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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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October 23, 2025

Trevor Hawkes, Supervising Planner
Napa County
1195 Third Street
Napa, CA 94559
Trevor.Hawkes@countyofnapa.org

Subject: 80 Clear Creek Road Viewshed Protection Program P22-00182-VIEW, Initial Study/Mitigated Negative Declaration, SCH No. 2025091008, Napa County

Dear Trevor Hawkes:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from the County of Napa (County) for the 80 Clear Creek Road, Viewshed Protection Program Application P22-00182-VIEW (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

After receiving a one-week extension from the County, 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: Ponderosa One, LLC.

Objective: The Project would include earthmoving activities, new construction and expansion of existing structures on slopes exceeding 15 percent associated with the construction of a 3,830 square-foot underground storage structure, a 6,240 square-foot tennis pavilion with interior accessory dwelling unit adjacent to an existing tennis court and the expansion of an existing single-family residential structure consisting of 2,700 square feet of underground spa and 4,350 square feet of underground wine and art

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storage. The Project also includes the development of a ground mounted solar panel array. The Project would require the removal of 15 native oak trees (*Quercus* spp.) with diameters at breast height (DBH) from 6 to 12 inches, 20 California bay trees (*Umbellularia californica*) with DBH ranging from 6 to 10 inches, and one Douglas fir tree (*Pseudotsuga menziesii*) with DBH of 24 inches, resulting in approximately 0.13 acres of tree canopy removal. Spoils from excavation to establish building foundations will be located at a disturbed area on assessor parcel number (APN) 027-310-043.

Location: The Project site is located at approximately 38.41515°N and -122.44088°W; at 80 Clear Creek Road, Oakville, CA 94562; approximately 0.65 miles north of the intersection of Dry Creek Road and Clear Creek Road; APNs 027-310-032 and 027-310-04, County of Napa.

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 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, and 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

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3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

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. Environmental Setting 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?

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)?

COMMENT 1: Northern Spotted Owl

Issue, specific impacts, why they may occur and be potentially significant: The IS/MND does not adequately address potential impacts to northern spotted owl resulting from auditory or visual disturbance up to 0.25 miles away from the Project site, the distance at which northern spotted owl may be impacted. The Biological Resources Reconnaissance Survey (BRRS) dismisses the potential for Project impacts to northern spotted owl due to a "Lack of roosting and foraging habitat" (page 18). However, the BRRS also identifies forests comprised of Douglas fir (*Pseudotsuga menziesii*) on the Project site (page 7), which is confirmed by the *Vegetation - Napa County Update 2016* [ds2899] GIS layer. Douglas fir forest is the same vegetation type used by the closest northern spotted owl activity centers to the Project, MASTEROWL #NAP0036 and #NAP0012, which are 0.6 miles to the southwest and 0.7 miles to the northeast respectively (*Spotted Owl Observations* [ds704]). Additionally, the Project is within and adjacent to the mapped northern spotted owl range (*Spotted Owl Range - CWHR B270* [ds897]), and predicted habitat area with a medium value of 0.55 based on the mean expert opinion suitability value (*Spotted Owl Predicted Habitat - CWHR B270* [ds2185]), according to California Wildlife Habitat Relationships, a comprehensive information

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system and predictive model for California's wildlife. Therefore, Project activities could result in disturbance to nesting northern spotted owl up to 0.25 miles away from the Project**.**

If northern spotted owl nest within the 0.25-mile range of potential audio or visual disturbance go undetected, northern spotted owl could be impacted by Project activities resulting in loss of nesting and roosting habitat, nest loss or abandonment and loss of eggs, or reduced health and vigor and loss of young. Northern spotted owl is CESA listed as a threatened species and is also listed under the federal Endangered Species Act (ESA) and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if northern spotted owl habitat is removed or if an active northern spotted owl nest is disturbed by the Project, the Project may result in a substantial reduction in the number or restriction in the range 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 potential impacts to northern spotted owl to less-than-significant and comply with CESA, CDFW recommends including the following mitigation measure in the IS/MND.

