



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
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July 16, 2026

Wendy Atkins, Planner II
County of Napa PBES
1195 3rd Street, Suite 210
Napa, CA 94559
Wendy.Atkins@countyofnapa.org

Subject: Ontrail Vineyards Micro-Winery Use Permit, P25-00139-UP, Negative Declaration, SCH No. 2026060461, Napa County

Dear Wendy Atkins:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Negative Declaration (ND) from the County of Napa (County) for the Ontrail Vineyards Micro-Winery Use Permit, P25-00139-UP (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the ND to inform the County, as the Lead Agency, of our concerns regarding potentially significant impacts to biological resources associated with the Project, and recommended mitigation measures, as further described below and in **Attachment 1**.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

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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PROJECT DESCRIPTION SUMMARY

Proponent: County of Napa

Objective: The Project outlines a phased Micro-Winery Use Permit for a new 5,000 gallon per year winery with daily tours and tastings by appointment on a 13.33-acre parcel which will be constructed in up to three phases. Phase 1 will include converting the existing 1,951 square foot (sq. ft.) barn to production space, converting the existing 529 sq. ft. farm labor office to winery tasting and accessory uses, and installing four parking spaces (one accessible, two standard, and one compact) and expanding the existing driveway. Phase 2 will include converting the 1,951 sq. ft. barn to a non-winery use and constructing a new 4,103 sq. ft. winery building. Phase 3 will include the construction of a 730 sq. ft. covered crush pad. No trees would be removed. The Project would remove 0.13 acres of vineyards to accommodate the proposed 4,103 sq. ft. winery building.

Location: The Project will occur in Napa County, State of California, with an approximate centroid of 38.355 ° Latitude, -122.283972 ° Longitude.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection 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.² **The Project has the potential to impact Swainson’s hawk (*Buteo swainsoni*), a CESA listed as threatened species, as further described below.** Issuance of a CESA 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 a CESA 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.

² “Take” means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill (Fish & G. Code, § 86).

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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 in Attachment 1, CDFW concludes that a Mitigated Negative Declaration (MND) is appropriate for the Project. Editorial comments are also included below.

I. 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 Shortcomings

Issue, specific impacts, why they may occur and be potentially significant: The ND does not adequately evaluate and mitigate impacts to Swainson's hawk. The ND concluded the Project would have no impacts to biological resources because it would occur on already established vineyard and agricultural areas, however it also identified that oak woodlands occur along an unnamed stream located less than 500 feet east and south of the Project site. The Project site includes mature trees and is also located approximately 0.41-miles northeast of the Napa River and 0.25-mile southeast of Soda Creek and their associated riparian habitats. Swainson's hawk utilize riparian and oak woodlands and mature trees for nesting. Based on aerial review and California Natural Diversity Database (CNDDDB) records, the nearest Swainson's hawk nesting observation is located approximately 6.75 miles south of the Project site, an area where multiple nests have been reported in the past. There is also a CNDDDB Swainson's hawk nesting record approximately 9.25 miles northwest of the Project site. As work will be conducted adjacent to and near potential Swainson's hawk nesting habitat, with records located both to the north and to the south of the Project site, CDFW concludes that the Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels within 0.5 miles of Project activities. Disturbances from

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Project activities may result in Swainson's hawk nest abandonment and loss of eggs or reduced health and vigor and loss of young.

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. Therefore, if an active Swainson's hawk nest is disturbed by the Project, the Project may result in a substantial reduction in the number or restriction 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 and Fish and Game Code section 3503.5, CDFW recommends including the below mitigation measure in an MND.

Mitigation Measure BIO-1 (Swainson's Hawk Surveys and Avoidance Buffer): If Project activities are scheduled during the nesting season for Swainson's hawks (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 (<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. 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 by CDFW in writing. 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.

II. Editorial Comments

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Thank you for providing "Exhibit A: Architectural Plans," however, to fully understand the Project and assess potential impacts to biological resources, CDFW strongly recommends that the County include in CEQA documents, as a general practice, an aerial image of the project footprint and surrounding areas that clearly outlines visually and numerically the permanent and temporary direct or indirect project impacts.

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 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>.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CONCLUSION

CDFW appreciates the opportunity to comment on the ND 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 Jessa.Ehlinger@wildlife.ca.gov or (707) 428-2002; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:

Erin Chappell

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Erin Chappell

Regional Manager
Bay Delta Region

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Attachment 1: Draft Mitigation and Monitoring Reporting Plan

ec: Office of Land Use and Climate Innovation, State Clearinghouse (SCH No. 2026060461)
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure	Description	Timing	Responsible Party
BIO-1	<u>Swainson's Hawk Surveys and Avoidance Buffer.</u> If Project activities are scheduled during the nesting season for Swainson's hawks (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 (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. The qualified biologist shall have a minimum of two	Prior to Ground Disturbance or Vegetation Removal and for the Duration of the Project	Project Applicant

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	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 by CDFW in writing. 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.		
Editorial	Thank you for providing "Exhibit A: Architectural Plans," however, to fully understand the Project and assess potential impacts to biological resources, CDFW strongly recommends that the County include in CEQA documents, as a general practice, an aerial image of the project footprint and surrounding areas that clearly outlines visually and numerically the permanent and temporary direct or indirect project impacts.	During Preparation of CEQA Documents	Lead Agency