



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 24, 2022

Donald Barrella, Planner III
County of Napa
1195 Third Street, Suite 210
Napa, CA 94559
donald.barrella@countyofnapa.org

Subject: Goldvista Holdings, Liao Vineyard Erosion Control Plan #P21-00066-ECPA,
Mitigated Negative Declaration, SCH No. 2022090431, Napa County

Dear Mr. Barrella:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the County of Napa (County) for the Goldvista Holdings, Liao Vineyard Erosion Control Plan #P21-00066-ECPA Project (Project) pursuant 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 (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: Angela Liao, Goldvista Holdings LLC

Objective: Develop approximately 9.85 acres of vineyard, including approximately 8.0 net planted acres in three proposed blocks located on a 41.8-acre property. The Project involves the clearing of vegetation, earthmoving, and installation and maintenance of erosion control measures. An estimated 139 trees within approximately 2.75 acres of

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.

Donald Barrella
County of Napa
October 24, 2022
Page 2 of 8

oak (*Quercus* sp.) woodland would be removed. New and upgraded wildlife exclusion fencing would be installed and connect with existing fencing on the Project site to enclose the proposed vineyard blocks.

Location: The Project is located at 3580 Monticello Road, Napa, CA, 94558, on Assessor's Parcel Numbers 033-040-057 and 033-040-058.

Timeframe: The Project is proposed for implementation April 1 to October 15 and typical annual operations would occur year-round.

REGULATORY AUTHORITY

Lake and Streambed Alteration

CDFW will require an LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq. for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will 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. **The Project may impact an ephemeral tributary and therefore an LSA Notification may be required, as further described below.** Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Fully Protected Species

Fully Protected species, such as white-tailed kite (*Elanus leucurus*), may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515) except for collecting these species for necessary scientific research, relocation of the bird species for the protection of livestock, or if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan.

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 the below recommendations which are also in the Draft Mitigation, Monitoring and Reporting Program (Attachment), CDFW concludes that a Mitigated Negative Declaration is appropriate for the Project.

Donald Barrella
County of Napa
October 24, 2022
Page 3 of 8

Environmental Setting

I. 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: American Badger

Issue: The Project site includes grassland habitat and oak woodland habitat that may be suitable for American badger (*Taxidea taxus*). Badgers range throughout most of California and can dig burrows in a single day; therefore, the species may occupy the Project site and adjacent habitat prior to Project construction (Ministry of Environment Ecosystems 2007 as cited in Brehme et al. 2015). Additionally, the California Wildlife Habitat Relationships Predicted Habitat Suitability for the grassland portions of the site is medium and high-quality suitability.

Specific impacts and why they may occur and be significant: American badger is a California Species of Special Concern (SSC). An SSC is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria: is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role; is listed as Federally-, but not State-, threatened or endangered; meets the State definition of threatened or endangered but has not formally been listed; is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. The Project may result in injury or mortality to adult or young badgers, or burrow abandonment. Therefore, if American badgers are present on or adjacent to the Project area, Project impacts to American badger would be potentially significant.

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to American badger to less-than-significant, CDFW recommends that the MND include the following mitigation measure.

MM BR-4. American Badger Protection. A qualified biologist shall survey for American badger within the Project site and adjacent habitat within a minimum of 50 feet. If any occupied burrows are discovered the Project shall implement an appropriate buffer from the burrow, as determined by a qualified biologist and approved in writing by CDFW. If the Project cannot avoid impacts to the occupied burrow the Project shall consult with CDFW regarding next steps before proceeding and implement CDFW recommendations such as preparing and implementing an American badger relocation plan.

Donald Barrella
County of Napa
October 24, 2022
Page 4 of 8

COMMENT 2: Special-Status Herpetofauna

Issue: Page 13 of the MND and Pages 18-19 of Exhibit B-1 discuss that suitable habitat for western pond turtle (*Emys marmorata*) occurs on the Project site and the species is known to have occurred on the Project site, but also states that the proposed Project would not affect western pond turtle. There are also documented foothill yellow-legged frog (*Rana boylei*) Northwest/North Coast clade and California red-legged frog (*Rana draytonii*) occurrences within five miles of the Project.

Specific impacts and why they may occur and be significant: The Project could impact stream or upland dispersal habitat or refugia for the above special-status herpetofauna through vegetation removal and grading activities, potentially injuring or killing them. Western pond turtles, an SSC, are documented to occur on the Project site according to the California Natural Diversity Database (CNDDDB). The species can move more than four miles up or down stream; therefore, the Project site is within the mobility range of other western pond turtle CNDDDB documented observations (Holland 1994). The species may also survive outside of aquatic habitat for several months in uplands up to several hundred feet from aquatic habitat (Purcell et al. 2017; Zaragoza et al. 2015). Foothill yellow-legged frogs, an SSC, have been documented moving up to 500 feet from the wetted channel of a stream across upland habitat (CDFW 2018). California red-legged frogs, an SSC and federally listed as threatened species, can use upland habitat one to two miles away from breeding ponds, including habitat such as rocks, small mammal burrows, logs, densely vegetated areas, and man-made structures (i.e., culverts, livestock troughs, spring-boxes, and abandoned sheds) (USFWS 2017). Based on the above information, if these special-status herpetofauna occur within the Project area, Project impacts to special-status herpetofauna would be potentially significant.

Recommended Mitigation Measure: To reduce potential impacts to less-than-significant, CDFW recommends including the following mitigation measure in the MND.

