



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

GAVIN NEWSOM, Governor
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June 4, 2026

Enrique Torres, Planner II
Napa County
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Subject: Howell Mountain Cemetery, Initial Study/Mitigated Negative Declaration, SCH No. 2026050566, Napa County

Dear Enrique Torres:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (MND) from Napa County (County) for the Howell Mountain Cemetery (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), 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: Susan Lapsley

Objective: The Project would establish a 109-acre green burial site managed as conservation-oriented open space. Approximately 16 acres in the northern portion of the Project area would be used for low-density interment areas designed to avoid steep slopes, streams, and tree removal. Trails and limited access improvements would provide pedestrian

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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and operational access while maintaining natural ground conditions and minimizing grading. No landscaping, vegetation clearing, or tree removal is proposed within the interment areas, and existing vegetation would be retained whenever feasible. The Project would require removal of 27 Douglas fir (*Pseudotsuga menziesii*) trees. Other site work includes trail construction, a welcome center, and minor grading.

Location: The Project would occur in Napa County, State of California, with an approximate centroid of 38.60472° Latitude, -122.44586° 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*), 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.

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

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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 Mitigation Measure Related Impact Shortcomings

Issue, specific impacts, why they may occur and be potentially significant: Thank you for including a mitigation measure for northern spotted owl (NSO), however the MND does not adequately evaluate potential impacts to the species as it appears to be permanently and temporarily impacting suitable NSO nesting, roosting, and foraging habitat. As stated on page 20 of the MND, the Project “would require limited grading resulting in conversion of approximately 0.69 acre of Douglas fir forest...and the removal of 27 Douglas fir trees.” In Figure A-7 of the Biological Resources Reconnaissance Survey, the Project includes 2.85 acres of permanent impacts and 0.24 acres of temporary impacts associated with the driveway, in addition to 22.18 acres of on-going, diffuse, temporary impacts. NSO are typically associated with old-growth or mature forests such as Douglas fir coniferous forests and can utilize a wide variety of other forested habitat types (Press et al. 2010). The MND concludes that there is a high potential for NSO to occur in the Project area (MND Page 19). The Project area appears to be within suitable NSO nesting habitat: 1) as it is considered to have medium suitability for NSO according to the California Wildlife Habitat Relationship Spotted Owl Predicted Habitat mapping, 2) as it is within NSO habitat according to Northern Spotted Owl Connectivity Modeling for the California Bay Area Linkage Network mapping, and 3) based on a review of Google Earth aerial imagery. Further demonstrating the Project area habitat's suitability to support nesting NSO and their potential to be impacted by Project activities, six NSO activity centers are recorded within four miles of the Project area, with the nearest located 0.3 miles northwest of the Project area (Spotted Owl Observations Spider Diagram: NAP0002, see Spotted Owl Observations Database Information at <https://wildlife.ca.gov/Data/CNDDDB/Spotted-Owl-Info> and Spotted Owl Observations Database Management Framework at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=166159&inline>).

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If NSO nesting and roosting habitat is removed by the Project, or if active NSO nests within the 0.7-mile range of potential disturbance for habitat modification projects go undetected, NSO could be impacted by Project activities from loss of nesting and roosting habitat, 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 NSO habitat is removed or if an active NSO nest is disturbed by the Project, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measures: 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:

- A qualified biologist shall provide an assessment of potential NSO nesting and roosting habitat within the Project area and an appropriate radius around it and obtain CDFW's written acceptance of the assessment, unless otherwise approved in writing by CDFW. Alternatively, the Project may assume that NSO nesting habitat occurs in these areas. The Project shall consult with CDFW to determine the appropriate habitat assessment and survey areas, which may include up to 0.7 miles around the Project area.
- A qualified biologist shall conduct 2 years of surveys within the Project area and the appropriate radius around it with 6 complete visits per year following the USFWS *Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls*, dated (revised) January 9, 2012 and the associated *Attachment A: Take Avoidance Analysis - Coast Redwood Region*, dated November 1, 2019, to determine the presence or absence of NSO, unless otherwise approved in writing by CDFW.

The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report(s) prior to Project construction occurring during NSO nesting season.

If nesting NSO are detected during surveys, a no-disturbance buffer zone, at a distance determined based on consultation with CDFW, 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. Alternate buffer zones

² The NSO survey area of 0.7 miles is based on the USFWS *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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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. Buffer distances must be approved in writing by CDFW.

