Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
wildlife.ca.gov

October 27, 2026

Sean Trippi, Supervising Planner
Napa County
1195 3rd Street #201
Napa, CA 94559
Sean.Trippi@countyofnapa.org

Subject: E&P Technology Way Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2024100855, County of Napa

Dear Sean Trippi:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the E&P Technology Way Project (project). CDFW previously submitted a comment letter for the project, dated November 15, 2024 (CDFW's 2024 letter), in response to the Initial Study/Mitigated Negative Declaration (IS/MND) for the project. However, as outlined in the NOP, Napa County (County) has decided to instead prepare a Draft EIR for the project.

CDFW is providing the County, as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), Lake and Streambed Alteration (LSA) Agreement, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the project.

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

PROJECT LOCATION AND DESCRIPTION SUMMARY

The project is located within unincorporated Napa County, State of California and comprises two sites located at approximately (1) 38.22753°N and -122.26939°W, which is where Building A will be constructed, and (2) 38.22677°N, - 122.26638°W, which is where Building B will be constructed. A conservation easement runs along the north and northeast boundary of the project site which includes a meandering path along the south side of Sheehy Creek.

The project is limited to the development of two industrial buildings and ancillary features on approximately 20.07 acres within the Napa Valley Business Park. Building A will consist of a 143,312-square-foot wine production facility on approximately 13.20 acres, and Building B will consist of a 66,915-square-foot warehouse/distribution building on approximately 6.87 acres. Ancillary amenities include the development of truck loading areas, parking facilities, landscaping, utility connections, stormwater management features, and frontage improvements along Technology Way and Morris Court. New driveways from Technology Way and Morris Court will be added to enable access to the project site. The project would include a total of 211 total parking spaces, electric vehicle charging spaces, new sidewalks, and curb, gutter, and pavement improvements.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the EIR incorporate a full project description, including reasonably foreseeable future phases of the project, that contains sufficient information to evaluate and review the project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following project components in the project description:

- Land use changes resulting from, for example, rezoning certain areas.
- Footprints of permanent project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground-disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

REGULATORY REQUIREMENTS

California Endangered Species Act

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

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 or candidates for CESA listing, either during construction or over the life of the project. Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. **As discussed in CDFW's 2024 letter, the project has the potential to impact Swainson's hawk (*Buteo swainsoni*), listed as threatened under CESA. Thank you for including Mitigation Measures (MMs) BIO-4 and BIO-5 for Swainson's hawk in the IS/MND which is Attachment A to the NOP. Please be advised that the California Natural Diversity Database (CNDDB) documents a nesting Swainson's hawk record in year 2021 approximately 300 feet north of the project site and there are additional nesting records of the species within 0.5 miles. Swainson's hawk often utilize the same nests sites from year to year and there is a high concentration of nesting Swainson's hawk in the vicinity, therefore there is a high potential for nesting Swainson's hawk to be impacted by the project during nesting season, warranting an ITP. The project also has the potential to impact burrowing owl (*Athene cunicularia*), a candidate species under CESA, as further described below.** Issuance of a CESA 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 a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially reduce the population or restrict the range of an endangered, rare, or threatened 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

An LSA Notification, pursuant to Fish and Game Code section 1600 et seq., is required 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. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **It appears that the project may impact Sheehy Creek. Impacts to Sheehy Creek or any hydrologically connected wetland would likely require an LSA Notification. If an LSA Notification is required, CDFW recommends that the EIR include a mitigation measure requiring the project to submit an LSA Notification and compliance with the LSA Agreement, if issued**. CDFW, as a Responsible Agency under CEQA,

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

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

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests 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). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

California Fully Protected Species

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code, § 2081.15). Project proponents should consult with CDFW early in the project planning process. **The project has the potential to impact Golden eagle *(Aquila chrysaetos)* and white-tailed kite *(Elanus leucurus),* which are California fully protected species.**

ENVIRONMENTAL SETTING

The EIR should provide sufficient information regarding the environmental setting ("baseline") to understand the project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the CEQA document prepared for the project provide baseline habitat assessments for special-status plant, fish and wildlife species located and potentially located within the project area and surrounding lands, including, but not limited to, all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

communities or riparian habitat occurring on or adjacent to the project site (for sensitive natural communities see: https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities), and any stream or wetland set back distances the City or County may require. Fully protected, threatened or endangered, candidate, and other special-status species and sensitive natural communities that are known to occur, or have the potential to occur in or near the project site, include but are not limited to those listed in **Attachment 1**.

