. 2004. Effects of high water temperature on growth, smoltification, and predator avoidance in juvenile Sacramento River chinook salmon. *North American Journal of Fisheries Management* 24:198–210.
- Martins, E. G., S. G. Hinch, D. A. Patterson, M. J. Hague, S. J. Cooke, K. M. Miller, M. F. Lapointe, K. K. English, and A. P. Farrell. 2011. Effects of river temperature and climate warming on stock-specific survival of adult migrating Fraser River sockeye salmon (*Oncorhynchus nerka*). *Global Change Biology* 17:99–114.
- Moore, M. K., and V. R. Townsend. 1998. The interaction of temperature, dissolved oxygen and predation pressure in an aquatic predator-prey system. *Oikos* 81:329–336.
- Moyle, P. B. 2002. *Inland fishes of California*. University of California Press, Berkeley, CA, USA.
- O'Hare, M., D. L. Sanchez, and P. Alstone. 2013. *Environmental risks and opportunities in cannabis cultivation*. BOETC Analysis Corp. University of California, Berkeley, CA, USA.

Pamela Arifian, Planner III
County of Napa
October 28, 2022
Page 10

CDFW
Page 10 of 12

- Perkins, D. J., B. N. Carlsen, M. Fredstrom, R. H. Miller, C. M. Rofer, G. T. Ruggerone, and C. S. Zimmerman. 1984. The effects of groundwater pumping on natural spring communities in Owens Valley. Pages 515–526 in R. E. Warner and K. M. Hendrix, editors. *California Riparian Systems: Ecology, Conservation, and Productive Management*. University of California Press, Berkeley, CA, USA.
- Poff, N. L., J. D. Allan, M. B. Bain, J. R. Karr, K. L. Prestegarrd, B. D. Richter, R. E. Sparks, and J. C. Stromberg. 1997. The natural flow regime: a paradigm for river conservation and restoration. *BioScience* 47:769–784.
- Press, D., D. Adams, H. Jensen, K. Fehring, W. Merkle, M. Koenen, and L. A. Starcevich. 2010. San Francisco Bay Area Network northern spotted owl monitoring protocol: Version 6.4. Natural Resource Report NPS/SFAN/NRR—2010/245. National Park Service, Fort Collins, Colorado.
- Purcell, Kathryn L.; McGregor, Eric L.; Calderala, Kathryn. 2017. Effects of drought on western pond turtle survival and movement patterns. *Journal of Fish and Wildlife Management*. 8(1): 15-27.
- Ray, C. 1958. Vital limits and rates of desiccation in salamanders. *Ecology* 39:75–83.
- Reily, P. W., and W. C. Johnson. 1982. The effects of altered hydrologic regime on tree growth along the Missouri River in North Dakota. *Canadian Journal of Botany* 60:2410–2422.
- Rood, S. B., and J. M. Mahoney. 1990. Collapse of riparian poplar forests downstream from dams in western prairies: Probable causes and prospects for mitigation. *Environmental Management* 14:451–464.
- Selong, J. H., T. E. McMahon, A. V. Zale, and F. T. Barrows. 2001. Effect of temperature on growth and survival of bull trout, with application of an improved method for determining thermal tolerance in fishes. *Tran* 130:1026–1037.
- Stromberg, J. C., R. Tiller, and B. Richter. 1996. Effects of groundwater decline on riparian vegetation of semiarid regions: The San Pedro, Arizona. *Ecological Applications* 6:113–131.
- USFWS. 2017. Species Account for California Red-legged frog. December 2017. https://www.fws.gov/sacramento/es_species/Accounts/Amphibians-Reptiles/ca_red_legged_frog/
- Zaragoza, George; Rose, Jonathan P.; Purcell, Kathryn.; Todd, Brian. 2015. Terrestrial habitat use by western pond turtles (*Actinemys marmorata*) in the Sierra Foothills. *Journal of Herpetology*. 49(3): 437-441.

Pamela Arifian, Planner III
 County of Napa
 October 28, 2022
 Page 11

Attachment 1

Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BR)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM BR-3	<p><u>MM BR-3: Northern Spotted Owl Avoidance.</u> A qualified biologist shall provide an assessment of potential NSO nesting habitat within the Project area and a 0.25-mile radius and obtain CDFW's written acceptance of the assessment. Alternatively, if the assessment is not completed, or if it concludes that NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between March 15 and August 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the U.S. Fish and Wildlife Service (USFWS) Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls, dated (revised) January 9, 2012. Surveys shall be conducted in accordance with Section 9 of the survey protocol, Surveys for Disturbance-Only Projects. If breeding NSO are detected during surveys, a 0.25 mile no-disturbance buffer zone shall be implemented around the nest until the end of the breeding season, or a qualified biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 15 and August 31 each year.</p> <p>Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>

Pamela Arifian, Planner III
 County of Napa
 October 28, 2022
 Page 12

	If take of NSO cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal Endangered Species Act.		
MM BR-4	<u>MM BR-4: American Badger Protection.</u> A qualified biologist shall survey for American badger where suitable habitat is present within the Project site and adjacent habitat within a minimum of 50 feet. If any occupied burrows are discovered the Project shall implement an appropriate buffer from the burrow, as determined by a qualified biologist and approved in writing by CDFW. If the Project cannot avoid impacts to the occupied burrow the Project shall consult with CDFW regarding next steps before proceeding and implement CDFW recommendations such as preparing and implementing an American badger relocation plan.	Prior to Ground Disturbance	Project Applicant
MM BR-5	<u>MM BR-5: Streambed Alteration Agreement for Diversion.</u> Prior to commencement of construction, the Project shall notify CDFW for the active diversion and impoundment of surface water from streams and comply with the Streambed Alteration Agreement, if issued. The notification should be submitted online via the Environmental Permit Information Management System (EPIMS) at https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS .	Prior to Ground Disturbance and continuing over the course of the Project	Project Applicant