MM BIO-2 Northern Spotted Owl Habitat Assessment and Surveys: A qualified biologist shall provide an assessment of potential northern spotted owl nesting habitat within the Project site 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 northern spotted owl nesting habitat is present, then no Project activities within 0.25 miles of potential northern spotted owl nesting habitat shall occur between March 15 and July 31 unless a qualified biologist approved in writing by CDFW conducts northern spotted owl surveys following the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012, available at https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83977&inline. Surveys shall be conducted in accordance with Section 9 of the survey protocol, *Surveys for Disturbance-Only Projects*. If breeding northern spotted owl are detected during surveys, CDFW shall be immediately notified and 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 in consultation with CDFW, 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 July 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*

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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 CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal ESA.

COMMENT 2: Roosting bats

Issue, specific impacts, why they may occur and be potentially significant: The IS/MND does not adequately address potential impacts to roosting bats including pallid bat (*Antrozous pallidus*), resulting from Project tree removal activities. There are two records of the species occurring within five miles of the Project, according to the California Natural Diversity Database (CNDDB). Regarding bat habitat, page 23 of the BRRS states "The majority of trees within the proposed project site are small and unlikely to contain potential roosting habitat for bats. Foliage and bark with small cavities in any tree could provide suitable temporary habitat for solitary tree-roosting bat species. Trees within the proposed project site are small and do not contain cavities which would support bat roosting habitat." This statement is unclear as to whether the trees slated for removal, which range in DBH from 6 to 24 inches, could provide habitat for roosting bats in forms other than cavities, such as crevices and/or exfoliating bark.

Pallid bat is a California Species of Special Concern (https://wildlife.ca.gov/Conservation/SSC). If roosting or breeding pallid bat occupies the trees that would be removed, Project activities could result in substantial adverse effect on pallid bat.

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to pallid bat to less-than-significant, CDFW recommends including the following mitigation measure in the IS/MND.

Mitigation Measure BIO-3: Bat Tree Habitat Assessment and Surveys. Prior to any tree trimming or removal, a qualified biologist shall conduct a habitat assessment for bats, unless otherwise approved in writing by CDFW. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features of trees to be removed (e.g., crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. If the presence of bats is presumed or documented, trees may be removed only: a) using the two-step removal process detailed below during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist, under prior written approval of the proposed survey methods by CDFW, conducts night

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emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.

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 the 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.

CONCLUSION

CDFW appreciates the opportunity to comment on the IS/MND to assist the County in identifying and mitigating Project impacts on biological resources.

If you have any questions, please contact 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

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Attachment 1: Draft Mitigation and Monitoring Reporting Plan

ec: Office of Land Use and Climate Innovation (SCH No. 2025091008)

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

CDFW provides the following language to be incorporated into the Mitigation and Monitoring Program for the Project.

Biological Resources (BIO)			
Mitigation Measures	**Description**	**Timing**	**Responsible Party**
MM BIO-2	Northern Spotted Owl Habitat Assessment and Surveys: A qualified biologist shall provide an assessment of potential northern spotted owl nesting habitat within the Project site 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 northern spotted owl nesting habitat is present, then no Project activities within 0.25 miles of potential northern spotted owl nesting habitat shall occur between March 15 and July 31 unless a qualified biologist approved in writing by CDFW conducts northern spotted owl surveys following the USFWS Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls, dated (revised) January 9, 2012, available at https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83977&inline. Surveys shall be conducted in accordance with Section 9 of the survey protocol, Surveys for Disturbance-Only Projects. If breeding northern spotted owl are detected during surveys, CDFW shall be immediately notified and 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 in consultation with CDFW, 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 July 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	Prior to Ground Disturbance	Project Applicant

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	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 CDFW pursuant to CESA and obtain an ITP, and also consult with USFWS pursuant to the federal ESA.		
MM BIO-3	Bat Tree Habitat Assessment and Surveys: Prior to any tree trimming or removal, a qualified biologist shall conduct a habitat assessment for bats, unless otherwise approved in writing by CDFW. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features of trees to be removed (e.g., crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. If the presence of bats is presumed or documented, trees may be removed only: a) using the two-step removal process detailed below during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.	Prior to Ground Disturbance	Project Applicant