



A Tradition of Stewardship
A Commitment to Service

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org
(707) 253-4417

Brian D. Bordona
Director

TO: Application File #P24-00015-ECPA

FROM: Pamela Arifian, Planner III

DATE: June 25, 2025

RE: Response to Comments – 1510 Acquisition LLC Vineyard Conversion
Agricultural Erosion Control Plan (ECPA) File #P24-00015-ECPA
Assessor's Parcel Number APN 020-400-013
1510 Diamond Mountain Road, Calistoga
SCH # 2025040851

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 1510 Acquisition LLC Vineyard Conversion #P24-00015-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 1510 Acquisition LLC Vineyard Conversion Agricultural Erosion Control Plan #P24-00015-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 April 17, 2025. 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 May 19, 2025. During the public review period, Napa County received three (3) comment letters on the Proposed IS/MND. Table 1 below lists the entity that submitted comments on the Proposed IS/MND during the public review and comment period. The comment letter is 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	Robert Svendsen	April 18, 2025
2	California Department of Conservation	April 29, 2025
3	California Department of Fish and Wildlife (CDFW)	June 2, 2025

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 #P24-00015-ECPA.

RESPONSES TO COMMENTS

Comment #1 Robert Svendsen (Attachment 1)

Response to Comment 1.1:

The commenter’s opinions regarding the amount of grape producers, agricultural traffic being “dangerous” and about “agricultural imbalance” are noted, as is the opinion that more tree and natural habitat removal is not needed. No new or additional evidence has been provided that demonstrates the potential level of impacts analyzed as a result of the proposed project would occur beyond what is identified in the Proposed IS/MND or that additional mitigation is necessary; as such, no further action is required.

Comment #2 California Department of Conservation (Attachment 2)

Response to Comment 2.1:

The comment references abandonment of oil, gas or geothermal wells, which is not proposed as part of the project. The comment letter states that there are no known oil or gas wells located within the project boundary. As stated in the Proposed IS/MND, the project would replace an existing off-site groundwater well with a new well on the parcel for irrigation of the proposed project. It is understood that a groundwater well that is no longer being used for its intended purpose is required by law to be properly destroyed, in order to avoid potential for contaminant migration. To ensure that abandoned groundwater wells are properly destroyed to, property owners must obtain a demolition permit from Napa County Planning, Building and Environmental Services. The demolition permit process ensures that the well is properly destroyed pursuant to regulations and by a licensed contractor. Should the owner of the neighboring parcel decide to abandon the groundwater well that has historically provided groundwater to the project parcel, a demolition permit would be required; however, abandonment is not proposed as part of the subject project. No further action is required.

Comment #3 California Department of Fish and Wildlife (Attachment 2)

Response to Comment 3.1: As stated in the project description and **Section IV, Biological Resources**, of the Proposed IS/MND on page 19 and in the Biological Resources Reconnaissance Survey (Environmental Resource Solutions, 2023 - **Exhibit B** of the Proposed IS/MND), the project area includes removal of approximately 2.3 acres of coniferous forest. As detailed in the Northern Spotted Owl Assessment (Forest Ecosystem Management, 2023, Attachment #7 of the BRRS, **Exhibit B** of the Proposed IS/MND), while the project area contains vegetation that may meet habitat suitability criteria for NSO roosting and/or nesting, including 60% cover canopy, the location of the vegetation “greatly decreases the habitat suitability,” with vineyards immediately south, resort to north and no deep canyons for roosting, and concluded that the coniferous forest offered “marginal habitat” for NSO.

Further, as stated in the Proposed IS/MND and the BRRS, protocol-level surveys for Northern Spotted Owl (NSO) were conducted from 2017-2023 as part of a Timber Harvest Plan for the adjacent parcel to the north (Calistoga Hills Resort), and specifically for the project parcel since 2021, including six (6) each in 2017 and 2018, three (3) visits each in 2019 and 2020, and for the proposed project parcel, six (6) visits each in 2021 and 2022, and three (3) visits in 2023 in five (5) survey stations within 1.3 miles. The Assessment reports that there was NSO activity in a location 1.1 miles south of the project parcel in 2020, 2021 and 2022. No NSO activity was detected in 2023. The surveys assessed a 1.3-mile area per USFWS protocol for Take Avoidance within the California Interior (BRRS, 2023, **Exhibit B** of the Proposed IS/MND), and the assessment area included the project footprint, the area within 0.25-mile of the project footprint, the area within 0.5-mile of the project footprint and within 1.3 miles of the footprint.

