



A Tradition of Stewardship
A Commitment to Service

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Brian D. Bordona
Director

To: Erin Chappell, CDFW, Bay Delta Region (via email)
PPI Engineering (via email)
State Clearinghouse (via CEQA submit)

From: Donald Barrella

Subject: Response to Comments - Initial Study/ Negative Declaration
B&F Farms Vineyard Conversion
Agricultural Erosion Control Plan File #P25-00029-ECPA
7335 St. Helena Highway, APNs 034-030-029 and 034-030-030
SCH #2026041308

Date: June 8, 2026

Attached is a copy of the Response to Comments for the subject project. The report contains our responses to comments provided on the April 30, 2026, Initial Study/Mitigated Negative Declaration, which can also be accessed at <https://www.countyofnapa.org/2876/Current-Projects-Explorer>

The County could approve the Project on or after **Monday June 8, 2026**.

Should you have any questions, please call Donald Barrella at 707-299-1338 or via e-mail to donald.barrella@countyofnapa.org

Respectfully,

A handwritten signature in black ink, appearing to read "Don Barrella".

Donald Barrella
Principal Planner

cc: Brian Bordona, Director PBES (via email)
Patrick Ryan, Deputy Director PBES (via email)
Alexei Belov, Engineering Manager (via email)
Dana Morrison, Supervising Planner (via email)
Chris Apallas, Deputy County Counsel (via email)



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Brian D. Bordona
Director

TO: Application File #25-00029-ECPA

FROM: Donald Barrella, Principal Planner

DATE: June 8, 2026

RE: Response to Comments – B&F Farms Vineyard Conversion
Agricultural Erosion Control Plan (ECPA) #P25-00029-ECPA
7335 St. Helena Highway, APNs 034-030-029 and 034-030-030
SCH #2026041308

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 B&F Farms Vineyard Conversion #P25-00029-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 B&F Farms Vineyard Conversion Agricultural Erosion Control Plan #P25-00029-ECPA Proposed IS/MND, presents the organization commenting on the Proposed IS/MND and responses to the received comments. This memorandum, in combination with the Proposed IS/MND, completes the Final IS/MND.

CEQA PROCESS

In accordance with Section 15073 of the CEQA Guidelines, Napa County submitted the Proposed IS/ND to the State Clearinghouse for a 30-day public review period starting April 30, 2026. In addition, Napa County circulated a Notice of Intent to Adopt the Proposed IS/MND to interested agencies, individuals, and property owners within 1,000 feet of the subject property. The public review period ended on May 29, 2026. During the public review period, Napa County received one comment letter on the Proposed IS/MND from the California Department of Fish and Wildlife (CDFW): received May 26, 2026.

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 on 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/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.

This Response to Comments Memorandum will also be provided to the owner/Permittee as **notice** of potential Local, State and Federal permits or agreements necessary to implement and/or operate this project, or other CEQA requirements including filing fees, as identified within the attached agency comment letter.

a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species

COMMENTS AND RESPONSES

California Department of Fish and Wildlife (CDFW)

CDFW Comment – California Endanger 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 Clara Hunt’s milk-vetch (*Astragalus claranus*), CESA listed as endangered, and northern spotted owl (*Strix occidentalis caurina*), CESA 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.

Response to Comment: The proposed project as disclosed and assessed in the Proposed IS/MND would neither take any plants or animals listed under CESA nor would substantially restrict the range or reduce the population of any threatened or endangered species. Appropriate mitigation measures have been included to avoid and/or reduce any potential impact to special-status species to a less than significant level. Also see the responses to comments below (incorporated herein by reference).

