



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



December 12, 2024

Donald Barrella, Planner III
Napa County
1195 Third Street
Napa, CA 94559
Donald.Barrella@countyofnapa.org

Subject: Chappellet Vineyard, Agricultural Erosion Control Plan Application #P21-00206-ECPA, SCH No. 2024110524, Napa County

Dear Mr. Barrella,

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from Napa County (County) for the Chappellet Vineyard, Agricultural Erosion Control Plan Application #P21-00206-ECPA (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

CDFW is submitting comments on the IS/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) Agreement, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

REGULATORY REQUIREMENTS

Lake and Streambed Alteration

An LSA Notification, pursuant to Fish and Game Code section 1600 et. seq. is required 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. **It is unclear if the Project would impact streams, and if so an**

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LSA Notification would likely be required as further described below. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA notification requirements. CDFW, as a Responsible Agency under CEQA, would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

PROJECT DESCRIPTION SUMMARY

Proponent: Cyril Chappellet, Chappellet Vineyard LLC

Objective: The Project includes the clearing of native vegetation, earthmoving and land contouring, and installation and maintenance of erosion control measures associated with the development of approximately 40.7 gross acres of vineyard (approximately 33.1 net planted acres) in five proposed vineyard blocks, and the construction and maintenance of vineyard access roads encompassing approximately 1.1-acres resulting in an approximate 41.8-acre development area (i.e. Project area), located on an approximate 238-acre holding. A minimum of 19.92-acres of holly-leaved ceanothus (*Ceanothus purpureus*) and its habitat, 0.2-acre green monardella (*Monardella viridis*) species and its habitat, 2.22-acres of common manzanita (*Arctostaphylos manzanita*) chaparral vegetation alliance, and 2.16-acres of leather oak (*Quercus durata*) - chamise (*Adenostoma fasciculatum*) chaparral sensitive vegetation alliance shall be identified on the property holding for permanent preservation, resulting in an overall special-status plant and plant habitat preservation area of no less than 24.5-acres. A minimum of 2.48 acres of developable oak woodland (i.e., on land with slopes less than 30 percent and located outside of aquatic resource setbacks) will be identified within the holding and permanently preserved. Special-status plants removed as part of the Project will be replaced on-site at a ratio of 3:1.

Location: The Project is located on Assessor's Parcel Numbers 032-560-022 and 032-560-033; at approximately 38.47109°N, -122.33669°W, and 38.46726 °N, -122.3256°W, respectively; 1.8 miles southeast of the intersection of Sage Canyon Road (State Route 128) and a private driveway, Napa County.

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 below and included in **Attachment 1** Draft Mitigation Monitoring and Reporting Program, CDFW concludes that an MND is appropriate for the Project.

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I. Environmental Setting Related Impact Shortcomings

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 U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Stream Alteration

Issue: Page 21 of the IS/MND indicates that there is one intermittent stream and seven ephemeral streams in the Project area, and that “The proposed project has been designed to avoid these tributaries and any associated riparian habitat...” However, the IS/MND does not discuss how the access roads will interact with streams. Page 2 of Exhibit A-3 states that “Access is via existing access roads. No new access roads other than as detailed on the ECP are proposed.” However, Page 48 of IS/MND states that “The proposed project includes the construction of two short vineyard access roads to connect Vineyard Blocks D and E to Vineyard Block C, but construction would not result in design features that would result in hazardous conditions due to a geometric design feature or incompatible use.” It is unclear if new access roads would be constructed across streams.

Specific impacts and why they may occur and be significant: Construction activities such as the building of access roads and crossings can result in substantial impacts to streams. Impacts include inputs of deleterious materials, removal of riparian vegetation, obstructions and diversions, equipment staging and operation; disturbance to riparian corridors, special-status and common wildlife and their habitats; and nesting birds. Project impacts to sensitive stream and associated riparian habitat would be potentially significant.

Recommendation: To reduce impacts to streams to less-than-significant and comply with Fish and Game Code section 1600 et seq., CDFW recommends that the MND incorporate the following mitigation measure.

MM BIO-4: Impacts to Stream and Riparian Areas. Prior to the commencement of Project activities, a qualified biologist shall conduct a thorough assessment of potential impacts to streams and riparian habitat including, but not limited to, a field assessment and mapping of all streams on or adjacent to the Project area, and an evaluation of impacts such as the placement, construction, or operation of access roads and potential stream crossings. If impacts to the bed, bank, channel, or riparian area of a stream cannot be avoided, the Project shall notify CDFW for Project impacts to the stream. More information for the notification process is available at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>. The Project shall comply with all measures of the Streambed Alteration Agreement (SAA), if issued, and shall not commence activities with potential to impact the

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stream until the SAA process has been completed. Permanent impacts to stream habitat shall be mitigated by restoring stream habitat at a 3:1 mitigation to impact ratio on-site or as close to the Project area as possible, and in the same watershed, unless otherwise approved in writing by CDFW. All temporary impacts to stream habitat shall be restored. Restoration shall include a qualified biologist preparing and implementing a restoration plan that includes success criteria, a minimum of five years of monitoring and maintenance, and achieving success criteria.