The commenter states that NSO surveys are not required following timber harvest operations; however, impacts to nesting NSO could occur from project activities (i.e., vineyard installation) as a result of audio disturbances above ambient levels. As stated above and in the BRRS, the property has an extensive survey history, with no reports of NSO activity on or within 1.1 miles of the proposed project parcel during the years of surveys. With the survey history and the conclusion of the biologist that the location of the coniferous forest on the parcel provides marginal habitat for NSO, in addition to the project location being immediately proximal to existing vineyard operations and the construction and operation of the Calistoga

Hills Resort (a 110-room hotel, with 20 private villa residence and 13 estate homes) and to developed Napa Valley, the audio disturbance resulting from vineyard installation on 2.3 acres following timber harvest is not anticipated to raise the ambient noise levels such that it would negatively impact roosting or nesting NSO. To ensure that anticipated impacts on NSO remain less than significant, **Mitigation Measure BIO-3** has been amended as follows, with **bold** text indicating added language and ~~strikethrough~~ indicating eliminated language:

Mitigation Measure BIO-3: The owner/permittee shall follow ~~USFWS protocol for surveying NSO~~ the **Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (USFWS 2012) as applicable** in all years that timber harvest operations are anticipated. This includes having a minimum 2-year survey history prior to timber harvest operations, ~~including six spot check surveys in 2025. Once timber harvest operations are complete, northern spotted owl surveys are no longer necessary.~~ **Following the 2 years of surveys, a qualified biologist shall conduct Spot Check Surveys for northern spotted owl on the Project site and within a 0.25-mile radius around the Project site during northern spotted owl nesting season (March 15 to July 31) each year until Project construction is completed, pursuant to the above survey protocol, unless otherwise approved in writing by CDFW. Survey results shall be submitted each year to CDFW and the owner/permittee shall obtain CDFW's approval of the survey results in writing prior to any Project timber harvest activities or construction activities increasing auditory distances above ambient levels.**

Northern spotted owl surveys are valid until the beginning of the next breeding season (February 1). ~~Timber harvest operations~~ **Project development activities** after this February 1 date require a current years' survey effort.

If nesting Northern spotted owl 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. 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 northern spotted owl cannot be avoided, the Project shall consult with: 1) CDFW pursuant to CESA and obtain an ITP, and 2) USFWS pursuant to the federal Endangered Species Act.

~~As there are no known northern spotted owls within 0.25 mile of the proposed development area, there are no seasonal restrictions proposed at this time.~~ If a new northern spotted owl territory is identified within 1.3 miles of the proposed development area or the known northern spotted owl territory (NAP007) moves closer to the proposed development area, a reassessment shall occur.

The owner/permittee shall provide documentation of any updated northern spotted owl survey results to **CDFW and** Napa County Conservation Division before commencement of vegetation removal and earthmoving activities pursuant to #P24-00015-ECPA.

Regarding the commenter's proposed additional mitigation measure (b) regarding NSO habitat mitigation: as described above and in the Proposed IS/MND and Exhibit B, the habitat on the project site was deemed to be "marginal" for NSO roosting and nesting due to its location being proximal to existing and current development activities adjacent to the developed Napa Valley. With that site-specific assessment and the history of protocol-level survey results showing no NSO activity within 1.1 miles of the project boundaries, the coniferous forest on site is not considered "high quality" roosting/nesting habitat that would require habitat preservation and long-term management for NSO habitat to reduce the level of significance of the impact. As such, the mitigation measure (b) as proposed by CDFW has not been included in the project. Further, as described in the Proposed IS/MND and in Mitigation Measure GHG-1, the project would permanently preserve 1.5 acres of coniferous forest on the project parcel, in addition to 0.7acre of Oregon oak woodland and 0.1-acre of coast live oak woodland. No further action is required.

Response to Comment 3.2: Comment noted. 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 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 3.3: 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 – Robert Svendsen comments via email dated April 18, 2025.

Attachment 2 – California Department of Conservation comment letter dated April 29, 2025

Attachment 3 – California Department of Fish and Wildlife comment letter dated June 2, 2025.

From: [MeetingClerk](#)
To: [Arifian, Pamela](#)
Subject: FW: Napa County Notice of Intent to Adopt a Mitigated Negative Declaration
Date: Friday, April 18, 2025 8:30:23 AM
Attachments: [image001.png](#)

Please see email below.