CDFW Comment – Lake and Streambed Alteration: *The MND indicates streams would be avoided, however it also states existing drainage diversion ditches and culverts would be repaired and maintained as needed, indicating streams may be impacted. CDFW recommends that the MND include a mitigation measure requiring the Project to submit an LSA notification to CDFW and comply with the LSA Agreement, if issued, for impacts to streams related to drainage diversion ditch and culvert repair and maintenance or other activities.*

Response to Comment: As shown in the project plans (Exhibit A of the Proposed IS/MND) and disclosed in the Biological Resources section of the Proposed IS/MND, Hopper Creek, a U.S. Geological Survey (USGS) blue-line stream is located approximately 0.25 miles ($\pm 1,350$ feet) north of the project site. Two unnamed blue-line tributaries to Dry Creek are located approximately 0.15 miles (± 800 feet) to the west of the site, the other is within the project site located 65 feet from the project area: **Figure 1** and **Exhibit A** of the Proposed IS/MND. There are three other minor ephemeral drainages located adjacent to the project area that are associated with this unnamed blue-line stream. As designed the project would avoid all ephemeral and blue-line streams generally providing them with 50 foot or greater setbacks, except for portions of a somewhat disconnected ephemeral drainage located between proposed Vineyard Blocks 3 and 5 and south of Block 2, which are provided with 35-foot setbacks. Therefore, there is no indication in either the project plans or the Proposed IS/MND that streams will be affected or otherwise impacted by the proposed project.

As stated in the CEQA Process Section above, this Response to Comments Memorandum and CDFW's comments will be provided to the owner/Permittee as **notice** of the CEQA requirements pursuant to Public Resources Code, § 21003(e) to report any special-status species and natural communities detected during Project surveys to the CNDDB.

CDFW Comment – 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.*

Response to Comment: As indicated in Section V (Biological Resources) of the Proposed IS/MND Mitigating Measure BIO-1 (below) shall be implemented, therefore, potential impacts to raptors will be less than significant.

Mitigation Measure BIO-1: The owner or permittee shall revise Erosion Control Plan #P25-00029-ECPA prior to approval to include the following measures to minimize impacts associated with the potential loss and disturbance of special-status and nesting birds and raptors consistent with and pursuant to California Fish and Game Code Sections 3503 and 3503.5:

- a. For earth-disturbing activities occurring between February 1 and August 31 (which coincides with the grading season of April 1 through September 15 – NCC Section 18.108.027(C), and bird breeding and nesting seasons), a qualified biologist (defined as knowledgeable and experienced in the biology and natural history of local avian resources with the potential to occur at the project site) shall conduct a preconstruction surveys for nesting birds within all suitable habitat on the development area, and where there is potential for impacts adjacent to the development area (typically within 500 feet of project activities). The preconstruction survey shall be conducted no earlier than 7 days prior to when vegetation removal and ground disturbing activities are to commence. Should ground disturbance commence later than 7 days from the survey date, surveys shall be repeated. A copy of the survey shall be provided to the Napa County Conservation Division and CDFW prior to commencement of work.
- b. After commencement of work if there is a period of no work activity of 7 days or longer during the bird breeding season, surveys shall be repeated to ensure birds have not established nests during inactivity.
- c. In the event that nesting birds are found, the owner/permittee shall identify appropriate avoidance methods and exclusion buffers in consultation with the County Conservation Division and the U.S. Fish and Wildlife Service (USFWS) and/or CDFW prior to initiation of project activities. Exclusion buffers may vary in size, depending on habitat characteristics, project activities/disturbance levels, and species as determined by a qualified biologist in consultation with County Conservation Division and the USFWS and/or CDFW.
- d. Exclusion buffers shall be fenced with temporary construction fencing (or the like), the installation of which shall be verified by Napa County prior to the commencement of any earthmoving and/or development activities. Exclusion buffers shall remain in effect until the young have fledged or nest(s) are otherwise determined inactive by a qualified biologist.
- e. Alternative methods aimed at flushing out nesting birds prior to preconstruction surveys, whether physical, audible, or chemical would be considered an impact to nesting birds and is prohibited. Any act associated with flushing birds from project areas should undergo consultation with the USFWS or CDFW prior to any activity that could disturb nesting birds.