- Following the 2 years of surveys described above, a qualified biologist shall conduct Spot Check Surveys for NSO on the Project site and within a 0.25-mile radius around the Project site each year until Project construction is completed, pursuant to the above survey protocol, unless otherwise approved in writing by CDFW. If nesting NSO are detected during surveys, a no-disturbance buffer zone shall be implemented around the nest as described above.

If take of NSO cannot be avoided, the Project shall consult with: 1) CDFW pursuant to CESA and obtain an ITP, and 2) USFWS pursuant to the federal ESA.

Mitigation Measure BIO-5 Northern Spotted Owl Habitat Mitigation: Mitigation Measure BIO-5 in the MND shall be revised to: 1) recognize loss of NSO habitat and require the Project to prepare an NSO mitigation plan including mitigating NSO habitat removal at a 3:1 mitigation to impact ratio and restoring temporarily impacted NSO nesting habitat, unless otherwise approved in writing by CDFW, and 2) require a qualified biologist to evaluate if the Project would remove any known NSO nesting trees, and if any are identified they shall be retained, which shall be described in the NSO mitigation plan. NSO habitat mitigation shall include: 1) permanent preservation of high quality NSO nesting habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, and 2) a restoration plan for temporarily impacted NSO habitat including tree and understory plantings, success criteria, invasive plant species removal, and monitoring and maintenance for a minimum of five years, to be finalized before Project construction, unless otherwise approved in writing by CDFW. The NSO habitat mitigation plan shall be submitted to CDFW and the Project shall obtain CDFW's written approval of the NSO habitat mitigation plan prior to Project construction.

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 (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>.

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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. 2026050566
Arwen Freeman, USFWS - Arwen.Freeman@fws.gov
Craig Weightman, 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.
- CNDDDB. 2020. California Natural Diversity Database (CNDDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA.
- 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>Northern Spotted Owl Habitat Assessment and Surveys.</u> If the Project occurs during NSO nesting season from February 1 to July 31: A qualified biologist shall provide an assessment of potential NSO nesting and roosting habitat within the Project area and an appropriate radius around it and obtain CDFW's written acceptance of the assessment, unless otherwise approved in writing by CDFW. Alternatively, the Project may assume that NSO nesting habitat occurs in these areas. The Project shall consult with CDFW to determine the appropriate habitat assessment and survey areas, which may include up to 0.7 miles around the Project area. A qualified biologist shall conduct 2 years of surveys within the Project area and the appropriate radius around it with 6 complete visits per year following the USFWS Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls, dated (revised) January 9, 2012 and the associated Attachment A: Take Avoidance Analysis - Coast Redwood Region, dated November 1, 2019, to determine the presence or absence of NSO, unless otherwise approved in writing by CDFW.	Prior to Ground Disturbance and for the Duration of the Project	Project Applicant

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	The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report(s) prior to Project construction occurring during NSO nesting season. If nesting NSO are detected during surveys, a no-disturbance buffer zone, at a distance determined based on consultation with CDFW, 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. 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. Buffer distances must be approved in writing by CDFW. Following the 2 years of surveys described above, a qualified biologist shall conduct Spot Check Surveys for NSO on the Project site and within a 0.25-mile radius around the Project site each year until Project construction is completed, pursuant to the above survey protocol, unless otherwise approved in writing by CDFW. If nesting NSO are detected during surveys, a no-disturbance buffer zone shall be implemented around the nest as described above. If take of NSO cannot be avoided, the Project shall consult with: 1) CDFW pursuant to CESA and obtain an ITP, and 2) USFWS pursuant to the federal ESA.		
BIO-5	<u>Northern Spotted Owl Habitat Mitigation.</u> Mitigation Measure BIO-5 in the MND shall be revised to: 1) recognize loss of NSO habitat and require the Project to prepare an NSO mitigation plan including mitigating NSO	Prior to Ground Disturbance	Project Applicant

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	habitat removal at a 3:1 mitigation to impact ratio and restoring temporarily impacted NSO nesting habitat, unless otherwise approved in writing by CDFW, and 2) require a qualified biologist to evaluate if the Project would remove any known NSO nesting trees, and if any are identified they shall be retained, which shall be described in the NSO mitigation plan. NSO habitat mitigation shall include: 1) permanent preservation of high quality NSO nesting habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, and 2) a restoration plan for temporarily impacted NSO habitat including tree and understory plantings, success criteria, invasive plant species removal, and monitoring and maintenance for a minimum of five years, to be finalized before Project construction, unless otherwise approved in writing by CDFW. The NSO habitat mitigation plan shall be submitted to CDFW and the Project shall obtain CDFW's written approval of the NSO habitat mitigation plan prior to Project construction.		
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