Kind Regards,



A Tradition of Stewardship
A Commitment to Service

Napa County – Meeting Clerk - AV
Planning, Building, & Environmental Services
Napa County
Phone: 707-253-4417
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From: RICHARD W SVENDSEN <rsvensen@sbcglobal.net>
Sent: Friday, April 18, 2025 8:28 AM
To: MeetingClerk <MeetingClerk@countyofnapa.org>
Subject: Re: Napa County Notice of Intent to Adopt a Mitigated Negative Declaration

[External Email - Use Caution]

We live one city block from this proposal and very strongly desire a NO recommendation for this vineyard for the following reasons:

1. We have enough grape producers on this road. This past growing season we have 4 personal friends who were unable to sell their grapes in Napa Valley. Why do we need more?
2. The amount of vineyard expansion on Diamond Mountain Road is out of hand! At certain periods of the day the amount of vineyard workers and agricultural traffic has become dangerous and drivers disrespectful
3. We do not need more trees and natural habitat removal on this road
4. This area has 10-12 families living in this area. We do not need more agricultural imbalance

Richard Svendsen

1309 Diamond Mountain Road(57 years)

Sent from my iPhone

On Apr 17, 2025, at 8:14 AM, MeetingClerk
<MeetingClerk@countyofnapa.org> wrote:

*1510 ACQUISITION LLC VINEYARD DEVELOPMENT AGRICULTURAL
EROSION CONTROL PLAN #P24-00015-ECPA – ENVIRONMENTAL REVIEW*

Kind Regards,

<image001.png>

Napa County – Meeting Clerk - AV
Planning, Building, & Environmental Services
Napa County
Phone: 707-253-4417
Email: meetingclerk@countyofnapa.org
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<Public Notice_P24-00015-ECPA.pdf>



04/29/2025

County: Napa - Napa County
Pamela Arifian
1195 Third Street, Suite 210, Napa, CA 94559, USA
pamela.arifian@countyofnapa.org

02 CALIFORNIA
DEPARTMENT OF
CONSERVATION

Construction Site Well Review (CSWR) ID: 1013253

Assessor Parcel Number(s): 020400013

Property Owner(s): Daniel Sedlmayer

Project Location Address: Diamond Mountain Road and State Route 29/128 Lat: 38.567591 Long: -122.575506, Calistoga, California 94515

Project Title: SCH 2025040851 - 1510 Acquisition LLC Vineyard Development Agricultural Erosion Control Plan

Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 4/28/2025. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Napa County, within the boundaries of the following fields:

N/A

Our records indicate there are no known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

2.1

The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

The Division advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations should be provided to the Division in Latitude and Longitude, NAD 83 decimal format. The Division expects any wells found leaking to be reported to it immediately.

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

No well work may be performed on any oil, gas, or geothermal well without written approval from the Division. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The Division also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from the Division is required before work can start.

The Division makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, the Division recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

2. The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

2.1

If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Northern district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Should you have any questions, please contact me at (916) 322-1110 or via email at Erwin.Sison@conservation.ca.gov.

Sincerely,

Erwin Sison
Senior Oil & Gas Engineer (Supervisor)

cc: Pamela Arifian - Plan Checker



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



**03 CALIFORNIA
DEPARTMENT OF FISH
AND WILDLIFE**

June 2, 2025

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

Subject: 1510 Acquisition LLC Vineyard Development Agricultural Erosion Control Plan #P24-00015-ECPA, Initial Study/Mitigated Negative Declaration, SCH No. 2025040851, Napa County

Dear Ms. Arifian:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from Napa County (County) for the 1510 Acquisition LLC Agricultural Erosion Control Plan #P24-00015-ECPA (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the IS/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: Daniel Sedlmayer (Co-Owner)

Objective: The Project involves the clearing of vegetation, earthmoving and land contouring associated with the development of approximately 2.4 gross acres of vineyard with approximately 1.9 net planted acres in two proposed vineyard blocks,

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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Napa County
June 2, 2025
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located on an approximately 35.8-acre property. The Project would result in the conversion to vineyard of approximately 2.3 acres of Douglas fir forest and 0.1-acre of coast live oak woodland (192 trees greater than 6-inch diameter at breast height (DBH)). The Project proposes a 2.9-acre tree canopy preservation area on land with slopes less than 30 percent and outside of stream setbacks, including approximately 1.5 acres of Douglas fir forest, 0.7-acre of coast live oak woodland and 0.7-acre of Oregon white oak woodland. No new wildlife exclusion fencing is proposed around the proposed vineyard blocks; however, existing fencing would be relocated to the property line.

