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Planning, Building & Environmental Services

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Brian D. Bordona
Director

TO: Application File #ENG21-00013

FROM: Pamela Arifian, Planner III

DATE: March 17, 2025

RE: Response to Comments – Eakle Water Storage Reservoir
Grading Permit Application #ENG21-00013
Assessor's Parcel Number APN 018-160-022
4720 Hardin Rd, St. Helena
SCH # 2025010729

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 Eakle Water Storage Reservoir Grading Permit Application #ENG21-00013 (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 Eakle Water Storage Reservoir Grading Permit Application #ENG21-00013 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 January 23, 2025. 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 February 24, 2025. 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	California Department of Fish & Wildlife	February 14, 2025
2	Institute for Conservation Advocacy Research and Education (ICARE)	February 24, 2025

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 #ENG21-00013.

RESPONSE TO COMMENTS

Comment #1 California Department of Fish and Wildlife (Attachment 1)

Response to Comment 1.1: As discussed in **Section IV, Biological Resources**, of the Proposed IS/MND and in **Exhibit B**, the project area does not support habitat for tricolored blackbird, and the nearest wetlands and reservoirs that may support this species' habitat are located 400 to 1,300 feet away from the project area. The tricolored blackbird was not observed during the biological resource surveys for the project, and potential impacts were determined to be less than significant with incorporation of **Mitigation Measure BR-1**, which requires pre-construction surveys for nesting birds and raptors, and if found, implementation of an appropriate buffer from the nest. The Mitigation Measure requires that the survey results be provided to the County and to CDFW prior to commencement of work, which satisfies the intent of the request in this comment and would result in less than significant impacts without need for further mitigation. As an added assurance against any potential disturbance, the **Mitigation Measure BR-1** shall be amended as follows (*amended language in italics*):

Mitigation Measure BR-1: The Permittee shall include in #ENG21-00013 the following measures to minimize impacts associated with the loss and disturbance of nesting birds and raptors consistent with and pursuant Fish and Game Code Sections 3503 and 3503.5 and the California Endangered Species Act found in Fish and Game Code Section 2050 et seq.:

1. For earth-disturbing activities occurring between February 1 and August 31, (which coincides with the grading season of April 1 through October 15 – NCC Section 18.108.070.L, and bird breeding and nesting seasons), a qualified biologist (defined as knowledgeable and experienced in the biology and natural history of local avian resources with potential to occur at the project site) shall conduct preconstruction surveys for nesting birds and raptors within all suitable habitat in the project area, and within a minimum of 500 feet of all project areas. The preconstruction survey shall be conducted no earlier than 7 days prior to vegetation removal and ground disturbing activities are to commence. Should ground disturbance commence later than 7 days from the survey date, surveys shall be repeated. A copy of the survey results shall be provided to the Napa County Conservation Division and the CDFW prior to commencement of work.
 - a. *If the pre-construction surveys detect tricolored blackbird (*Agelaius tricolor*), the Permittee shall notify CDFW immediately, and if take cannot be avoided, consult with CDFW and obtain an Incidental Take Permit to ensure compliance with California Endangered Species Act.*
2. After commencement of work, if there is a period of no work activity of 5 days or longer during the bird breeding season, surveys shall be repeated to ensure birds have not established nests during inactivity.
3. In the event that nesting birds are found, a qualified biologist shall identify appropriate avoidance methods and exclusion buffers in consultation with the County Conservation

Division and the U.S. Fish and Wildlife Service (USFWS) and/or CDFW prior to initiation of project activities. Exclusion buffers may vary in size, depending on habitat characteristics, project activities/disturbance levels, and species as determined by a qualified biologist in consultation with County Conservation Division and the USFWS and/or CDFW.

4. Exclusion buffers shall be fenced with temporary construction fencing (or the like), the installation of which shall be verified by Napa County prior to the commencement of any earthmoving and/or development activities. Exclusion buffers shall remain in effect until the young have fledged or nest(s) are otherwise determined inactive by a qualified biologist. Additionally, a qualified biologist shall monitor all active nests each day during construction for the first week, and weekly thereafter, to ensure that the exclusion buffers are adequate and that construction activities are not causing nest-disturbance. If the qualified biologist observes birds displaying potential nest-disturbance behavior, the qualified biologist shall cease all work in the vicinity of the nest and CDFW shall be consulted about appropriate avoidance and minimization measures for nesting birds prior to construction activities resuming. In this event, construction activities shall not resume without CDFW's written approval.
5. Alternative methods aimed at flushing out nesting birds prior to pre-construction surveys, whether physical (i.e., removing or disturbing nests by physically disturbing trees with construction equipment), audible (i.e., utilizing sirens or bird cannons), or chemical (i.e., spraying nesting birds or their habitats) shall be prohibited.

Response to Comment 1.2:

The Proposed IS/MND identified the tributary as referenced in this comment as a drainage ditch, and that the nearest streams with riparian habitat are Maxwell Creek (approximately 850 feet to the northwest) and Hardin Creek (approximately 1300 feet to the northeast, as well as ephemeral streams 400 feet to the west and 700 feet to the south). The Proposed IS/MND determined that the project would not result in significant impacts to riparian areas. Plate II of the Biological Resources Reconnaissance Report (**Exhibit B-1** of the Proposed IS/MND) shows the CNDDDB Rare Find Data exhibit, which also includes streams; the referenced drainage on the project parcel is not identified on that exhibit.

Plate III of the Valley Oak Replant Plan (**Exhibit B-2** of the Proposed IS/MND) shows Planting Area 3, which includes area adjacent to the top of bank and extending away from the identified drainage. Photo 3 in the Replanting Plan shows a picture of the planting area in Area 3, which, in conjunction with aerial imagery, shows minimal, low-quality habitat in the area of the drainage, with a majority of the proposed planting area occurring in grassland.

In response to the CDFW concerns, the Project Applicant submitted a grading plan (Edwards Engineering, revised date March 13, 2025) that was revised to identify the Valley Oak Replanting areas, including Area 3, which is shown as occurring a minimum of 10 feet from top-of-bank of the identified drainage and outside of the canopy of existing trees. The revised Grading Plan includes in the details reference to the Valley Oak Replanting Plan, as well as installation of silt fence along the minimum 10-

foot and canopy buffer, where feasible, to protect the drainage from any erosion. The Replant Plan states that oaks should be planted outside of the canopy of existing trees, most of which occur within 10-feet of the bank of the drainage on the northeast side of the drainage where the oaks would be planted.

To ensure that the Replanting Plan is implemented as intended, the Valley Oak Replanting Plan Condition of Approval as found in the Proposed IS/MND will be revised as follows (additional language in *italics*):

Valley Oak Replanting Plan – Condition of Approval: Prior to achieving successful final inspection on the Water Storage Reservoir Grading Permit #ENG21-00013, the Owner/Permittee shall obtain approval on a Restoration/Revegetation Permit through the Planning Department and shall fully implement the Valley Oak Replanting Plan (Kjeldsen, February 2023 – **Exhibit B-2**) in the fall season immediately following reservoir development in consultation with the project biologist. Following tree planting activities, the Owner/Permittee shall:

1. Submit a report on the implementation of the Valley Oak Replanting Plan to the Conservation and Engineering Department that demonstrates the appropriate and timely execution of the approved plan.
2. *No tree planting shall occur within the canopy of existing trees, or within 10-feet of the top-of-bank of the drainage adjacent to Area 3 of the Plan, and outside of the canopy of existing trees. The planting limits within Area 3 shall be demarcated with installation of a silt fence along the minimum 10-foot buffer from top-of-bank.*
3. Submit monitoring reports to the Conservation Division by December 1st of each year, pursuant to the Replanting Plan.
4. The Replanting Plan shall achieve a performance standard of 80% survival at the end of 5 years. If 80% survival is not achieved, the Owner/Permittee shall be responsible for replacement plantings, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve the requirements.

Therefore, with the revised Grading Plan details and condition of approval that avoids the bed, bank and channel and existing riparian area, the proposed replanting activities would not substantially divert or obstruct the natural flow or substantially change any material from the bed, channel or bank of the drainage, or deposit any materials where it may pass into the drainage. Further, a standard condition of approval shall be applied to this project, if approved, that requires that the permittee obtain all local, State and Federal permits associated with the project activity. As such, impacts related to bank, channel or riparian areas are not anticipated.

Response to Comment 1.3: Comment noted. The CDFW recommendation to submit to the California Natural Diversity Database reports of any special-status species and natural communities detected during project pre-construction surveys shall be included as a condition of approval, should the project be approved:

Wildlife Survey Reporting Condition – The permittee shall submit any reports of special-status species and natural communities detected during project pre-construction surveys to the California Natural Diversity Database.

Response to Comment 1.4: The CDFW Environmental Filing Fee for a Mitigated Negative Declaration will be paid upon filing of the CEQA Notice of Determination for this project, if approved.

Comment #2 Institute for Conservation Advocacy Research and Education (ICARE)

Response to Comment 2.1:

The Groundwater Sustainability Plan referenced in the comment defines groundwater as “water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.” As stated in the project description and in **Section X, Hydrology and Water Quality**, of the Proposed IS/MND, the project would utilize shallow perched subsurface water (i.e., separated from groundwater) to fill the proposed reservoir, and no groundwater or surface water would be used. As such, the GSP is not applicable to this project.

Response to Comment 2.2:

As stated in **Section IV, Biological Resources**, of the Proposed IS/MND, the reservoir would be developed in existing ruderal grassland that had previously been used as horse pasture. The project parcel does not contain any wetlands, nor are there any wetlands located on adjacent parcels that would be impacted by the proposed project.

Response to Comment 2.3

Refer to Response to Comment 2.1, above. The project would not utilize surface water; no further comment is required.

List of Attachments

Attachment 1 – CDFW comment letter dated February 14, 2025.

Attachment 2 – ICARE comment letter dated February 24, 2025