CDFW COMMENT – Clara Hunt’s Milk-vetch: *Clara Hunt’s Milk-vetch and other Special-Status Plants, Environmental Setting and Related Impact Shortcoming.*

Issue, specific impacts, and why they may occur and be potentially significant: The MND does not adequately evaluate potential impacts to Clara Hunt’s milk-vetch and other special-status plant species, despite the Biological Resources Reconnaissance Survey (MND Exhibit B-1) indicating the presence of suitable habitat on the Project site and the MND indicating Clara Hunt’s milk-vetch has a moderate to high potential to occur in the Project site. The Biological Resources Reconnaissance Survey states that botanical surveys were completed, however it is unclear if those surveys followed CDFW’s Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) (protocol surveys) including, but not limited to if they were accurately timed to detect Clara Hunt’s milk-vetch and other special-status plants. The Biological Resource Assessment indicates the above protocol surveys were followed, but information outlined in the protocols was not provided, such as several reporting

items (see page 9 of the above protocol for information that should be included in botanical survey reports) including information about visiting reference populations for Clara Hunt's milk-vetch and other special-status plants, which is often needed to accurately time surveys for regional blooming periods, particularly for annual plant species such as Clara Hunt's milk-vetch.

Clara Hunt's milk-vetch is State and federally listed as endangered and therefore is considered to be an endangered species pursuant to CEQA Guidelines section 15380. If Clara Hunt's milk-vetch is present on or adjacent to the Project site, the Project could damage or remove individuals and habitat on-site or adjacent to it through direct or indirect impacts, resulting in a substantial reduction in the number or restriction of the range of an endangered species, which is considered a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1). The Project could also damage or remove individuals or habitats of other special-status plant species on-site or adjacent to it through direct or indirect impacts, resulting in potentially significant impacts.

Response to Comment: As disclosed in Section IV (Biological Resources) of the Proposed IS/MND The Biological Resources Reconnaissance Survey prepared by Wildlife Research Associates, dated October 2024 – **Exhibit B-1** – included site specific assessments conducted on April 23, May 9, and June 25, 2024, for biological resources present or potentially present in the project site. The surveys focused on the proposed development area and immediate surrounding habitat located within the project site and documented: the presence or potential for special-status plant and animal species and their habitats, potential substantial adverse effects on sensitive habitats or communities, potential impacts to federal or state protected wetlands and waters of the U.S., and interference with native wildlife species, wildlife corridors, or native wildlife nursery sites.

Prior to conducting the biological surveys, biological information for the project site was obtained from the following sources: the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB) (CDFW, 2024), California Native Plant Society Electronic Inventory (CNPS, 2024), and the U.S. Fish and Wildlife Service (USFWS) List of Federal Endangered and Threatened Species California Bird Species of Special Concern (USFWS, 2024). The CNDDDB and CNPS database searches included Chiles Valley, Kenwood, Rutherford, Yountville, Glen Ellen, Sonoma, and Napa USGS 7.5-minute quadrangles. The special-status wildlife evaluation considered database searches for the entirety of Napa County.

Field surveys were conducted by qualified biologists familiar with the resources of Napa County and surrounding counties, with the goal of identifying the presence of sensitive biological communities, the potential for biological communities on the site to support special-status plant and wildlife species, and the presence of any other sensitive natural resources protected by local, State, or federal laws and regulations. Botanical assessments followed protocols described in the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW, 2018), *Botanical Survey Guidelines of the California Native Plant Society* (CNPS, 2001), *The Jepson Manual* (Baldwin, 2012), and other relevant materials. Wildlife was identified by their sight, sign, or call. Field surveys were conducted identifying and recording all species in the proposed development area and in the near proximity.

Based upon the review of the biological resource databases listed in **Exhibit B-1**, 86 special-status plant species have been documented in the vicinity of the project site. Of those, 32 species have a moderate potential to occur and one species - *Ceanothus sonomensis*, Sonoma ceanothus – has a high potential to occur in the project site. The Proposed IS/MND did not disclose or otherwise indicate that Clara Hunt's milk-vetch has a high potential to occur in the Project site: as indicated above and in the Biological Resources Reconnaissance Survey (**Exhibit B-1**), Clara Hunt's milk-vetch has a moderate potential to occur in the project site.

