



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



February 14, 2025

Pamela Arifian, Planner III  
Napa County  
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Subject: Eakle Water Storage Reservoir, Grading Permit Application #ENG21-00013, Initial Study/Mitigated Negative Declaration, SCH No. 2025010729, Napa County

Dear Ms. Arifian:

The California Department of Fish and Wildlife (CDFW) received an Initial Study/Mitigated Negative Declaration (IS/MND) from Napa County (County) for the Eakle Water Storage Reservoir, Grading Permit Application #ENG21-00013 (Project) pursuant to 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) program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. **The Project has the potential to impact tricolored blackbird (*Agelaius tricolor*), which is State listed as threatened. If the Project detects tricolored blackbird during surveys included in Mitigation Measure BR-1 of the IS/MND, the Project should notify CDFW immediately, and if take cannot be avoided, consult with CDFW and obtain an ITP to ensure**

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**compliance with CESA.** 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.

### **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 appears that the Project would impact a stream, as further described below, and if so an LSA Notification would likely be required.** 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:** Samuel and Henry Eakle

**Objective:** The Project involves clearing vegetation, grading, and construction of an approximately 18-acre-foot, off-stream agricultural water storage reservoir includes-on land with slopes between 5 percent and 15 percent. The Project also includes a Valley Oak Replanting Plan for the installation of 114 Valley oak (*Quercus lobata*) trees in an approximately 2-acre area on the approximately 20-acre Project parcel, along two sides of the parcel and near a tributary to Maxwell Creek.

**Location:** The Project is located on Assessor's Parcel Numbers 018-160-022; at approximately 38.59924°N, -122.36577°W, at 4720 Hardin Road, St. Helena, CA 94574, Napa County.

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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 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.

### 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?***

#### COMMENT 1: Stream Alteration

**Issue:** The Project Description of the IS/MND (page 1) states that "The project also proposes a Valley Oak Replanting Plan that would replant 114 Valley oak trees in an approximately 2-acre area on the approximately 20-acre parcel within the Maxwell Creek-Upper Reach of the Putah Creek watershed in Napa County (see Figure 3 and Exhibit A)." However, according to Exhibit B-2, there are two replanting areas positioned at the northeast and southwest ends of the parcel, respectively. The northeast replanting area overlaps the riparian zone of a tributary to Maxwell Creek. CDFW appreciates that tree planting is proposed, however planting within the riparian zone may result in unintended adverse impacts to the stream and be subject to LSA notification requirements.

**Specific impacts and why they may occur and be significant:** Tree replanting projects along streams and riparian zones, although intended to be beneficial, can result in substantial impacts to streams. Impacts include inputs of deleterious materials; removal and trampling of riparian vegetation; obstructions and diversions of stream; and 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.

**Recommended Mitigation Measure:** To comply with Fish and Game Code section 1600 et seq. and reduce impacts to riparian habitat to less-than-significant, CDFW recommends that the MND incorporate the following mitigation measure.

**MM BIO-2: 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 the stream and riparian habitat resulting from the oak replanting plan. If impacts to the bed, bank, channel, or riparian area of the stream cannot be

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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. Restoration shall include a qualified biologist preparing and implementing a restoration plan, success criteria, a minimum of five years of monitoring and maintenance, and achieving success criteria.

**Please be advised that a Streambed Alteration Agreement, if issued for the Project, may include additional measures to protect fish and wildlife resources.**

## **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 California Natural Diversity Database (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 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](mailto:Nicholas.Magnuson@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).

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Sincerely,

DocuSigned by:

*Erin Chappell*

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Erin Chappell  
Regional Manager  
Bay Delta Region

**Attachment 1:** Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse No. 2025010729

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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.

<b>Biological Resources (BIO)</b>			
<b>Mitigation Measure (MM)</b>	<b>Description</b>	<b>Timing</b>	<b>Responsible Party</b>
<b>MM BR-2</b>	<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 the stream and riparian habitat resulting from the oak replanting plan. If impacts to the bed, bank, channel, or riparian area of the stream cannot be avoided, the Project shall notify CDFW for Project impacts to the stream. More information for the notification process is available at <a href="https://wildlife.ca.gov/Conservation/Environmental-Review/LSA">https://wildlife.ca.gov/Conservation/Environmental-Review/LSA</a>. The Project shall comply with all measures of the SAA, if issued, and shall not commence activities with potential to impact the stream until the SAA process has been completed. Restoration shall include a qualified biologist preparing and implementing a restoration plan, success criteria, a minimum of five years of monitoring and maintenance, and achieving success criteria.</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>