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Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Brian D. Bordona
Director

TO: Application File #P22-00408-ECPA

FROM: Pamela Arifian, Planner III

DATE: December 13, 2023

RE: Response to Comments – Dry Creek Vineyard Conversion
Agricultural Erosion Control Plan (ECPA) File #P22-00408-ECPA
Assessor’s Parcel Number APN 027-070-036
7111 Dry Creek Road, Napa
SCH #2023090264

INTRODUCTION

This memorandum has been prepared by the County Conservation Division to respond to comments received by the Napa County Department of Planning, Building and Environmental Services (Napa County) on the Proposed Initial Study/Mitigated Negative Declaration (Proposed IS/MND) for the Dry Creek Vineyard Conversion #P22-00408-ECPA (proposed project). An IS/MND is an informational document prepared by a Lead Agency, in this case, Napa County, that provides environmental analysis for public review. The agency decision-maker considers it before taking discretionary actions related to any proposed project that may have a significant effect on the environment. The Proposed IS/MND analyzed the impacts resulting from the proposed project and where applicable, identified mitigation measures to minimize the impacts to less-than-significant levels.

This memorandum for the Dry Creek Vineyard Conversion Agricultural Erosion Control Plan #P22-00408-ECPA Proposed IS/MND presents the name of the persons and/or organizations commenting on the Proposed IS/MND and responses to the received comments. This memorandum, in combination with the IS/MND, completes the Final IS/MND.

CEQA PROCESS

In accordance with Section 15073 of the CEQA *Guidelines*, Napa County submitted the Proposed IS/MND to the State Clearinghouse for a 30-day public review period starting September 6, 2023. In addition, Napa County circulated a Notice of Intent to Adopt the Proposed IS/MND to interested agencies and individuals. The public review period ended on October 16, 2023. During the public review period, Napa County received two (2) comment letters on the Proposed IS/MND. Table 1 below lists the entity

that submitted comments on the Proposed IS/MND during the public review and comment period. The comment letter is attached as identified in Table 1.

**TABLE 1
COMMENTS RECEIVED ON THE PROPOSED IS/MND**

Comment N ^o / Attachment	Comments Received from	Date Received
1	Yvonne Baginski	October 15, 2023
2	Napa Valley Chapter California Native Plant Society	October 16, 2023

In accordance with CEQA *Guidelines* Section 15074(b), Napa County considers the Proposed IS/MND together with comments received, both during the public review process and before action on the project, prior to adopting the Proposed IS/MND and rendering a decision the project. The CEQA *Guidelines* do not require the preparation of a response to comments for mitigated negative declarations; however, this memorandum responds to comments received. Based on review of the comments received, no new potentially significant impacts beyond those identified in the Proposed IS/MND would occur, no new or additional mitigation measures, or project revisions, must be added to reduce impacts to a less than significant level, and none of the grounds for recirculation of the Proposed IS/MND as specified in State CEQA *Guidelines* Section 15073.5 have been identified. All potential impacts identified in the Proposed IS/MND were determined to be less-than-significant or less-than-significant with mitigation incorporated.

Furthermore, this Response to Comments Memorandum will be provided to the owner/Permittee as **notice** of potential Local, State and Federal permits necessary to implement and operate this project as identified within the attached agency comment letters, and that project approval shall be subject to conditions of approval requiring any and all such permits be obtained prior to the commencement of vegetation removal and earth-disturbing activities (grading) associated with #P22-00408-ECPA.

RESPONSE TO COMMENTS

Comment #1 Yvonne Baginski (Attachment 1)

Response to Comment 1.1:

As discussed in **Section IV, Biological Resources**, of the Proposed IS/MND and in **Exhibit B**, American badger is not anticipated to occur on the site, has not been documented within 5 miles of the site, and evidence of American badger was not identified during the biological resources surveys for the project. Further, the biologist determined that the species was not expected to occur on the site due to absence of larger patches of open habitat and the absence of adequate prey resources (**Exhibit B**). Additionally, the project site is entirely enclosed by wildlife exclusion fencing as an existing condition. To avoid potential impacts in case the species has occupied the site since the survey and before construction, **Mitigation Measure BR-3** requires a pre-construction survey for the species, and, if occupied burrows are discovered, implementation of an appropriate buffer from the burrow(s) or consultation with CDFW regarding a relocation plan if avoidance is infeasible. This approach to protecting the American badger has been directly recommended by CDFW on other projects within the County. The commenter's assertion that CDFW will kill the animal rather than relocate is conjecture and without substantial evidence to support the opinion; as such, no further action is required.

Response to Comment 1.2:

Deer guards were not proposed as part of the project. New fencing was not proposed as part of the project; however, as a condition of approval (refer to **Section IV, Biological Resources**), any modifications to the existing wildlife exclusion fencing would require County review and approval to ensure that further impediments to wildlife access and movement through the site would not occur refer to Fencing Condition of Approval in **Section IV, Biological Resources**). No further action is required.