As indicated in the Biological Resources Reconnaissance Survey (**Exhibit B-1**) Clara Hunt's milk-vetch blooms between March and May. As indicated surveys were conducted in April, May, and June; therefore, plant surveys were timed to correspond to the period sufficient to observe and detect Clara Hunt's milk-vetch as well as other special-status plant species with the potential to occur in the project site as identified above.

Furthermore, the Biological Resources Reconnaissance Survey (**Exhibit B-1**) was prepared by Aaron Arthur (Master of Science) an Associate Plant Biologist with WRA, with nearly 20 years of experience performing vegetation & habitat mapping, rare plant surveys, botanical assessments, vegetation change analysis, and wetland delineations. His project focus is vineyard development, timber resources, coastal development permits, habitat mitigation and monitoring plans, conservation and mitigation banking, and long-term management plans in Sonoma, Marin, Napa, and Mendocino counties. Mr. Arthur's technical training includes the flora of Northern California, the flora of the Pacific Northwest, agrostology, aquatic botany, plant ecology, forest ecology, and soil science. Additionally, he holds 2081(a) Plant Voucher Permit, and is Certified California Consulting Botanist #0016 from the California Native Plant Society.

Therefore, the County has appropriately considered, disclosed, and assessed the potential impacts on special-status plants, including Clara Hunt's milk-vetch, and found them to be less than significant. As such the recommended measure is not necessary because potential impacts to special-status plants have been adequately evaluated pursuant to CEQA and determined to be less than significant.

CDFW COMMENT – Northern Spotted Owl: *Northern Spotted Owl, Environmental Setting and Related Impact Shortcoming.*

*Issue, specific impacts, why they may occur and be potentially significant: The Project may impact northern spotted owl (NSO) due to auditory or visual disturbance up to 0.25 miles away from the Project site, the distance at which NSO can be disturbed during nesting season. According to the California Natural Diversity Database (CNDDDB) and review of aerial imagery and Napa County, the Project is located within the yearlong range of the NSO and directly adjacent to potentially suitable nesting habitat. According to Press et al. 2010, although typically associated with old-growth or mature forests, NSO can utilize a wide variety of forested habitat types. They exhibit flexibility in their use of different forested areas for nesting, roosting, and feeding requirements. Typical habitat characteristics include a multi-storied structure and high canopy cover. In Marin County, for example, NSOs reside in second growth Douglas-fir (*Pseudotsuga**

menziesii), second growth coast redwood (*Sequoia sempervirens*), bishop pine (*Pinus muricata*), mixed conifer-hardwood, mixed evergreen hardwood forests, and remnant old-growth stands of coast redwood and Douglas-fir. If NSO nests within the 0.25-mile range of potential audio or visual disturbance go undetected, NSO could be impacted by Project activities resulting in nest abandonment and loss of eggs, or reduced health and vigor and loss of young. NSO is State and federally listed as a threatened and, therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active NSO nest is disturbed by the Project, the Project may result in a substantial reduction in the number of a threatened species, which is considered a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Response to Comment: As disclosed in the Proposed IS/MND vegetation types within development area include non-native annual grassland, coyote brush scrub, coast live oak woodland, knobcone pine forest and ruderal/developed land (**Exhibit B-1** of the Proposed IS/MND); therefore, there is no suitable *multi-storied structure and high canopy cover* for NSO nesting. It should also be noted that the biological Study Area included the entirety of the subject parcels which encompass 117.8-acres and that the project biologist identified that The Study Area does not contain old-growth conifer or mixed broadleaf conifer forest necessary to support this species. The only Douglas Fir forest (totaling 2.5-acres) is located at the western periphery of the Study Area which is approximately 0.25 miles from the project area at its closest point. There are also existing vineyards on the abutting parcel to the north of the project site and Dry Creek Road approximately 0.35 miles to the west of the project site, that contribute to auditory and visual disturbances in the immediate vicinity of the project area.

For these reasons no impacts to NSO are expect; therefore, incorporation of the recommended measures are not necessary because an impact to NSO has not been identified.

CDFW Comment – 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 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>.*

Response to Comment:

The following Condition of Approval shall be included should the project be approved:

The Owner/Permittee shall submit any reports of special-status species and natural communities detected during project pre-construction surveys to the California Natural Diversity Database.

