



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

**MAR 09 2023**

March 9, 2023

## STATE CLEARINGHOUSE

Emily Hedge, Planner III  
County of Napa  
1195 Third Street, Suite 210  
Napa, CA 94559  
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Subject: Piazza del Dotto Winery Major Modification P18-00143, Negative Declaration, SCH No. 2023020504, Napa County

Dear Ms. Hedge:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Negative Declaration (ND) from Napa County (County) for the Piazza del Dotto Winery Major Modification P18-00143 (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

CDFW is submitting comments on the ND 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:** Yountville Vineyards, LLC

**Objective:** The objective of the Project is to increase winery operations. Primary Project activities include construction of two new buildings: 1) an approximately 10,500-square-foot production and hospitality building, and 2) an approximately 700-square-foot lounge building. An existing cave will be expanded from 16,000 square feet to 32,500 square feet. Six additional parking spaces would be added and improvements would be made to an existing driveway off of Yount Mill Road. The Project would also increase wine

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<sup>1</sup> 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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production from 48,000 gallons per year to 100,000 gallons per year, increase the number of winery employees, and increase tasting appointments and events, among other operational changes.

**Location:** The Project is located at 7466 Saint Helena Highway, Yountville, CA 94559; Assessor Parcel Number: 031-120-035; Latitude: 38.421509, Longitude: -122.389440.

## **REGULATORY REQUIREMENTS**

### **Lake and Streambed Alteration Agreement**

Notification, pursuant to Fish and Game Code sections 1600 et. seq. 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. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **It appears that Project activities may impact a stream; therefore, an LSA Notification may be required as further described below.** 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.

### **California Endangered Species Act**

Although the Project is within an existing vineyard operation and disturbed areas, it has the potential to impact nesting Swainson's hawk (*Buteo swainsoni*), a CESA listed as threatened species, through potential auditory or visual disturbances above ambient levels. **CDFW recommends surveys and avoidance of Swainson's hawk, as further described below.** If avoidance is not feasible, please be advised that a CESA Incidental Take Permit (ITP) must be obtained. 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.

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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 potential for the Project to have a significant impact on biological resources, CDFW concludes that a Mitigated ND is more appropriate for the Project and the below recommended mitigation measure should be implemented. The recommended mitigation measure is also included in Attachment A: Draft Mitigation Monitoring and Reporting Program.

### I. Stream Alteration

#### **Comment 1:** Lake and Streambed Alteration Notification

**Issue:** The Project description indicates that a stream is located on the Project site. It is unclear if the Project would impact the stream.

**Recommendation:** If the Project would impact a stream, CDFW recommends including a requirement for the Project to submit an LSA Notification to CDFW and comply with the LSA Agreement, if issued.

### II. 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 2:** Swainson's Hawk – Environmental Setting Shortcoming

**Issue:** As indicated above, although the Project is within an existing vineyard operation and disturbed areas, it has the potential to impact nesting Swainson's hawk through potential auditory or visual disturbances above ambient levels. The California Natural Diversity Database (CNDDDB) documents a Swainson's hawk nesting occurrence approximately 2.2 miles north of the Project site, along the Napa River. There have also been several documented occurrences of the species reported to eBird (<http://ebird.org>) occurring within 2 miles of the Project site during the breeding season within the last few years and based on Google Earth aerial imagery it appears that potential nest trees exist on and adjacent to the Project site.

**Specific impacts and why they may occur and be significant:** Nesting Swainson's hawk could experience auditory and visual disturbances from Project activities resulting in 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

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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:** For an accurate environmental setting, to reduce impacts to Swainson's hawk to less-than-significant, and to comply with CESA, CDFW recommends adding the following mitigation measure:

Mitigation Measure (MM) BIO-1 Swainson's Hawk Surveys and Avoidance: If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to August 31) and the Project will result in noise and visual disturbance to potential Swainson's hawk nesting habitat above ambient levels, then prior to beginning work on this Project, Swainson's hawk surveys shall be conducted by a qualified biologist with experience surveying for and detecting the species pursuant to the *Recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk* (2000) survey protocol, within 0.5 miles of the Project (see: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>). Pursuant to the above survey protocol, surveys shall be completed for at least the two survey periods immediately prior to a project's initiation. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 1 and August 31 each year. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.5-mile no-disturbance buffer zone around the nest, unless otherwise approved in writing by CDFW. Project activities shall be prohibited within the buffer zone between March 1 and August 31, 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.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and NDs 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 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

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

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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 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 Alicia Bird, Environmental Scientist, at (707) 980-5154 or [alicia.bird@wildlife.ca.gov](mailto:alicia.bird@wildlife.ca.gov); or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [melanie.day@wildlife.ca.gov](mailto:melanie.day@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Erin Chappell*

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Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment A: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023020504)

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## ATTACHMENT A

### 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
<b>MM BIO-1</b>	<p><i>Swainson's Hawk Surveys and Avoidance:</i> If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to August 31) and the Project will result in noise and visual disturbance to potential Swainson's hawk nesting habitat above ambient levels, then prior to beginning work on this Project, Swainson's hawk surveys shall be conducted by a qualified biologist with experience surveying for and detecting the species pursuant to the Recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley Swainson's Hawk (2000) survey protocol, within 0.5-mile of the Project (see: <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&amp;inline</a>). Pursuant to the above survey protocol, surveys shall be completed for at least the two survey periods immediately prior to a project's initiation. The Project shall obtain CDFW's written acceptance of the qualified biologist and survey report prior to Project construction occurring between March 1 and August 31 each year. If the qualified biologist identifies nesting Swainson's hawks, the Project shall implement a 0.5-mile no-disturbance buffer zone around the nest, unless otherwise approved in writing by CDFW. Project activities shall be prohibited within the buffer zone between March 1 and August 31, 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.</p>	<p>Prior to Ground Disturbance and continuing over the course of the Project</p>	<p>Project Applicant</p>