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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

July 17, 2025

Wendy Atkins, Planner II
Napa County
1195 Third Street, Suite 210
Napa, CA 94559
Wendy.Atkins@countyofnapa.org

Subject: Gateway 24 Napa, New Winery Use Permit, P24-00134, Initial Study/Mitigated Negative Declaration, SCH No. 2025060897, Napa County

Dear Ms. Atkins:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from Napa County for the Gateway 24 Napa, New Winery Use Permit, P24-00134 (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

CDFW is submitting comments on the IS/MND to inform Napa County (Napa), 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: Gateway 24 Napa, LLC

Objective: The Project is limited to construction of a 54,790-square-foot winery facility building including areas for wine production, storage, and office, and the following:

- Installation of a parking area with parking for fifty-five vehicles, including four accessible spaces and three electric vehicle charging stations; and
- Construction of a new driveway on Gateway Road East.

Docusign Envelope ID: D571F116-912C-4337-AEB4-9299911304BE

Location: The Project is located on a 4.33-acre lot located at the terminus of Gateway Road East bordered by Hwy 29 to the east and Sheehy Creek to the north, at approximately 38.22661°N, -122.25916°W, Assessor's Parcel No. 057-200-039, Napa, CA 94558.

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 or candidate species under CESA either during construction or over the life of the Project. **The Project has the potential to impact Swainson's hawk (SWHA; *Buteo swainsoni*), a CESA listed as threatened species, and burrowing owl (BUOW; *Athene cunicularia*), a CESA candidate species. Thank you for including mitigation measures for SWHA and BUOW, including protocol surveys and obtaining an ITP if take of SWHA or BUOW cannot be avoided; CDFW recommends an additional mitigation measure for any SWHA foraging habitat impacts 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.

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.

I. Mitigation Measure and Related Impact Shortcoming

Docusign Envelope ID: D571F116-912C-4337-AEB4-9299911304BE

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?

COMMENT 1: Swainson's Hawk Foraging Habitat

Issue: Any nesting SWHA within 0.25 miles of the Project site may use the existing Project site for foraging habitat, however the IS/MND does not include a mitigation measure for potential substantial loss of foraging habitat. Thank you for including in the IS/MND Mitigation Measure BIO-1 for nesting SWHA protocol surveys. Citing the *CDFW Memorandum Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* (CDFW 1994), the IS/MND page 10 states that because the Project site is less than five acres in size, surrounded by urban development, and not located within 0.25 miles of an active SWHA nest, SWHA foraging habitat mitigation is not required. However, as the Project will be surveying for SWHA according to Mitigation Measure BIO-1, an active SWHA nest may be detected within 0.25 miles.

Specific impacts, why they may occur and be potentially significant: In 2016, CDFW released a Status Review for SWHA in California and recommended the species retain its status as threatened under the CESA (CDFW 2016). The review states there is no indication the species has reoccupied its historical range and the distribution of SWHA remains largely unchanged and restricted. Additionally, the review cites that the **primary threat** to SWHA continues to be habitat loss, **especially the loss of suitable foraging habitat.** If loss of foraging habitat for SWHA nesting near the Project is not mitigated, the Project may substantially reduce the number or restrict the range of a threatened species is species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended mitigation measure: To reduce potential impacts to SWHA to less-than-significant, CDFW recommends **adding** the following requirements to Mitigation Measure BIO-1.

Mitigation Measure BIO-1a (Swainson's Hawk Foraging Habitat Mitigation): If, prior to Project construction activities, nesting SWHA are detected within 0.25 miles of the Project site, impacts to SWHA foraging habitat shall be quantified by a qualified biologist based on the final Project design plans, and the Project shall obtain written acceptance of the acreage of foraging habitat impacts from CDFW. Prior to Project construction, the Project shall provide SWHA foraging habitat mitigation at a minimum 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of SWHA foraging habitat

Docusign Envelope ID: D571F116-912C-4337-AEB4-9299911304BE

credits at a CDFW-approved mitigation bank, unless otherwise approved in writing by CDFW.

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 CNDDB. The CNDDB field survey form can be filled out and submitted online 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://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

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. (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 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
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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. 2025060897

REFERENCES

CDFW. 1994. Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California. State of California Natural Resources Agency, Sacramento, CA. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992&inline

CDFW. 2016. Status Review: Swainson's Hawk (*Buteo swainsoni*) in California, reported to the California Fish and Game Commission, five-year status report. State of California Natural Resources Agency, Sacramento, CA. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133622&inline

Docusign Envelope ID: D571F116-912C-4337-AEB4-9299911304BE

ATTACHMENT

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**
BIO-1a	Swainson's Hawk Foraging Habitat Mitigation: If, prior to Project construction activities, nesting SWHA are detected within 0.25 miles of the Project site, impacts to SWHA foraging habitat shall be quantified by a qualified biologist based on the final Project design plans, and the Project shall obtain written acceptance of the acreage of foraging habitat impacts from CDFW. Prior to Project construction, the Project shall provide SWHA foraging habitat mitigation at a minimum 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of SWHA foraging habitat credits at a CDFW-approved mitigation bank, unless otherwise approved in writing by CDFW.	Prior to Ground Disturbance	Project Applicant