CDFW Comment – 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.)

Response to Comment: The CDFW Environmental Filing Fee for a Mitigated Negative Declaration will be paid upon posting of the CEQA Notice of Determination for this project when acted on by the County.

Attachment:

California Department of Fish and Wildlife letter dated May 26, 2026



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
MEGHAN HERTEL, Director

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

May 26, 2026

Donald A. Barrella, Principal Planner
Napa County
1195 Third Street, Suite 210
Napa, CA 94559
Donald.Barrella@countyofnapa.org

Subject: B&F Farms Vineyard Conversion Application (ECPA) File #P25-00029-ECPA, Mitigated Negative Declaration, SCH No. 2026041308, Napa County

Dear Donald A. Barrella:

The California Department of Fish and Wildlife (CDFW) received an Mitigated Negative Declaration (MND) from Napa County (County) for the B&F Farms Vineyard Conversion Application (ECPA) File #P25-00029-ECPA (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the 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), a 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: Mike Hawkins c/o Roberta Damele, Trustee ETAL Property Owner

Objective: The Project would include the clearing of vegetation, earthmoving, land contouring, and installation and maintenance of erosion control measures associated with

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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the development of approximately 10.7 gross acres of vineyard, with approximately 7.8 net planted acres in eight vineyard blocks, located on an approximately 120-acre property (Project site). Vegetation proposed for removal consists of non-native annual grassland, coyote brush (*Baccharis pilularis*) scrub, coast live oak (*Quercus agrifolia*) woodland, knobcone pine (*Pinus attenuate*) forest, and ruderal or otherwise disturbed land. The Project would remove approximately 365 trees greater than 6 inches diameter at breast height. Vineyard irrigation would be supplied by two existing on-site groundwater wells with an anticipated total water demand of approximately 5.6 acre-feet per year. Rock generated during vineyard development would be stored within a designated 0.2-acre rock storage area near Vineyard Block 2 and may also be used on-site for erosion control and runoff management features. No spoils would be transported off-site. Wildlife exclusion fencing (deer fencing) would enclose Vineyard Blocks 1–5 as one unit, Blocks 7–8 as one unit, and Block 9 as a separate unit. New main irrigation pipelines would be installed within existing roads and within proposed development areas. Existing drainage diversion ditches and culverts would be repaired and maintained as needed.

Location: The Project would occur in Napa County, State of California, with an approximate centroid of 38.381806° Latitude, -122.389189° Longitude.

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 Clara Hunt’s milk-vetch (*Astragalus claranus*), CESA listed as endangered, and northern spotted owl (*Strix occidentalis caurina*), CESA 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.

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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 may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The MND indicates streams would be avoided, however it also states existing drainage diversion ditches and culverts would be repaired and maintained as needed, indicating streams may be impacted. CDFW recommends that the MND include a mitigation measure requiring the Project to submit an LSA notification to CDFW and comply with the LSA Agreement, if issued, for impacts to streams related to drainage diversion ditch and culvert repair and maintenance or other activities.** CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

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,

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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: Clara Hunt's Milk-vetch and other Special-Status Plants, Environmental Setting and Related Impact Shortcoming

Issue, specific impacts, and why they may occur and be potentially significant: The MND does not adequately evaluate potential impacts to Clara Hunt's milk-vetch and other special-status plant species, despite the Biological Resources Reconnaissance Survey (MND Exhibit B-1) indicating the presence of suitable habitat on the Project site and the MND indicating Clara Hunt's milk-vetch has a moderate to high potential to occur in the Project site. The Biological Resources Reconnaissance Survey states that botanical surveys were completed, however it is unclear if those surveys followed CDFW's Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) (protocol surveys) including, but not limited to if they were accurately timed to detect Clara Hunt's milk-vetch and other special-status plants. The Biological Resource Assessment indicates the above protocol surveys were followed, but information outlined in the protocols was not provided, such as several reporting items (see page 9 of the above protocol for information that should be included in botanical survey reports) including information about visiting **reference populations for Clara Hunt's milk-vetch and other special-status plants**, which is often needed to accurately time surveys for regional blooming periods, particularly for annual plant species such as Clara Hunt's milk-vetch.