Habitat descriptions and the potential for species occurrence should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, California Aquatic Resources Inventory, and findings from "positive occurrence" databases such as CNDDB. Based on the data and information from the habitat assessment, the EIR should adequately assess which special-status species are likely to occur on or near the project site, and whether they could be impacted by the project.

CDFW recommends that prior to project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: https://www.wildlife.ca.gov/Conservation/Survey-Protocol.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (http://www.cnps.org/cnps/rareplants/inventory/), must be conducted during the blooming period within the project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrological conditions, and require the identification of reference populations. More than one year of surveys may be necessary based on environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to special-status plants available at: https://www.wildlife.ca.gov/Conservation/Plants.

IMPACT ANALYSIS AND MITIGATION MEASURES

The EIR should discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the project (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

- Land use changes that would reduce open space or agricultural land uses and increase residential or other land use involving increased development;
- Encroachments into riparian habitats, wetlands or other sensitive areas;
- Potential for impacts to special-status species;

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, vegetation overhanging banks);

- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and

- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features related directly to project construction and indirectly through water supply impacts to stream resources resulting from project implementation.

The CEQA document should also identify reasonably foreseeable future projects in the project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the project's contribution to the impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a special-status species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the project, the CEQA Guidelines direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the EIR, and/or mitigate significant impacts of the project on the environment (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This includes a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable project conditions to reduce potential impacts to biological resources to less-than-significant levels.

CDFW offers the specific comments and recommendations below which are also included in ***Attachment 2 (Draft Mitigation and Monitoring Reporting Plan)*** *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.* ***Please be advised that the EIR should include a comprehensive evaluation of potentially significant impacts to fish and wildlife resources as described in this letter, and CDFW may provide additional comments once the EIR is circulated for public review.***

I. Mitigation Measure and Related Impact Shortcoming

MANDATORY FINDING OF SIGNIFICANCE. Does the project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

AND

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?

COMMENT 1: Burrowing Owl

Issue, specific impacts, why they may occur and be potentially significant: Thank you for including the NOP Appendix A IS/MND which includes MMs BIO-6 and BIO-7 to mitigate potential impacts to burrowing owl As discussed in CDFW's 2024 letter, the language in the IS/MND does not reflect the status change of burrowing owl to a CESA candidate species, and MM BIO-6 does not stipulate whether the project would obtain a CESA ITP if take of burrowing owl may occur. Take of CESA candidate species is prohibited without a CESA take authorization from CDFW, typically an ITP. CNDDB documents a wintering burrowing owl record approximately 1,100 feet northeast of the project site, within the area of potential project auditory or visual disturbance. The project has the potential to result in injury, mortality of adults, permanent habitat loss, or other unauthorized take of burrowing owl. CESA candidate species are afforded the same protection as listed species under CESA and therefore an ITP may be warranted, which often is necessary to ensure impacts are reduced to less-than-significant.

Recommended mitigation measure: To reduce potential impacts to burrowing owl to less than-significant and comply with CESA and Fish and Game Code section 3503.5, CDFW recommends **adding** the following requirements to **MM BIO-6**.

> Mitigation Measure BIO-6 (Burrowing Owl Habitat Assessment and Surveys): If take of burrowing owl cannot be avoided, the project shall consult with CDFW pursuant to CESA and obtain an ITP before project activities commence.

II. Editorial and Other Comments

COMMENT 2: CESA ITP

Issue: As discussed in CDFW's 2024 letter, the IS/MND (NOP Appendix A) Page 2, Section 10 states: "The proposed project does not involve the "take" of listed endangered or threatened species, and thus does not require a "take permit" from the Department of Fish and Wildlife…" As discussed above, the project has the potential to result in take of Swainson's hawk and burrowing owl. Furthermore, the IS/MND MM BIO-4 states: "If take of Swainson's hawk cannot be avoided, the project shall consult with CDFW pursuant to CESA and obtain an ITP before project activities may commence." Therefore, the project may require a "take permit" (i.e., ITP) from CDFW.

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

Recommendation: CDFW recommends revising the above language on IS/MND (NOP Appendix A) Page 2, Section 10 to: "The proposed project has the potential to result in "take" of listed endangered or threatened species, or candidate species for listing, and thus may require a "take permit" from the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, or the National Marine Fisheries Service.

COMMENT 3: Conservation Easement along Sheehy Creek

Issue: The IS/MND (NOP Appendix A) states, "There is a conservation easement that runs along the north and northeast boundary of the project site which includes a meandering path along the south side of Sheehy creek." Thank you for including MM BIO-1 to avoid the conservation easement area. However, the location of the conservation easement is unclear.

