



TO: Application File #P24-00300-ECPA

FROM: Kelli Cahill, Planner III

DATE: March 23, 2026

RE: Response to Comments – 30 Lupine Hill Vineyard
Agricultural Erosion Control Plan (ECPA) File #P24-00300-ECPA
Assessor Parcel Number (APN) 052-170-054
30 Lupine Hill Road, Napa
SCH #2026010771

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/Negative Declaration (Proposed IS/ND) for the 30 Lupine Hill Vineyard Agricultural Erosion Control Plan #P24-00300-ECPA (proposed project). An IS/ND is an information 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/ND analyzed the impacts resulting from the proposed project.

This memorandum for the 30 Lupine Hill Vineyard Agricultural Erosion Control Plan #P24-00300-ECPA Proposed IS/ND presents the name of the persons and/or organizations commenting on the Proposed IS/ND and responses to the received comments. This memorandum, in combination with the IS/ND completes the Final IS/ND.

CEQA PROCESS

In accordance with Section 15073 of the CEQA *Guidelines*, Napa County submitted the Proposed IS/ND to the California Governor's Office of Land Use and Climate Innovation for a 30-day public review period starting DATE. In addition, Napa County circulated a Notice of Intent to Adopt the Proposed IS/ND to interested agencies and individuals. The public review period ended on DATE. During the public review period, Napa County received one (1) comment letter on Proposed IS/ND. Table 1 below lists the entity that submitted comments on the Proposed IS/ND during the public review and comment period. The comment Letters are attached as identified in Table 1.

**TABLE 1
COMMENTS RECEIVED ON THE PROPOSED IS/ND**

| Comment No. Attachment | Comments Received from | Date Received |
|------------------------|---|-------------------|
| 1 | California Department of Fish & Wildlife (CDFW) | February 12, 2026 |

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

RESPONSE TO COMMENTS

Comment #1 California Department of Fish and Wildlife (Attachment 1)

Response to Comment 1.1: CDFW asserts that the Proposed Negative Declaration does not adequately evaluate the potential foraging habitat, as there is grassland habitat suitable for Swainson’s hawk foraging, and numerous nesting trees within 0.50 miles of the Project site considered suitable nesting habitat. However, as part of the biological report, a record search for special status plant and animal species was conducted, included as Tables IV and V (**Exhibit B of the Proposed IS/ND**). Table V included the potential for Swainson Hawk to fly over, specifically stating “may fly over”, but that there were no raptors observed during the field visits. Table V concluded a lack of suitable nesting habitat for the Swainson’s hawk exists onsite, citing a lack of open areas with riparian influence and lone trees for nesting.

The biologist conducted five separate site visits in which there were no observed raptors. That said, the project site contains approximately 8 acres of grassland, of which 5.51 acres is proposed to be converted to vineyard. This includes the avoidance of the ephemeral drainage that bisects the property with a minimum 35 foot setback accounting for approximately 0.85 acres and the proposed vineyard avenues account for approximately 1.0 acres along the outer boundary of the vineyard blocks and adjacent to grassland to the west and along the ephemeral. The project as designed would retain nearly 3.5 acres of the nearly 8 acres of grassland onsite.

With regards to the documented nesting sites, as far as staff are aware the majority are located on the south side of Hwy 29 and Hwy 12 (Sonoma Hwy), with the exception of a single nest documented just south of Rutherford. These nesting sites areas over 4 miles from the project site. Based on the location of the documented nesting sites to the southwest, there are over 3,000 acres of suitable habitat within less than 3 miles located within Napa County. There is additional foraging habitat within Sonoma

County located 3 – 5 miles from documented nesting sites. Other areas within Napa County, excluding privately owned parcels, include spray fields owned and operated by the Napa Sanitation District, County owned recreational areas that include skyline park and adjacent parcels, stated owned marsh areas, and County owned wetland habitat that provide good foraging habitat during fledging season between August and October.

As documents in Status Review of Swainson’s Hawk in California, dated April 11, 2016, “congregations during the breeding season happen nearer nesting sites and groups will sometimes form during any portion of the nesting cycle (nest building to fledgling care).” Given the nearest documented nesting sites are located over four miles to the southeast, there is existing foraging habitat located closer to the nesting sites.