Clara Hunt's milk-vetch is State and federally listed as endangered and therefore is considered to be an endangered species pursuant to CEQA Guidelines section 15380. If Clara Hunt's milk-vetch is present on or adjacent to the Project site, the Project could damage or remove individuals and habitat on-site or adjacent to it through direct or indirect impacts, resulting in a substantial reduction in the number or restriction of the range of an endangered species, which is considered a *mandatory finding of significance* pursuant to CEQA Guidelines section 15065, subdivision (a)(1). The Project could also damage or remove individuals or habitats of other special-status plant species on-site or adjacent to it through direct or indirect impacts, resulting in *potentially significant impacts*.

Recommended Mitigation Measure: To reduce impacts to Clara Hunt's milk-vetch and other special-status plants to less-than-significant and comply with CESA, CDFW recommends including the below mitigation measure in the MND.

Mitigation Measure BIO-1: Special-Status Plant Surveys. A qualified biologist shall conduct botanical surveys during the appropriate blooming period (or when the species is identifiable) and conditions for Clara Hunt's milk-vetch and other special-status plant species

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with suitable habitat on-site, unless otherwise approved in writing by CDFW. If the Project believes additional plant surveys are unnecessary, the Project may submit biologically based rationale to CDFW and shall obtain CDFW's written approval of the rationale prior to Project construction.

The survey area shall cover the Project site and adjacent areas where the above species could be directly or indirectly impacted, and the survey shall occur prior to the start of Project construction including, but not limited to, ground disturbance, tree removal, and vineyard development, unless otherwise approved in writing by CDFW. Surveys shall be conducted following CDFW's Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities

(<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) and **include checking reference sites for Clara Hunt's milk-vetch and other target special-status plant species**, unless otherwise approved in writing by CDFW. More than one year of surveys may be necessary according to the above protocol survey methodology. The survey report(s) shall include the information outlined in the above survey protocol reporting section and be submitted to CDFW, and the Project shall obtain CDFW's written approval of them prior to Project construction. If full avoidance of a State listed species such as Clara Hunt's milk-vetch is not possible, the Project shall consult with CDFW and obtain a CESA ITP prior to Project construction, and shall comply with the ITP including, but not limited to, habitat compensation requirements. The Project shall also consult with USFWS for potential impacts to federally listed plant species. If full avoidance of other special-status (non-CESA listed) plant species is not possible, the Project shall submit a mitigation plan (plan) to CDFW and obtain CDFW's written approval of the plan prior to Project construction, and the plan shall include but not be limited to transplanting, seed collection and broadcasting, habitat enhancement, and/or habitat compensation at a minimum 3:1 mitigation to impact ratio including a conservation easement and long-term funding and implementation of a management plan, appropriate to the species, unless otherwise approved in writing by CDFW.

COMMENT 2: Northern Spotted Owl, Environmental Setting and Related Impact Shortcoming

Issue, specific impacts, why they may occur and be potentially significant: The Project may impact northern spotted owl (NSO) due to auditory or visual disturbance up to 0.25 miles away from the Project site, the distance at which NSO can be disturbed during nesting season. According to the California Natural Diversity Database (CNDDB) and review of aerial imagery and Napa County, the Project is located within the yearlong range of the NSO and directly adjacent to potentially suitable nesting habitat. According to Press et al. 2010, although typically associated with old-growth or mature forests, NSO can utilize a wide variety of forested habitat types. They exhibit flexibility in their use of different forested areas for nesting, roosting, and feeding requirements. Typical habitat characteristics include a multi-storied structure and high canopy cover. In Marin County, for example, NSOs reside in second growth Douglas-fir (*Pseudotsuga menziesii*), second growth coast redwood (*Sequoia*

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sempervirens), bishop pine (*Pinus muricata*), mixed conifer-hardwood, mixed evergreen hardwood forests, and remnant old-growth stands of coast redwood and Douglas-fir. If NSO nests within the 0.25-mile range of potential audio or visual disturbance go undetected, NSO could be impacted by Project activities resulting in nest abandonment and loss of eggs, or reduced health and vigor and loss of young. NSO is State and federally listed as a threatened and, therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active NSO nest is disturbed by the Project, the Project may result in a substantial reduction in the number 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 NSO to less-than-significant and comply with CESA, CDFW recommends including the following mitigation measure in the MND.