Location: The Project is located at 1510 Diamond Mountain Road, Calistoga, CA 94515; Assessor's Parcel Number 020-400-013-000; at approximately 38.56854 °N, - 122.57497 °W; Napa County.

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*, NSO), state listed as threatened, 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.

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.

Pamela Arifian
Napa County
June 2, 2025
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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. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and included in **Attachment 1** Draft Mitigation Monitoring and Reporting Program, CDFW concludes that an MND is appropriate for the Project.

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?

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 U.S. Fish and Wildlife Service (USFWS)?

Mitigation Measure Related Impact Shortcoming

Comment 1: Northern Spotted Owl Surveys and Habitat Mitigation

Issue: Thank you for including Mitigation Measure (MM) BIO-3 with the IS/MND which requires protocol surveys for NSO in accordance with the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012. However, MM BIO-3 may not mitigate impacts to NSO to less-than-significant for the reasons outlined below.

- 1) Nesting NSO surveys are not required following timber harvest operations, however; impacts to nesting NSO could occur from Project activities following timber harvest operations, such as vineyard installation, as a result of audio disturbances above ambient levels.
- 2) No seasonal restrictions are proposed to ensure nesting NSO avoidance, although NSO could be detected during year 2025 and subsequent years' surveys.
- 3) The radius of spot check surveys is unclear.

3.1

Pamela Arifian
Napa County
June 2, 2025
Page 4

- 4) The loss of NSO habitat is not quantified and habitat mitigation is not proposed. The IS/MND Exhibit B *Biological Resource Reconnaissance Survey* states that "The Project will impact Northern Spotted Owl Habitat" (page 34).

Specific impacts and why they may occur and be significant: Incomplete NSO survey methods could cause false negative survey results, resulting in inadvertent Project audio disturbances to nesting NSO on or within 0.25 miles of the Project, nest abandonment, and loss of eggs; or reduced health and vigor and loss of young. The Project would result in the removal of NSO habitat, which is a primary threat to continued existence of NSO in California (CDFW 2016). NSO is CESA listed as a threatened species and is also listed under the federal Endangered Species Act and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active NSO nest is disturbed or nesting habitat is removed by the Project, the Project may substantially reduce the number or restrict the range of a threatened species which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1). Additionally, the Project may have a substantial adverse effect, either directly or through habitat modifications, on NSO which is a species identified as a special-status species by CDFW and USFWS.

3.1

Recommended Mitigation Measure: To reduce impacts to NSO to less-than-significant and comply with CESA and Fish and Game Code section 3500 et seq., CDFW recommends revising MM BIO-3 with the following deletions in ~~strike through~~ and additions in **bold** to reduce impacts to NSO to less-than-significant.

MM BIO-3:

- A) **Northern Spotted Owl Surveys**. The owner/permittee shall follow the *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (USFWS 2012)* as applicable in all years that timber harvest operations are anticipated. This includes having a minimum 2-year survey history prior to timber harvest operations, ~~including six spot check surveys in 2025.~~ **Once timber harvest operations are complete, northern spotted owl surveys are no longer necessary. Following the 2 years of surveys, a qualified biologist shall conduct Spot Check Surveys for northern spotted owl on the Project site and within a 0.25-mile radius around the Project site during northern spotted owl nesting season (March 15 to July 31) each year until Project construction is completed, pursuant to the above survey protocol, unless otherwise approved in writing by CDFW. Survey results shall be submitted each year to CDFW and the owner/permittee shall obtain CDFW's approval of the survey results in writing prior to any Project timber harvest activities or construction activities increasing auditory distances above ambient levels.**

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Northern spotted owl surveys are valid until the beginning of the next breeding season (February 1). ~~Timber harvest operations~~ Project activities after this February 1 date require a current years' survey effort.

If nesting Northern spotted owl 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. 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 northern spotted owl cannot be avoided, the Project shall consult with: 1) CDFW pursuant to CESA and obtain an ITP, and 2) USFWS pursuant to the federal Endangered Species Act.

~~As there are no known northern spotted owls within 0.25 mile of the proposed development area, there are no seasonal restrictions proposed at this time.~~ If a new northern spotted owl territory is identified within 1.3 miles of the proposed development area or the known northern spotted owl territory (NAP007) moves closer to the proposed development area, a reassessment shall occur.

The owner/permittee shall provide documentation of any updated northern spotted owl survey results to **CDFW and Napa County Conservation Division** before commencement of vegetation removal and earthmoving activities pursuant to #P24-00015-ECPA.