Comment #2 Napa Valley Chapter California Native Plant Society (Attachment 2)

Response to Comment 2.1:

The Biological Resources Report (**Exhibit B of the Proposed IS/MND**) was prepared in compliance with Napa County's guidelines for preparation of biological resources reconnaissance surveys. As referenced in **Section IV, Biological Resources**, of the **Proposed IS/MND**, and in Section 4 Existing Conditions (pages 20 to 27) of the Biological Resources Report (**Exhibit B**), The existing conditions of the project area are identified, including soils, topography, hydrology, vegetation communities, critical habitat, wildlife corridors, special-status plants and animals.

A detailed list of plants expected to occur and observed is included on pages 25-26 and in Table 1 (pages 45-52) of the Biological Resources Report (**Exhibit B**). All potentially-occurring special-status plant species were determined to be absent from the project area for at least one of the following reasons: (1) a lack of specific habitat (e.g., freshwater marsh) and/or edaphic requirements (e.g., serpentine soils) for the species

in question, (2) the geographic range of the species does not overlap the project area, (3) the species is known to be extirpated from the site vicinity, and/or (4) the habitats within the project area are too degraded (i.e., extensive and active grazing) to reasonably expect any special-status species to occur there. As a result of the extensive and regular grazing activity observed on site, only 11 species were identifiable at the time of the site visit, as listed on pages 25 and 26 of the Report (**Exhibit B**).

As stated briefly in Table 1 of Appendix B of the Report (**Exhibit B**), the biologist determined that Clara Hunt's milk vetch was absent from the project area and not reasonably expected to occur due to lack of microhabitat and that "active goat and sheep grazing has denuded the vegetation in these habitats making them unsuitable for these species." In a letter dated November 7, 2023 (attached), the biologist states that "in Napa County, Clara Hunt's milk vetch has been observed in open grassy areas on thin, rocky clay soils that are derived from volcanic or serpentine substrates. Such habitat is not present within the project area and since the site is actively grazed, we determined that the species is absent from the project area and that the species was not observed."

The commenter asserts that Clara Hunt's milk vetch may begin blooming up to two weeks later in higher elevations and forest settings, and as a result, it is possible that the plant would have been unidentifiable during the floristic survey that occurred on March 22, 2022. Despite the lack of microhabitat characteristics and the denuded nature of the grazed pasture, it is possible that Clara Hunt's milk vetch may occur in the project area without being observed during the biologist's survey. Implementation of the following Mitigation Measure would require surveys within the plant's blooming period as adjusted for higher elevations and forested areas prior to any ground disturbance. Should the plant be observed within the project area, the Permittee will be required to adjust the project boundaries to avoid the special-status plants with an appropriate buffer as determined and approved by the County in consultation with CDFW and/or USFWS. Implementation of this Mitigation Measure would ensure that impacts on Clara Hunt's milk-vetch and other special status plants remain less than significant.

Mitigation Measure – Special Status Plants: Prior to commencement of earthmoving activities associated with installation of #P22-00408-ECPA, the footprint of the disturbance areas shall be surveyed by a qualified biologist or botanist within the site-specific blooming periods for special-status plants with the potential to occur, and specifically for Clara Hunt's milk-vetch. Any observed special-status plants observed within the footprint shall be mapped and submitted to the County for review in consultation with CDFW and/or USFWS. To the fullest extent practicable, observed special-status plants shall be avoided and the project footprint minimized via adjustments to the project boundaries with appropriate buffers as approved by the County in consultation with CDFW and/or USFWS to ensure that no net loss of special-status species occurs.

List of Attachments

Attachment 1 – Yvonne Baginski comment letter dated October 15, 2023.

Attachment 2 – Napa Valley Chapter California Native Plant Society letter dated October 9, 2023

Attachment 3 – Letter from project biologist David Gallagher, MIG, dated November 7, 2023.

From: [Yvonne Baginski](#)
To: [Arifian, Pamela](#)
Subject: #P22-00408-ECPA
Date: Sunday, October 15, 2023 4:11:53 PM

[External Email - Use Caution]

Re: the mitigation statement on the relocation of American Badgers or other wildlife.

The California Department of Fish and Wildlife DOES NOT relocate any wildlife. It is an official policy of the department. They will kill the animal. That is what is mean by "relocation" at CDFW.

1.1

Perhaps the property owner could consider another way to protect wildlife habitat for all the animals currently using the property.

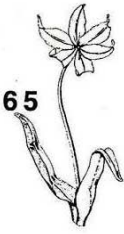
I would also like to ask whether you could prohibit deer guards. And, that the deer fencing be installed so that smaller animals are able to move through.