Please be advised that an SAA, if issued for the Project, would likely include the recommended mitigation measures in this letter, as applicable, and may include additional measures to protect fish and wildlife resources.

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 USFWS?

COMMENT 2: Roosting Bats

Issue: The IS/MND does not adequately evaluate impacts to special-status bats including pallid bat (*Antrozous pallidus*) that may be using trees and structures within the Project area for roosting, nor does it require bat surveys or habitat assessments prior to commencement of Project activities. According to page 13 of the *Biological Resources Reconnaissance Survey Report* dated February 2020, "On-site trees proposed for removal were assessed for their potential to support roosting by special-status bats; primary relevant characteristics include the presence of large/substantial cavities and hollows. Otherwise, targeted assessments and protocol-level surveys were deemed inapplicable or infeasible at the time of the site visits, due to inappropriate timing between such a survey and Project initiation." However, inconvenient or incompatible timing of site visits needed to perform bat surveys or habitat assessments is not a valid reason to forgo them.

Specific impacts and why they may occur and be significant: Pallid bat is a California Species of Special Concern (SSC) and shown to occur within five miles of the Project site according to Figure A-6 of the *Biological Resources Reconnaissance Survey Report* and the California Natural Diversity Database (for more information on SSC see: <https://wildlife.ca.gov/Conservation/SSC>). If impacts to special-status bats are not identified and avoided, Project activities could result in substantial adverse effect on special-status bat species through population reduction and habitat removal.

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Recommended Mitigation Measure: To reduce impacts to special-status bats such as pallid bat to less-than-significant, CDFW recommends that the MND incorporate the following mitigation measure.

MM BIO-5 Bat Tree Habitat Assessment and Surveys. Prior to any tree trimming or removal, a qualified biologist shall conduct a habitat assessment for bats, unless otherwise approved in writing by CDFW. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree trimming or removal and shall include a visual inspection of potential roosting features of trees to be removed (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. If the presence of bats is presumed or documented, trees may be removed only: a) using the two-step removal process detailed below during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.

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 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

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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. (See 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 IS/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 Nicholas Magnuson, Environmental Scientist, at (707) 815-4166 or Nicholas.Magnuson@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 1: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse No. 2024110524

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ATTACHMENT 1

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 BIO-4	<p><u>Impacts to Stream and Riparian Areas.</u> Prior to the commencement of Project activities, a qualified biologist shall conduct a thorough assessment of potential impacts to streams and riparian habitat including, but not limited to, a field assessment and mapping of all streams on or adjacent to the Project area, and an evaluation of impacts such as the placement, construction, or operation of access roads and potential stream crossings. If impacts to the bed, bank, channel, or riparian area of a stream cannot be avoided, the Project shall notify CDFW for Project impacts to the stream. More information for the notification process is available at https://wildlife.ca.gov/Conservation/Environmental-Review/LSA. The Project shall comply with all measures of the Streambed Alteration Agreement (SAA), if issued, and shall not commence activities with potential to impact the stream until the SAA process has been completed. Permanent impacts to stream habitat shall be mitigated by restoring stream habitat at a 3:1 mitigation to impact ratio on-site or as close to the Project area as possible, and in the same watershed, unless otherwise approved in writing by CDFW. All temporary impacts to stream habitat shall be restored. Restoration shall include a qualified biologist preparing and implementing a restoration plan that includes success criteria, a minimum of five years of monitoring and maintenance, and achieving success criteria.</p>	<p>Prior to Ground Disturbance and During Construction</p>	<p>Project Applicant</p>
MM BIO-5	<p><u>Bat Tree Habitat Assessment and Surveys.</u> Prior to any tree trimming or removal, a qualified biologist shall conduct a habitat assessment for bats, unless otherwise approved in writing by CDFW. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree trimming or removal and shall include a visual inspection of potential roosting features of trees to be removed (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, suitable canopy for</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

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	<p>foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. If the presence of bats is presumed or documented, trees may be removed only: a) using the two-step removal process detailed below during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows:</p> <ol style="list-style-type: none">1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures shall be avoided, and2) the second day the entire tree shall be removed.		
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