Recommendation: CDFW recommends: 1) adding to the Draft EIR a figure based on aerial imagery outlining the boundaries of the conservation easement along Sheehy Creek; and 2) submitting the conservation easement information to the California Conservation Easement Database (https://data.cnra.ca.gov/dataset/california-conservation-easement-database) and California Protected Areas Database (https://calands.org/).

ENVIRONMENTAL DATA

CEQA requires that information developed in EIRs 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 CNDDB. The CNDDB online field survey form and other methods for submitting data can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/Plantsand-Animals.

FILING FEES

CDFW anticipates that the project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

Questions regarding this letter or further coordination should be directed to Jessa Ehlinger, Environmental Scientist, at Jessa.Ehlinger@wildlife.ca.gov or (707) 815-7630; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

Attachments: Attachment 1: Special-Status Species
Attachment 2: Draft Mitigation and Monitoring Reporting Plan

ec: Office of Land Use and Climate Innovation, State Clearinghouse (SCH No. 2024100855)

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

ATTACHMENT 1: Special-Status Species

Scientific Name	Common Name	Status
	Amphibians & Reptiles	
Actinemys marmorata	northwestern pond turtle	FPT, SSC
Rana draytonii	California red-legged frog	FT, SSC
Rana boylii pop. 1	foothill yellow-legged frog - north coast DPS	SSC
	Birds	
Aquila chrysaetos	golden eagle	FP, WL, BGEPA
Athene cunicularia	burrowing owl	SC, SSC
Circus hudsonius	northern harrier	SSC
Elanus leucurus	white-tailed kite	FP
Buteo swainsoni	Swainson's hawk	ST
Geothlypis trichas sinuosa	saltmarsh common yellowthroat	SSC
	Plants	
Lasthenia conjugens	Contra Costa goldfields	FE, CRPR 1B.1
Trifolium amoenum	two-fork clover	FE, CRPR 1B.1
Legenere limosa	legenere	CRPR 1B.1
Lathyrus jepsonii var. *jepsonii*	Delta tule pea	CRPR 1B.2
Astragalus tener var. tener	alkali milk-vetch	CRPR 1B.2
Balsamorhiza macrolepis	big-scale balsamroot	CRPR 1B.2
Trifolium hydrophilum	saline clover	CRPR 1B.2
Erigeron greenei	Greene's narrow-leaved daisy	CRPR 1B.2
Ceanothus purpureus	holly-leaved ceanothus	CRPR 1B.2

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

Brodiaea leptandra	narrow-anthered brodiaea	CRPR 1B.2
Extriplex joaquinana	San Joaquin spearscale	CRPR 1B.2
Mammals		
Antrozous pallidus	pallid Bat	SSC
Taxidea taxus	American badger	SSC
Invertebrates		
Bombus crotchii	Crotch's bumble bee	SC

FE = federally listed as endangered under the Endangered Species Act (ESA); FT = federally listed as threatened under ESA; FPT = proposed as threatened ESA; SE= state listed as endangered under CESA; ST = state listed as threatened under CESA; SC = state candidate species under CESA; SSC = state Species of Special Concern; FP = California Fully Protected species; CRPR = California Rare Plant; BGEPA = federally protected under the Bald and Golden Eagle Protection Act; WL = California Watch List species

Docusign Envelope ID: 15350101-099F-8425-8115-39BD4B115A76

ATTACHMENT 2

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure	**Description**	**Timing**	**Responsible Party**
BIO-6	***ADD THE BELOW LANGUAGE TO THE EXISTING MM BIO-6.*** Burrowing Owl Habitat Assessment and Surveys: If take of burrowing owl cannot be avoided, the project shall consult with CDFW pursuant to CESA and obtain an ITP before project activities commence.	Prior to Ground Disturbance and for the Duration of the Project	Project Applicant
Editorial Comment	CDFW recommends revising the language on IS/MND (Appendix A) Page 2, Section 10 to: "The proposed project has the potential to result in "take" of listed endangered or threatened species, or candidate species for listing, and thus may require a "take permit" from the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, or the National Marine Fisheries Service.	Prior to Finalizing Draft EIR	Lead Agency
Conservation Easment	CDFW recommends: 1) adding to the Draft EIR a figure based on aerial imagery outlining the boundaries of the conservation easement along Sheehy Creek; and 2) submitting the conservation easement information to the California Conservation Easement Database (https://data.cnra.ca.gov/dataset/california-conservation-easement-database) and California Protected Areas Database (https://calands.org/).	Prior to Finalizing Draft EIR	Lead Agency