Mitigation Measure BIO-2: Northern Spotted Owl Habitat Assessment and Surveys. A qualified biologist shall provide an assessment of potential NSO 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 NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the USFWS' *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012. Surveys shall be conducted in accordance with Section 9 of the survey protocol, *Surveys for Disturbance-Only Projects*. If breeding NSO 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, 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 February 1 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 California*, dated October 1, 2020. Alternative buffers must be approved in writing by CDFW.

If take of NSO 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 Endangered Species Act (ESA).

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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 the 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>.

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 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 Jessa Ehlinger, Environmental Scientist, at (707) 428-2002 or Jessa.Ehlinger@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
B77E9A6211EF486...
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

ec: Office of Land Use and Climate Innovation, State Clearinghouse No. 2026041308
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov

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REFERENCE

Press, D., D. Adams, H. Jensen, K. Fehring, W. Merkle, M. Koenen, and L. A. Starcevich. 2010. San Francisco Bay Area Network northern spotted owl monitoring protocol: Version 6.4. Natural Resource Report NPS/SFAN/NRR—2010/245. National Park Service, Fort Collins, Colorado.

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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	Description	Timing	Responsible Party
BIO-1	<u>Special-Status Plant Surveys</u>. A qualified biologist shall conduct botanical surveys during the appropriate blooming period (or when the species is identifiable) and conditions for Clara Hunt's milk-vetch and other special-status plant species with suitable habitat on-site, unless otherwise approved in writing by CDFW. If the Project believes additional plant surveys are unnecessary, the Project may submit biologically based rationale to CDFW and shall obtain CDFW's written approval of the rationale prior to Project construction. The survey area shall cover the Project site and adjacent areas where the above species could be directly or indirectly impacted, and the survey shall occur prior to the start of Project construction including, but not limited to, ground disturbance, tree removal, and vineyard development, unless otherwise approved in writing by CDFW. Surveys shall be conducted following CDFW's Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants) and include checking reference sites for Clara Hunt's milk-vetch and other target special-status plant species, unless otherwise approved in writing by CDFW. More than one year of surveys may be necessary according to the above protocol survey methodology. The survey report(s) shall include the information outlined in the above survey protocol reporting section and be submitted to CDFW, and the Project shall obtain CDFW's written approval of them prior to Project construction. If full avoidance of a State listed species such as Clara Hunt's milk-vetch is not possible, the Project shall consult with CDFW and obtain a CESA ITP prior to Project construction, and shall comply with the ITP including, but not limited to, habitat compensation requirements. The Project shall also consult with USFWS for potential impacts to federally listed plant species. If full avoidance of other special-status (non-CESA listed) plant species is not	Prior to Ground Disturbance	Project Applicant

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	possible, the Project shall submit a mitigation plan (plan) to CDFW and obtain CDFW's written approval of the plan prior to Project construction, and the plan shall include but not be limited to transplanting, seed collection and broadcasting, habitat enhancement, and/or habitat compensation at a minimum 3:1 mitigation to impact ratio including a conservation easement and long-term funding and implementation of a management plan, appropriate to the species, unless otherwise approved in writing by CDFW.		
BIO-2	<u>Northern Spotted Owl Habitat Assessment and Surveys.</u> A qualified biologist shall provide an assessment of potential NSO 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 NSO nesting habitat is present, then no Project activities within 0.25 miles of potential NSO nesting habitat shall occur between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys following the USFWS' <i>Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls</i>, dated (revised) January 9, 2012. Surveys shall be conducted in accordance with Section 9 of the survey protocol, <i>Surveys for Disturbance-Only Projects</i>. If breeding NSO 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, 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 February 1 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, <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. If take of NSO 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.	Prior to Ground Disturbance and for the Duration of the Project	Project Applicant