MM BR-5: Special-Status Herpetofauna. For all Project activities that occur within 500 feet of stream or wetland habitat, prior to ground-disturbing activities, a qualified biologist shall conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of foothill yellow-legged frog, California red-legged frog, and western pond turtle and their nests. If any of these special-status species are discovered during the survey, Project activities shall not begin until CDFW has been consulted and approved in writing measures to avoid and minimize impacts to special-status species, and the measures have been implemented. If California red-legged frog is encountered, the Project shall consult with USFWS pursuant to the federal Endangered Species Act and obtain any required authorization for impacts.

Donald Barrella
County of Napa
October 24, 2022
Page 5 of 8

II. Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

COMMENT 3: Stream and Riparian Habitat

Issue: Page 14 of the Initial Study/MND states that the ephemeral drainage on the northern portion of the Project site was “confirmed as a constructed drainage ditch, not a stream.” CDFW LSA jurisdiction may include constructed drainages. This drainage appears to be hydrologically connected to the stream along the east side of the property and may constitute a stream under CDFW jurisdiction. If the Project will impact this drainage, the Project may be required to submit an LSA Notification to CDFW.

Recommended Mitigation Measure: If Vineyard Block B will result in permanent or temporary impacts to the ephemeral drainage in the north/northeast corner of the Project site, CDFW recommends including the following mitigation measure in the MND.

MM BR-6 Impacts to Stream and Riparian Habitat. If the Project will impact the bed, bank, channel or associated riparian vegetation of any streams (including ephemeral drainages), the Project shall consult with CDFW to determine if an LSA Notification is required, and if so, shall submit an LSA Notification to CDFW and comply with the LSA Agreement, if issued. Permanent impacts to the stream shall be mitigated at a 3:1 mitigation to impact ratio through on-site or off-site restoration for acreage and linear feet impacted, and temporary impacts shall be restored on-site, unless otherwise approved in writing by CDFW.

Please be advised that the LSA Agreement, if issued, would likely include the above recommended mitigation measures, as applicable, and additional protection measures for species and their habitats, such as restricting work within the stream riparian zone from June 15 to October 15.

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

Donald Barrella
County of Napa
October 24, 2022
Page 6 of 8

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 Alicia Bird, Environmental Scientist, at (707) 980-5154 or alicia.bird@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: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022090431)

REFERENCES

Brehme, C.S.; Hathaway, S.A.; Booth, R.; Smith, B.H.; and Fisher, R.N. 2015. Research of American Badgers in Western San Diego County, 2014. Data Summary prepared for California Department of Fish and Wildlife and the San Diego Association of Governments. 24pp. (42pp. with Appendix).

CDFW. 2018. Considerations for Conserving the Foothill Yellow-Legged Frog. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=157562&inline>

Holland, Dan C. 1994. The western pond turtle: habitat and history. Unpublished final report, U. S. Dept. of Energy, Portland, Oregon.

Donald Barrella
County of Napa
October 24, 2022
Page 7 of 8

Purcell, Kathryn L.; McGregor, Eric L.; Calderala, Kathryn. 2017. Effects of drought on western pond turtle survival and movement patterns. *Journal of Fish and Wildlife Management*. 8(1): 15-27.

USFWS. 2017. Species Account for California Red-legged frog. December 2017.
https://www.fws.gov/sacramento/es_species/Accounts/Amphibians-Reptiles/ca_red_legged_frog/

Zaragoza, George; Rose, Jonathan P.; Purcell, Kathryn.; Todd, Brian. 2015. Terrestrial habitat use by western pond turtles (*Actinemys marmorata*) in the Sierra Foothills. *Journal of Herpetology*. 49(3): 437-441.

Donald Barrella
 County of Napa
 October 24, 2022
 Page 8 of 8

Attachment

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 (MM)	Description	Timing	Responsible Party
MM BR-4	<u>MM BR-4: American Badger Protection.</u> A qualified biologist shall survey for American badger within the Project site and adjacent habitat within a minimum of 50 feet. If any occupied burrows are discovered the Project shall implement an appropriate buffer from the burrow, as determined by a qualified biologist and approved in writing by CDFW. If the Project cannot avoid impacts to the occupied burrow the Project shall consult with CDFW regarding next steps before proceeding and implement CDFW recommendations such as preparing and implementing an American badger relocation plan.	Prior to Ground Disturbance	Project Applicant
MM BR-5	<u>MM BR-5: Special-status Herpetofauna Protection.</u> For all Project activities that occur within 500 feet of stream or wetland habitat, prior to ground-disturbing activities, a qualified biologist shall conduct a pre-construction survey within 48 hours prior to the start of Project activities, focusing on the presence of foothill yellow-legged frog, California red-legged frog, and western pond turtle and their nests. If any of these special-status species are discovered during the survey, Project activities shall not begin until CDFW has been consulted and approved in writing measures to avoid and minimize impacts to special-status species, and the measures have been implemented. If California red-legged frog is encountered, the Project shall consult with USFWS pursuant to the federal Endangered Species Act and obtain any required authorization for impacts.	Prior to Ground Disturbance and continuing over the course of the Project	Project Applicant

Donald Barrella
County of Napa
October 24, 2022
Page 9 of 8

MM BR-6	<u>MM BR-6: Impacts to Stream and Riparian Habitat.</u> If the Project will impact the bed, bank, channel or associated riparian vegetation of any streams (including ephemeral drainages), the Project shall consult with CDFW to determine if an LSA Notification is required, and if so, shall submit an LSA Notification to CDFW and comply with the LSA Agreement, if issued. Permanent impacts to the stream shall be mitigated at a 3:1 mitigation to impact ratio through on-site or off-site restoration for acreage and linear feet impacted, and temporary impacts shall be restored on-site, unless otherwise approved in writing by CDFW.	Prior to Ground Disturbance	Project Applicant
----------------	--	-----------------------------	-------------------