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DEPARTMENT OF FISH AND WILDLIFE
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Governor's Office of Planning & Research

AUG 28 2019

August 28, 2019

STATE CLEARINGHOUSE

Mr. Donald Barrella
Napa County Planning, Building, and Environmental Services
1195 Third Street, Suite 210
Napa, CA 94559

Subject: Metamorphosis Wines Ovid Vineyards, Vineyard Conversion #P18-00275ECPA,
Draft Mitigated Negative Declaration, SCH #2019079118, Napa County

Dear Mr. Barrella:

California Department of Fish and Wildlife (CDFW) personnel have reviewed the draft Mitigated Negative Declaration (MND) for the Metamorphosis Wines Ovid Vineyards, Vineyard Conversion (Project). CDFW is submitting comments on the draft MND to inform Napa County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act, the Lake and Streambed Alteration Agreement (LSAA) and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

Regulatory Requirements

CESA prohibits unauthorized take of candidate, threatened, and endangered species. Therefore, if "take" or adverse impacts to foothill yellow-legged frogs or any other species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA Incidental Take Permit (ITP) must be obtained (pursuant to Fish and Game Code Section 2080 *et seq.*). Issuance of a CESA ITP is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required to obtain a CESA ITP. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

Lake and Streambed Alteration Agreement

CDFW requires an entity to notify CDFW before commencing any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream or use material from a streambed. Ephemeral and/or intermittent streams and drainages (that are dry for periods of time or only flow during periods of rainfall) are also subject to Fish and Game Code section 1602; and CDFW may require an

LSAA with the applicant, pursuant to Section 1600 et seq. of the Fish and Game Code. The Project's Erosion Control Plan (ECP) includes the construction of a rocked water crossing across an ephemeral stream. Please note that such work may require an LSAA before the rocked water crossing may be constructed. The Project proponent should notify CDFW to see if an LSAA will be required to do the work.

Issuance of an LSAA is subject to CEQA. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. The CEQA document should identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at <https://www.wildlife.ca.gov/conservation/lisa> or to request a notification package, contact CDFW's Bay Delta Regional Office at (707) 428-2002.

CDFW also 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 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). Fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511). Migratory raptors are also protected under the federal Migratory Bird Treaty Act.

Project Description and Environmental Setting

The 73.6-acre Project site is located at 255 Long Ranch Road in rural St. Helena, Napa County; Assessor's Parcel Numbers: 032-030-065 & 032-030-066. The Project site is approximately 3.5 miles north of Yountville and approximately 5.5 miles southeast of St. Helena. There are several unnamed streams located within and in close proximity to the Project site. The majority of the site drains to the southwest towards unnamed tributaries to the Napa River, and a small portion of the site drains towards Lake Hennessey, which lies approximately 1.5 miles to the northwest. Typical slopes within the Project area range from approximately 9 to 24 percent, with approximately 0.2 acres of the property on slopes greater than 30 percent. Elevations within the Project area range from approximately 1,150 feet to 1,332 feet above mean sea level.

Several vegetation communities are found within the Project area. Within the 73.6-acre property, there is approximately 20.45 acres of existing vineyards/agriculture, 20.22 acres of chamise chaparral, 7.66 acres of California bay forest, 6.69 acres of California annual grassland, 2.17 acres of interior live oak woodland, 1.89 acres of leather oak chaparral, 1.71 acres of Eastwood manzanita chaparral, 1.06 acres of broom patch, and 0.25 acres of water features including a pond, seasonal wetland, and ephemeral stream. The remaining 11.54 acres of the 73.6-acre property are developed or have been previously disturbed by past agricultural and winery development activities.

The proposed Project is to develop approximately 38.9 acres of vineyard within 5 vineyard blocks on two parcels totaling approximately 73.6 acres. Vineyard development will remove approximately 15.34 acres of chamise chaparral, 3.03 acres of California bay forest, 6.18 acres of California annual grassland, 0.95 acres of interior live oak woodland, 0.61 acres of leather

oak chaparral, and 1.66 acres of Eastwood manzanita chaparral on the property. Approximately 280 to 300 native trees and approximately 90 to 100 olive/orchard trees will be removed. The Project will result in substantial earthmoving and will include the installation and maintenance of erosion control measures as described in the Project's ECP.

Comments and Concerns

Special-Status Plants

The draft MND states that surveys for special-status plants were conducted in 2017 and 2018; and the following special-status plants were found: narrow-anthered brodiaea (*Brodiaea leptandra*), holly-leaved ceanothus (*Ceanothus purpureus*; CEPU), Sharsmith's western flax (*Hesperolinon sharsmithiae*), Napa lomatium (*Lomatium repostum*), and green monardella (*Monardella viridis*). Three of the abovementioned species, specifically: narrow-anthered brodiaea, holly-leaved ceanothus (CEPU), and Sharsmith's western flax are California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) List 1B.2 species, meaning they are rare, threatened, or endangered in California and elsewhere. As originally proposed, the Project would have removed approximately 18.5 acres (or 71%) of special-status species habitat and between 70% to 80% of the special-status plant populations on the Project site, resulting in significant impacts.