Although the site provides some foraging habitat, there is significantly more foraging habitat closer to nesting sites. Given this and that the site post-project will maintain ~3.5 acres of habitat the County is hoping that this additional information will demonstrate that the initial analysis of the project in the ND would not result in a significant impact to the Swainson’s Hawk. That said, the project shall include a condition of approval consistent with the recommendation provided by CDFW as follows:

Condition of Approval BIO-1: Swainson’s Hawk Surveys and Avoidance. If Project activities are scheduled during the nesting season for Swainson’s hawk (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley*, dated May 31, 2022 (see: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) and prepare a report documenting the survey results. The Project shall obtain CDFW’s written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. **Surveys shall occur annually for the duration of the Project, unless otherwise approved in writing by CDFW.** The qualified biologist shall have a minimum of two years of experience implementing the survey methodology. If active Swainson’s hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved in writing by CDFW. Any detected nesting Swainson’s hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. 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 commence and shall comply with the ITP.

Condition of Approval BIO-2: Swainson's Hawk Foraging Habitat Mitigation: If, prior to Project construction activities, nesting Swainson's hawk are detected within 0.5 miles of the Project site, impacts to Swainson's hawk 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 Swainson's hawk 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 Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank, unless otherwise approved in writing by CDFW.

Response to Comment 1.2: The CDFW recommendation to submit to the California Natural Diversity Database report of any positive results of special status species and natural communities from project surveys shall be included as a condition of approval, should the project be approved:

Condition of Approval BIO-3 – Wildlife Survey Reporting Condition: The Owner/Permittee shall submit to the California Natural Diversity Database all reports of special-status species and natural communities detected during project surveys using the online CNDDDB field survey form.

Response to Comment 1.3: The CDFW Environmental Filing fee for a Negative Declaration will be paid upon filing the CEQA Notice of Determination for this project, if approved.



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
VALERIE TERMINI, Acting Director



February 12, 2026

Kelli Cahill, Planner III
Napa County
1195 Third Street, Suite 210
Napa, CA 94599
Kelli.Cahill@countyofnapa.org

Subject: Miller Vineyard Conversion P24-00314-ECPA Project, Negative Declaration, SCH No. 2026010771, Napa County

Dear Kelli Cahill:

The California Department of Fish and Wildlife (CDFW) received a Negative Declaration (ND) from Napa County (County) for the Miller Vineyard Conversion P24-00314-ECPA Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

CDFW is submitting comments on the ND 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) or Native Plant Protection Act, 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: Jeffrey and Teri Miller

Objective: The Project includes the clearing of vegetation, earthmoving, and installation and maintenance of erosion control measures associated with the development of approximately 5.51 gross acres of new vineyard within two vineyard blocks, in an area currently used as horse pastures, on an approximately 10.47-acre parcel. Earthmoving and grading activities associated with the installation of erosion control measures and

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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subsequent vineyard operation include, but are not limited to vegetation removal, soil ripping, rock removal, and disking. No trees are proposed for removal.

Location: The Project site is located at 30 Lupine Hill Road in unincorporated Napa County approximately 0.7 miles east of the City of Napa; 38.312224°N and 122.253322°W; and Assessor's Parcel Number 052-170-054.

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 potential Swainson's hawk (*Buteo swainsoni*), a state 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 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

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

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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 streams and riparian areas are subject to LSA notification requirements. **The Project site is approximately bisected by a stream, however the Project would avoid the stream and a 35-foot buffer around it according to the ND. Thank you for ensuring stream and riparian habitat avoidance, and please be advised that if plans change and stream impacts would occur, LSA Notification may be required.** CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

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 CDFW recommends below and includes in **Attachment 1** Draft Mitigation Monitoring and Reporting Program, CDFW concludes that a mitigated negative declaration is appropriate for the Project.

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

COMMENT 1: Swainson's hawk, Environmental Setting and Related Impact Shortcoming

Issue: The ND concludes that Swainson's hawk has the potential to fly over the Project site, there is no suitable nesting habitat on-site, and foraging habitat is lacking due to historic management of the site and recent grazing. However, based on ND Figure 2 and Google Earth aerial imagery, the Project site appears to support grassland habitat potentially suitable for Swainson's hawk foraging, and there are numerous potentially suitable Swainson's hawk nesting trees adjacent to and within 0.5 miles of the Project site, the distance at which nesting Swainson's hawk could be impacted by visual or auditory disturbances. Additionally, the Napa County Update 2016 Vegetation layer maps most of the Project site as Annual Grasses and Forbs and a significant portion of the surrounding area as Interior Mixed Hardwood and Blue Oak Woodland. The California Natural Diversity Database (CNDDDB) documents nesting Swainson's hawk approximately four miles southwest of the Project site and several additional nesting records approximately five to six miles to the southwest.

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Specific impacts and why they may occur and be significant: The Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels resulting from construction activities, if appropriate surveys are not conducted to detect nesting Swainson's hawk to ensure avoidance. Disturbances from Project activities may result in Swainson's hawk nest abandonment and loss of eggs or reduced health and vigor and loss of young.

The Project may also result in the removal of Swainson's hawk foraging habitat in the form of grassland habitat. In 2016, CDFW released a Status Review for Swainson's hawk in California and recommended the species retain its status as threatened under CESA (CDFW 2016). The review states there is no indication the species has reoccupied its historical range and the distribution of Swainson's hawk remains largely unchanged and restricted. Additionally, the review cites that the primary threat to Swainson's hawk continues to be habitat loss, especially the loss of suitable foraging habitat. Swainson's hawk is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380.

1.1

Therefore, if an active Swainson's hawk nest is disturbed by the Project or its foraging habitat is removed, 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: To reduce potential impacts to Swainson's hawk to less-than-significant and comply with CESA, Fish and Game Code 3500 et seq., and the MBTA, CDFW recommends including the mitigation measures below.

Mitigation Measure BIO-1: Swainson's Hawk Surveys and Avoidance. If Project activities are scheduled during the nesting season for Swainson's hawk (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*, dated May 31, 2022 (see: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. **Surveys shall occur annually for the duration of the Project, unless otherwise approved in**

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writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved in writing by CDFW. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. 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 commence and shall comply with the ITP.

1.1

Mitigation Measure BIO-2: Swainson's Hawk Foraging Habitat Mitigation: If, prior to Project construction activities, nesting Swainson's hawk are detected within 0.5 miles of the Project site, impacts to Swainson's hawk 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 Swainson's hawk 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 Swainson's hawk foraging habitat 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 the CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found 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://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

1.2

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.

1.3

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CONCLUSION

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

If you have any questions, please contact Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or at Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

B77E9A6211EF486...
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation and Monitoring Reporting Plan

ec: Office of Land Use and Climate Innovation SCH No. 2026010771
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov

REFERENCES

California Department of Fish and Wildlife. 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>

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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 |
| BIO-1 | <p><u>Swainson's Hawk Surveys and Avoidance.</u> If Project activities are scheduled during the nesting season for Swainson's hawk (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley, dated May 31, 2022 (see: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline) and prepare a report documenting the survey results. The Project shall obtain CDFW's written approval of the qualified biologist and survey report prior to starting construction activities between March 1 and September 15. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project, unless otherwise approved in writing by CDFW. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction</p> | <p>Prior to the Lead Agency issuing construction related permits and ground disturbance, and during construction</p> | <p>Project Applicant</p> |

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|---------------------|---|--|--------------------------|
| | <p>avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved in writing by CDFW. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. 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 commence and shall comply with the ITP.</p> | | |
| <p>BIO-2</p> | <p><u>Swainson's Hawk Foraging Habitat Mitigation:</u> If, prior to Project construction activities, nesting Swainson's hawk are detected within 0.5 miles of the Project site, impacts to Swainson's hawk 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 Swainson's hawk 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 Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank, unless otherwise approved in writing by CDFW.</p> | <p>Prior to the Lead Agency issuing construction related permits and ground disturbance, and during construction</p> | <p>Project Applicant</p> |