



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

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[www.wildlife.ca.gov](http://www.wildlife.ca.gov)**GAVIN NEWSOM, Governor****CHARLTON H. BONHAM, Director**

May 15, 2020

Governor's Office of Planning &amp; Research

**MAY 18 2020****STATE CLEARINGHOUSE**

Mr. Donald Barrella  
Napa County  
1195 Third Street, Suite 210  
Napa, CA 94559

Subject: Darioush Estates Curry Lane Vineyard Erosion Control Plan #P18-00442-ECPA,  
Draft Mitigated Negative Declaration, SCH #2020049054, City and County of Napa

Dear Mr. Barrella:

California Department of Fish and Wildlife (CDFW) personnel have reviewed the draft Mitigated Negative Declaration (MND) for the Darioush Estates Curry Lane Vineyard Erosion Control Plan (Project). CDFW is submitting comments on the draft MND to inform Napa County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW is providing comments as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological 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 Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

**Environmental Setting**

The Project will occur on a 23.62-acre parcel located at 2100 Curry Lane in the City and County of Napa. The Project site is located approximately 2.3 miles east of the City of Napa and is located within the Kreuse Creek watershed. There are two streams on the Project site. Kreuse Creek, which flows through the site from east to west and is a tributary to Tulucay Creek, thence the Napa River, and an unnamed stream, which is a tributary to Kreuse Creek. Vegetation communities on the Project site consist of approximately 3.37 acres of annual grassland, 6.74 acres of blue oak woodland, 3.3 acres of abandoned olive orchard, 9.61 acres of vineyard and developed land, and a 0.32-acre on-stream pond (located on Kreuse Creek). Surrounding land use consists of the 850-acre Skyline Wilderness Park to the south, undeveloped oak woodland habitat to the east, vineyard development and associated infrastructure to the north, and an on-stream reservoir immediately downstream of the Project parcel on Kreuse Creek to the west. Site elevations range from 140 to 250 feet above mean sea level with slopes ranging from 15% to over 30%.

**Project Description**

The Project will develop 8.3 acres of vineyard within 3 vineyard blocks. Block A will be 4.3 acres, Block B 2.2 acres, and Block C 1.8 acres. Project development will permanently impact

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approximately 2.53 acres of annual grassland and 2.07 acres of blue oak woodland. Approximately 183 trees with a diameter at breast height of greater than or equal to 6 inches will be removed by the Project, which predominantly includes blue oak (*Quercus douglasii*), California buckeye (*Aesculus californica*), northern black walnut (*Juglans hindsii*), coast live oak (*Quercus agrifolia*), and Pacific madrone (*Arbutus menziesii*). Site clearing and vine installation is expected to occur between the months of April and October. Erosion control measures will be implemented by October 15 after site clearing and preparation and will be monitored throughout the course of the winter. The new vineyard will be irrigated via drip irrigation emitters with reuse water provided by Napa Sanitation District. Wildlife exclusion fence (i.e. deer fence) will be installed around new vineyard blocks.

### Comments and Concerns

*Western pond turtle (WPT; Emys marmorata), California red-legged frog (CRLF; Rana draytonii), and foothill yellow-legged frog (FYLF; Rana boylei)*

The Project will impact blue oak woodland habitat directly adjacent to two streams that contain suitable habitat for CRLF, which is listed as 'threatened' under the Endangered Species Act and is a California Species of Special Concern (SSC), and WPT and FYLF, which are both SSC. While the Project is expected to avoid direct impacts to streams, the Project will impact suitable upland refugia and nesting habitat (i.e. for WPT) for these species. Mitigation Measure BR-3 (MM BR-3) states that a pre-construction survey will be completed for WPT between 7 days and 24 hours of the start of Project activities. CDFW agrees with this measure but recommends that the following language be included to MM BR-3 to prevent potentially significant impacts to FYLF and CRLF:

*Prior to the start of Project activities, a qualified biologist shall conduct surveys to determine presence of California red-legged frog. The surveys should be in accordance with the U.S. Fish and Wildlife Service's (USFWS) Revised Guidance on Site Assessments and Field Surveys for the California Red-Legged Frog (August 2005). Both diurnal and nocturnal surveys shall be conducted during the optimum survey period (i.e. between January 1 and February 28). Additionally, the qualified biologist shall conduct a focused pre-construction survey for FYLF within 48 hours prior to the start of Project activities. Surveys shall include surveying all streams on the Project parcel, as well as all upland habitat within 150 feet from the streambed. If either CRLF or FYLF are discovered during surveys, the qualified biologist shall develop site-specific avoidance and minimization measures in consultation with CDFW, such as the use of wildlife exclusion fencing, to ensure special-status species are not adversely impacted by the Project. Presence of CRLF on site will require that Project proponent consult with the USFWS prior to starting the Project.*