- B) Northern Spotted Owl Habitat Mitigation:** If the Project will remove northern spotted owl nesting or roosting habitat, then the Project shall prepare an northern spotted owl mitigation plan including mitigating northern spotted owl habitat removal at a 3:1 mitigation to impact ratio. Habitat mitigation shall include permanent preservation of high quality nesting/roosting habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, to be finalized before Project construction, unless otherwise approved in writing by CDFW. The northern spotted owl northern spotted owl mitigation plan shall be submitted to CDFW for approval before Project construction and include a review of suitability of mitigation lands for northern spotted owl as confirmed by a qualified biologist. The Project shall obtain CDFW's written approval of the northern spotted owl mitigation plan.

3.1

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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 California Natural Diversity Database (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>.

3.2

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. (See Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

3.3

CONCLUSION

CDFW appreciates the opportunity to comment on the IS/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 Nicholas Magnuson, Environmental Scientist, at (707) 815-4166 or Nicholas.Magnuson@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 1: Draft Mitigation Monitoring and Reporting Program

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ec: Office of Planning and Research, State Clearinghouse No. 2025040851
Julie Coombes, CDFW Bay Delta Region - Julie.Coombes@wildlife.ca.gov
Kristin Garrison, CDFW Bay Delta Region - Kristin.Garrison@wildlife.ca.gov

REFERENCES

CDFW. 2016. Report to the Fish And Game Commission. Status Review Of The Northern Spotted Owl (*Strix occidentalis caurina*) In California. Available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=116307&inline>

USFWS. 2012. Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls. Available at <https://www.fws.gov/sites/default/files/documents/survey-protocol-for-northern-spotted-owl.pdf>

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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 (BIO)			
Mitigation Measure(MM)	Description	Timing	Responsible Party
MM BIO-3A	<p><u>Northern Spotted Owl Surveys.</u> The owner/permittee shall follow the <i>Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls</i> (USFWS 2012) as applicable in all years that timber harvest operations are anticipated. This includes having a minimum 2-year survey history prior to timber harvest operations, including six spot check surveys in 2025. Once timber harvest operations are complete, northern spotted owl surveys are no longer necessary. Following the 2 years of surveys, a qualified biologist shall conduct Spot Check Surveys for northern spotted owl on the Project site and within a 0.25-mile radius around the Project site during northern spotted owl nesting season (March 15 to July 31) each year until Project construction is completed, pursuant to the above survey protocol, unless otherwise approved in writing by CDFW. Survey results shall be submitted each year to CDFW and the owner/permittee shall obtain CDFW's approval of the survey results in writing prior to any Project timber harvest activities or construction activities increasing auditory distances above ambient levels.</p> <p>Northern spotted owl surveys are valid until the beginning of the next breeding season (February 1). Timber harvest operations Project activities after this February 1 date require a current years' survey effort.</p> <p>If nesting northern spotted owl 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</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>biologist determines that the nest is no longer active, unless otherwise approved in writing by CDFW. Alternate buffer zones may be proposed to CDFW after conducting an auditory and visual disturbance analysis following the USFWS guidance, <i>Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California</i>, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.</p> <p>If take of northern spotted owl cannot be avoided, the Project shall consult with: 1) CDFW pursuant to CESA and obtain an ITP, and 2) USFWS pursuant to the federal Endangered Species Act.</p> <p>As there are no known northern spotted owls within 0.25 mile of the proposed development area, there are no seasonal restrictions proposed at this time. If a new northern spotted owl territory is identified within 1.3 miles of the proposed development area or the known northern spotted owl territory (NAP007) moves closer to the proposed development area, a reassessment shall occur.</p> <p>The owner/permittee shall provide documentation of any updated northern spotted owl survey results to CDFW and Napa County Conservation Division before commencement of vegetation removal and earthmoving activities pursuant to #P24-00015-ECPA.</p>		
<p>MM BIO-3B</p>	<p><u>Northern Spotted Owl Habitat Mitigation:</u> If the Project will remove northern spotted owl nesting or roosting habitat, then the Project shall prepare a northern spotted owl mitigation plan including mitigating northern spotted owl habitat removal at a 3:1 mitigation to impact ratio. Habitat mitigation shall include permanent preservation of high quality nesting/roosting habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, to be finalized before Project construction, unless otherwise</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>approved in writing by CDFW. The northern spotted owl mitigation plan shall be submitted to CDFW for approval before Project construction and include a review of suitability of mitigation lands for northern spotted owl as confirmed by a qualified biologist. The Project shall obtain CDFW's written approval of the northern spotted owl mitigation plan.</p>		
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