1.2

Thank you,
Yvonne Baginski

NAPA VALLEY CHAPTER
CALIFORNIA NATIVE PLANT SOCIETY

2201 IMOLA AVENUE • NAPA, CA 94559-3600 • 707-253-2665



October 9, 2023

Napa County Conservation, Planning Department
Attn: Pam Arifian
1195 Third Street, Second Floor
Napa, CA 94559-3092

Re: Dry Creek; Vineyard Conversion Environmental Review P22-00408-ECPA

Project files have been reviewed by the Napa Valley Chapter of The California Native Plant Society regarding the applicant's proposal to develop an additional 1.7 acres of vineyard on property in the upper Dry Creek area near Sonoma County. We hereby submit the following comment on the environmental study.

This project biological report covers a great deal of background regulatory information for this relatively small project. Despite the wealth of information, little detail is provided regarding the specific existing conditions within the project area. A single survey was conducted on March 22, 2022 and no other botanical field work followed. A mere nine species of plants are mentioned in the description of the Annual Grassland vegetation community. This is not in compliance with California Department of Fish and Wildlife or Napa County protocols that require surveys through the floristic season. An inventory of plants within the project area was not provided. The information provided is insufficient to determine the adequacy of the field assessment. Botanical surveys should be conducted approximately monthly in the blooming season to cover the target species. A case in point is Clara Hunt's Milkvetch. At lower elevations this species may begin blooming in open sites in late March but this species begins blooming up to two weeks later in higher elevations and in forest settings. It is nearly impossible to locate prior to bloom and may bloom for no more than 3-4 weeks at a site. It is just as challenging to locate in fruit.

2.1

Due to the incomplete nature of the field work, this project should not be permitted to move forward at this time.

Jake Ruygt
Conservation Chairman
Napa Valley Chapter CNPS



November 7, 2023

Jim Bushey
PPI Engineering
28 Jefferson Street
Napa, California 94558

Subject: 7111 Dry Creek Road Vineyard Project – Response to Comments from the Napa Valley Chapter of The California Native Plant Society

I reviewed the letter from the Napa Valley Chapter of The California Native Plant Society regarding the development of an additional 1.7 acres of vineyard at 7111 Dry Creek Road in Napa County. The following are my responses to the comments in the letter (Section 2.1).

Comment #1: “little detail is provided regarding the specific existing conditions within the project area.”

Response to Comment #1: The Biological Resources Report is in compliance with Napa County’s biological resources evaluation for discretionary projects in are identified to contain, or potentially contain, special-status species, based on the County’s Baseline Data Report. Section 4 Existing Conditions (pages 20 to 27) in the Biological Resources Report describes the existing conditions present in the project area, including soils, topography, hydrology, vegetation communities, critical habitat, wildlife corridors, special-status plants and animals.

Comment #2: “A mere nine species of plants are mentioned in the description of the Annual Grassland vegetation community. This is not in compliance with California Department of Fish and Wildlife or Napa County protocols that require surveys through the floristic season. An inventory of plants within the project area was not provided. The information provided is insufficient to determine the adequacy of the field assessment.”

Response to Comment #2: Due to the extensive grazing, which was observed on the site, and which is a regular activity on the site, only 11 species were identifiable at the time of the site visit. Also, the Biological Resources Report also states that other plant species would be expected to occur throughout the year and the report includes a detailed list of plants and animals observed during the field survey (page 25 - 26 in the Biological Resources Report).

Comment #3: “Botanical surveys should be conducted approximately monthly in the blooming season to cover the target species.”

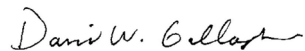
Response to Comment #3: All potentially occurring special-status plant species were determined to be absent from the project area for at least one of the following reasons: (1) a lack of specific habitat (e.g., freshwater marsh) and/or edaphic requirements (e.g., serpentine soils) for the species in question, (2) the geographic range of the species does not overlap the project area, (3) the

species is known to be extirpated from the site vicinity, and/or (4) the habitats within the project area are too degraded to reasonably expect any special-status species to occur there. Table 1 in Appendix B lists these plants, their habitat requirements, and the basis for why these species were determined to be absent from the project area (pages 45-53 in the Biological Resources Report).

Comment #4: A case in point is Clara Hunt's Milkvetch. At lower elevations this species may begin blooming in open sites in late March but this species begins blooming up to two weeks later in higher elevations and in forest settings. It is nearly impossible to locate prior to bloom and may bloom for no more than 3-4 weeks at a site."

Response to Comment #4: In Napa County, Clara Hunt's milk vetch has been observed in open grassy areas on thin, rocky clay soils that are derived from volcanic or serpentine substrates. Such habitat is not present within the project area and since the site is actively grazed, we determined that the species is absent from the project area. We did base our conclusion solely on the fact that the species was not observed. This was mentioned as supporting information in Table 1 in Appendix B (page 45 in the Biological Resources Report). Basically, the lack of specific microhabitats and that the habitats present within the project area are too degraded to reasonably expect this species to be present in the project area.

Sincerely,



David Gallagher, Senior Biologist