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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
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Bay Delta Region
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October 22, 2026

Kelli Cahill, Planner III
Napa County
1195 3rd Street #201
Napa, CA 94559
Kelli.Cahill@countyofnapa.org

Subject:160 Franz Valley School Road Erosion Control Plan Application (ECPA) #P25-00235-ECPA, SCH No. 2026090806, Napa County

Dear Kelli Cahill:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from Napa County (County) for the 160 Franz Valley School Road Erosion Control Plan Application (ECPA) #P25-00235-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), the Lake and Streambed Alteration 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: County of Napa

Objective: The project involves vegetation clearing (non-native annual grassland and mixed oak woodland (*Quercus* sp.)), earthmoving, and the installation and maintenance of erosion and runoff control measures, associated with the development of new vineyard, including

[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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approximately a 2.1 net planted acres vineyard block. The project would convert approximately 2.3 acres of mixed oak woodland to vineyard and would preserve 14.76 acres of mixed oak woodland and 2.3 acres Douglas fir woodland (*Pseudotsuga menziesii*). The project would incorporate new wildlife exclusion fencing to enclose the new vineyard block.

Location: The project would occur in an unincorporated area of Napa County approximately 1 mile west of the City of Calistoga, State of California, with an approximate centroid of 38.584686° Latitude, -122.623279° 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 northern spotted owl (*Strix occidentalis caurina*, NSO), 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.

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.

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COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and included in **Attachment 1** Draft Mitigation Monitoring and Reporting Program, CDFW concludes that an MND is appropriate for the project.

MANDATORY FINDING OF SIGNIFICANCE. Does the project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

And,

Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Northern Spotted Owl, Environmental Setting and Related Impact Shortcoming

Issue, specific impacts, why they may occur and be potentially significant: Thank you for including the MND Exhibit B-2 titled Biologist's Addendum addressing the County's concern regarding NSO, however it does not adequately evaluate potential project impacts to the species as it appears impacts to nesting NSO may occur. The Biologist's Addendum concludes that there is no suitable NSO nesting habitat within 0.25 miles of the project site, however the California Wildlife Habitat Relationship Predicted Habitat mapping for NSO shows medium and high suitability NSO habitat within 0.25 mi of the project site, the distance at which nesting NSO can be impacted by auditory or visual disturbances. NSO are typically associated with old-growth or mature forests such as Douglas fir coniferous forests and can also utilize a wide variety of other forested habitat types (Press et al. 2010). The Biologist's Addendum states, "No project activities will occur within 0.25 miles of NSO nesting habitat" but also states that "Surrounding habitat consists of…Doug-fir woodlands." Table V of the MND Exhibit B-1 titled Biological Resource Survey states there is no potential for NSO habitat to occur on the property or the project site, but the MND project description outlines the preservation of 2.3 acres of Douglas fir woodland. Plate IV. Aerial Photo / Vegetation Alliances (2018 Post Fire) of the Biological Resource Survey depicts Douglas fir woodland on the property and based on Google Earth aerial imagery and Vegetation - Napa County Update 2016 mapping there appears to be dense Douglas fir woodland that may be suitable nesting NSO habitat north of the project within 0.25 miles. The nearest documented

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NSO activity centers are 1.4 miles and 3.15 miles southeast of project, and 3.75 miles west of the project site, indicating that NSO are nesting in the vicinity.

If NSO nest within the 0.25-mile range of potential disturbance go undetected, NSO could be impacted by project activities from nest abandonment and loss of eggs, or reduced health and vigor and loss of young.[2] NSO 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 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 impacts to NSO to less-than-significant and comply with CESA and Fish and Game Code section 3503 et seq., CDFW recommends that the MND include the mitigation measures below.

Mitigation Measure BIO-1 Northern Spotted Owl Habitat Assessment and Surveys: If the project occurs during NSO nesting season from February 1 to July 31 then below measures below shall be implemented.

- Habitat Assessment: A qualified biologist shall provide an assessment of potential NSO nesting habitat within a 0.25-mile radius of the project site and obtain CDFW's written acceptance of the assessment prior to project construction. Alternatively, the project may assume that NSO nesting habitat is present. If NSO nesting habitat is present or assumed to be present, then no project activities shall occur between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys as described below.

- NSO surveys: NSO surveys shall follow 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 nesting 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 nesting season, or a qualified biologist determines that the nest is no longer active in consultation with CDFW, unless otherwise approved in writing by CDFW.

[2] The NSO survey area of 0.7 miles is based on the U.S. Fish and Wildlife Service Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls, dated (revised) January 9, 2012 for the California Coast Range. The survey area is defined as the area extending one provincial median annual home range radius from the perimeter of the project area for projects that will remove or modify nesting, roosting, or foraging habitat.

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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.

- Incidental Take Permit: 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.

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 California Natural Diversity Database (CNDDB). The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the 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) 815-7630 or Jessa.Ehlinger@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

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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. 2026090806
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov

REFERENCES

USFWS. 2012. Protocol For Surveying Proposed Management Activities That May Impact Northern Spotted Owls. January 9, 2012.

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/SFRAN/NRR-2010/245. National Park Service, Fort Collings, 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	Northern Spotted Owl Habitat Assessment and Surveys. If the project occurs during NSO nesting season from February 1 to July 31 then the measures below shall be implemented. • Habitat Assessment: A qualified biologist shall provide an assessment of potential NSO nesting habitat within a 0.25-mile radius of the project site and obtain CDFW's written acceptance of the assessment prior to project construction. Alternatively, the project may assume that NSO nesting habitat is present. If NSO nesting habitat is present or assumed to be present, then no project activities shall occur between February 1 and July 31 unless a qualified biologist approved in writing by CDFW conducts NSO surveys as described below. • NSO surveys: NSO surveys shall follow 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 nesting 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 nesting 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 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*,	Prior to Ground Disturbance and for the Duration of the Project	Project Applicant

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	dated October 1, 2020. Alternative buffers must be approved in writing by CDFW. • Incidental Take Permit: 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.		