### Stream Impacts

The Project's Erosion Control Plan (ECP), prepared by PPI Engineering, dated July 1, 2019, proposes 55- to 65-foot setbacks from the two streams on the Project site. However, it is unclear how the top of bank was determined. Given the site topography, it is possible that top of bank is located further up the slope than identified on the ECP, and potentially encompasses a portion of proposed vineyard development. CDFW recommends that the Project proponent contact CDFW to schedule a site visit to determine where the top of bank of both streams is

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located. If any portion of the Project, including the construction of any access roads, will result in the substantial alteration of the bed, bank, or channel of any stream, river, or lake, the Project proponent will need to submit an LSA Notification to CDFW to see if a LSA Agreement is necessary, prior to the start of Project activities.

The *Biological Resources Reconnaissance Survey Report* (Report), prepared by WRA, dated December 2018, states that there is a historic-era bridge crossing over Kreuse Creek on the Project site that backs up flow creating an on-stream pond. Fish and Game Code section 5901 states that it is unlawful to construct or maintain any device or contrivance that prevents, impedes, or tends to prevent or impede the passing of fish (i.e. defined in Fish and Game Code section 45 as a wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn, or ovum of any of those animals) up and down stream. Additionally, Fish and Game Code section 1602 requires that a person notify CDFW prior to substantially diverting or obstructing the natural flow of a river, stream, or lake. Because the existing bridge may be a barrier to fish passage and be substantially obstructing the natural flow of Kreuse Creek, CDFW recommends that the Project proponent notify CDFW to see if an LSA Agreement is required.

#### *Erosion Control Devices*


Erosion control devices can have a direct impact on wildlife, particularly reptiles and amphibians. CDFW has documented several cases where reptiles and amphibians have become tangled/trapped in erosion control devices containing plastic monofilament (e.g. straw wattles wrapped in black plastic mesh). CDFW recommends that all temporary and permanent erosion control measures be free of plastic monofilament netting.

#### **Filing Fees**

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.

CDFW appreciates the opportunity to provide comments on the draft MND for the proposed Project and is available to meet with you to further discuss our concerns. If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at [garrett.allen@wildlife.ca.gov](mailto:garrett.allen@wildlife.ca.gov), or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at [karen.weiss@wildlife.ca.gov](mailto:karen.weiss@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse

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## References

- Clevenger, A. P., B. Chruszcz, and K. E. Gunson. 2001. Highway mitigation fencing reduces wildlife–vehicle collisions. *Wildlife Society Bulletin* 29:646–653.
- Conover, M. R. 2002. *Resolving wildlife conflicts: the science of wildlife damage management*. Lewis, Boca Raton, Florida, USA.
- Falk, N. W., H. B. Graves, and E. D. Bellis. 1978. Highway right-of-way fences as deer deterrents. *Journal of Wildlife Management* 42:646–650.
- Feldhamer, G. A., J. E. Gates, D. M. Harman, A. J. Loranger, and K. R. Dixon. 1986. Effects of interstate highway fencing on white-tailed deer activity. *Journal of Wildlife Management* 50:497–503.
- Kaneene, J. B., C. S. Bruning-Fann, L. M. Granger, R. Miller, and B. A. Porter-Spalding. 2002. Environmental and farm management associated with tuberculosis on cattle farms in northeastern Michigan. *Journal of the American Veterinary Medical Association* 221:837–842.
- McKillop, I. G., and R. M. Sibly. 1988. Animal behaviour at electric fences and the implications for management. *Mammal Review* 18:91–103.
- Palmer, W. L., J. M. Payne, R. G. Wingard, and J. L. George. 1985. A practical fence to reduce deer damage. *Wildlife Society Bulletin* 13:240–245.
- Puglisi, M. J., J. S. Lindzey, and E. D. Bellis. 1974. Factors associated with highway mortality of white-tailed deer. *Journal of Wildlife Management* 38:799–807.
- USFWS. 2006. Estimating the effects of auditory and visual disturbance to northern spotted owls and marbled murrelets in northwestern California.
- USFWS. 2011 (revised 2012). Protocol for surveying proposed management activities that may impact northern spotted owls.
- Ward, A. L. 1982. Mule deer behavior in relation to fencing and under passes on Interstate 80 in Wyoming. *Transportation Research Record* 859.