Implementation of Mitigation Measure BR-1 (MM BR-1) will reduce the amount of vineyard development from 38.9 acres to 26 acres, and approximately 13 acres of land on the property containing special-status plants would be permanently preserved under a conservation easement or other means of permanent protection acceptable to Napa County. CDFW agrees that implementation of MM BR-1 will substantially reduce the Project's impacts to narrow-anthered brodiaea and Sharsmith's western flax; however, the Project would still impact approximately 7 acres (over 600 individual plants) of CEPU, resulting in a net loss of the species; and thus, a significant impact. MM BR-1 (e) does require that special-status plants be replanted on-site at a 2:1 ratio for every individual plant that is unintentionally removed by the Project. Successful transplanting of rare plant species is generally unproven and typically unsuccessful; CDFW recommends that the Project's vineyard blocks be further reconfigured to avoid impacting CEPU populations to the greatest extent feasible. If the Project cannot completely avoid impacting CEPU populations, a qualified botanist should prepare a mitigation and monitoring plan in consultation with CDFW that includes off-site land preservation at a minimum 2:1 mitigation to impacts acreage ratio, in addition to the 13 acres of on-site land preservation.

Roosting Bats

The draft MND states that pallid bat (*Antrozous pallidus*), a State Species of Special Concern, has the potential to occur at the Project site. Pallid bats use a variety of materials for roosting including tree hollows, rock crevices, mines, caves, and man-made structures. The Project will remove approximately 280 to 300 native trees, some of which could contain suitable bat roosting habitat (i.e. cavities, crevices, deep bark fissures). CDFW agrees with the implementation of Mitigation Measure BR-3 (MM BR-3) to avoid impacting bats roosting in trees on the Project site. However, because a variety of bat species, particularly pallid bat, will roost in other materials (e.g. rock crevices), CDFW recommends that a qualified bat expert also conduct a bat habitat assessment of all boulders that will be impacted as a result of Project activities to determine if any of them contain crevices suitable for bat roosting. If boulders containing suitable bat roosting habitat are discovered during the habitat assessment, a qualified bat expert

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should conduct a survey at least 30 days prior to the start of Project activities to determine if any of the crevices contain roosting bats or evidence thereof. If roosting bats, or evidence thereof, is discovered during surveys, a qualified bat expert should prepare an avoidance and minimization plan for CDFW review and approval prior to starting Project activities.

Migratory Birds and Raptors

Mitigation Measure BR-2 of the draft MND requires that a qualified biologist conduct a nesting bird survey no earlier than 14 days prior to the start of construction, if construction will occur during the nesting season (typically February 1 to August 31). Because many bird species construct their nests in a matter of days, CDFW recommends that nesting bird surveys be conducted within 5 days of the start of construction, to greatly reduce the chances that a bird begins nesting on the Project site between the time of the survey and the start of construction.

Wildlife Movement and Fencing

The Project site is located within an "Essential Connectivity Area" (California Essential Connectivity Project). Wildlife movement in this area predominantly occurs in a north-south direction between San Pablo Bay and north of Lake Berryessa. This tract of land is an important corridor for large wildlife (e.g. mountain lions, bears, deer). The draft MND proposes to install new wildlife exclusion fencing; and it states that most of the property is surrounded with 8-foot tall wildlife exclusion fencing. As proposed, the Project would have a potentially significant impact to wildlife movement, and therefore, CDFW recommends that wildlife exclusion fencing be limited to around proposed vineyard blocks only. Additionally, wildlife exclusion fencing should be removed from all areas on the property that are not surrounding existing vineyard blocks to allow large wildlife to move through the property unimpeded.

Erosion Control Devices

Erosion control devices can have a direct impact on wildlife, particularly reptiles and amphibians. CDFW has documented several cases where reptiles and amphibians have become tangled/trapped in erosion control devices containing plastic monofilament (e.g. typical straw wattles). The ECP for the Project includes the use of straw wattles. CDFW recommends that the ECP be revised so that all erosion control devices used on-site will be composed of biodegradable materials (e.g. coir logs, coconut fiber blanket, jute netting).

CDFW appreciates the opportunity to provide comments on the draft MND for the proposed Project and is available to meet with you to further discuss our concerns. If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at (707) 428-2076 or garrett.allen@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at (707) 428-2090 or karen.weiss@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse