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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



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
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



CDFW 01

February 14, 2025

Pamela Arifian, Planner III
Napa County
1195 Third Street Napa, CA 94559
Pamela.Arifian@countyofnapa.org

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 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**

1.1

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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.

1.2

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>

1.3

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.)

1.4

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.

Pamela Arifian
February 14, 2025
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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. 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.

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM BR-2	<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 https://wildlife.ca.gov/Conservation/Environmental-Review/LSA. 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>



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The Institute for Conservation Advocacy Research & Education, (ICARE) established in 2004, is a non profit community-based organization located in Napa County, California. ICARE's mission is to restore and conserve the biological integrity and ecosystems health of watersheds, the Napa River estuary and the greater San Francisco Bay Area through science-based advocacy, research and education.

February 24, 2025

Re: Eakle Reservoir Initial Study ICARE comments

The CEQA document needs to inform the public about compliance with the Sustainable Groundwater Management Act/SGMA and the subsequent Groundwater Sustainability Plan/GSP that may be applicable to this groundwater aquifer where the applicant is pumping groundwater.

2.1

Does this aquifer that the applicant is pumping groundwater from that will then be pumped to this 18a/f reservoir (currently being stored in tanks) need compliance with a GSP per this Groundwater Sustainability Agency?

Is the location of this reservoir within a seasonal wetland? The State and the County must protect wetlands by avoidance due to the importance of this resource.

2.2

The entire watershed above Lake Berryessa is over appropriated for surface water and therefore surface water right permits require a water master to approve the water right application permit. It is noted that extracting groundwater to then store it in a reservoir is further depleting this watershed that is over appropriate for surface water and is further being degraded by extracting groundwater.

2.3

Chris Malan

Executive Director

Institute for Conservation Advocacy Research and Education

ICARE

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Thank You