



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



Governor's Office of Planning & Research

JUL 26 2022

July 22, 2022

STATE CLEARINGHOUSE

Andy Wilt

City of Santa Rosa, Transportation and Public Works Department

69 Stony Circle

Santa Rosa, CA 95401

AWilt@srcity.org

Subject: Fulton Road Sewer Main Improvements, West 3rd Street to Santa Rosa Creek, Mitigated Negative Declaration, SCH No. 2022060720, Sonoma County

Dear Mr. Wilt:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Santa Rosa (City) for the Fulton Road Sewer Main Improvements, West 3rd Street to Santa Rosa Creek (project) pursuant to the California Environmental Quality Act (CEQA).

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive biological resources associated with the project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) 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, 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

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may 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. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The project**

Andy Wilt
City of Santa Rosa
July 22, 2022
Page 2 of 6

would impact Santa Rosa Creek, therefore an LSA Notification is required as further described below. CDFW will 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.

Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Santa Rosa

Objective: Replace approximately 300 feet of failing sewer pipe under Santa Rosa Creek that was installed in 1969. The sewer has become partially obstructed and needs to be replaced. The project would include use of open trench construction methods to construct a replacement 8-inch diameter gravity flow sewer pipe under Santa Rosa Creek. The existing approximately 300 feet of sewer pipe under Santa Rosa Creek would be abandoned in-place and filled with cellular concrete material to prevent collapse.

Location: The project is located on the west side of Fulton Road at Santa Rosa Creek, just north of Placer Drive, in the City of Santa Rosa, Sonoma County. It is on Assessor's Parcel Numbers 034-110-078, 034-110-066, and 035-590-072 and centered at approximate coordinates 38.441870°N, 122.769807°W.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the City 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, in part through implementation of CDFW's below recommendations, CDFW concludes that an MND is appropriate for the project.

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

Andy Wilt
City of Santa Rosa
July 22, 2022
Page 3 of 6

Mitigation Measures

Comment 1: MND Pages 21, 23, 55 and 58

Issue: Mitigation Measure (MM) BIO6 indicates that the City shall comply with permit terms from CDFW, U.S. Army Corps of Engineers, and Regional Water Quality Control Board. However, the type of permit that the City would obtain from CDFW and the other agencies is unclear. Additionally, MM BIO5 indicates that to mitigate the loss of riparian habitat, the *Riparian Restoration Plan, South Fulton Trunk Sewer Project, City of Santa Rosa*, prepared by Sol Ecology, dated September 2020 would be implemented. However, it does not appear the tree planting ratios in the *Riparian Restoration Plan* would be adequate to mitigate impacts to less-than-significant. In particular, two 7-inch oaks (*Quercus* sp.) and one 15-inch oak would be removed, and oaks are often slow growing resulting in significant temporal loss of habitat and canopy cover.

The MND does not evaluate or include mitigation for permanent impacts to Santa Rosa Creek resulting from placement of riprap. The MND indicates that rip rap would be placed up to and on top of the concrete encasement and on the banks. Native streambed material removed during excavation would be used to backfill on top of the rip rap to restore the bed and flowline, however the rip rap could become exposed over time.

Recommendation: To reduce impacts to riparian habitat to less than significant and comply with Fish and Game Code section 1602 et seq., CDFW recommends that MM BIO6 clearly require: 1) the City to submit an LSA notification to CDFW prior to project construction and comply with the LSA Agreement, if issued. The type of permits that will be obtained from the other referenced agencies should also be clarified; 2) the restoration plan to include the below minimum tree replacement to removal ratios; and 3) the restoration plan and any reduction from the below ratios to be approved by CDFW in writing.

Oak trees:

- 3:1 replacement for trees 5 to 8 inches diameter at breast height (DBH)
- 5:1 replacement for trees 8 inches to 16 inches DBH
- 15:1 replacement for trees greater than 16-inch DBH, which are considered old-growth oaks

Replacement oaks shall come from nursery stock grown from locally sourced acorns, preferably from the same watershed in which they are planted.

Other trees:

Andy Wilt
City of Santa Rosa
July 22, 2022
Page 4 of 6

- 1:1 replacement for non-native trees
- 3:1 replacement for trees up to 6-inch DBH
- 6:1 replacement for trees greater than 6-inch DBH

Planted trees shall be monitored for a minimum of five years to ensure survival. The trees must survive the last two years of the minimum five-year monitoring period without irrigation. Replanted trees shall have the same five-year monitoring requirements.

Additionally, the MND should quantify the permanent impacts to Santa Rosa Creek resulting from placement of rip rap, including acres and linear distance of impacts, and the restoration plan should include restoration on-site or off-site to mitigate permanent impacts at a 3:1 mitigation to impact ratio for acres and linear distance of impacts. Restoration should occur as close to the project site as possible and within the same watershed and same year of the impacts.

Mandatory Findings of Significance: Does the project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

Mitigation Measures

Comment 2: MND Page 57

Issue: MM BIO4 indicates that dewatering would be conducted within the National Marine Fisheries work window of August 1 to November 30 for salmonids such as steelhead (*Oncorhynchus mykiss*), a federally threatened species. However, prior to November 30 stream temperatures could decline and precipitation could increase, particularly if an early atmospheric river occurs as it did in 2020; therefore, salmonids could be migrating and occur within the project site.

Recommendation: To reduce impacts to salmonids such as steelhead to less-than-significant, CDFW recommends that MM BIO4 be revised to include a work window of August 1 to October 15, as October 15 is considered to be the end of the dry season. If conditions remain dry, the work period may be extended on a weekly basis if forecasted conditions remain dry.

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?

Andy Wilt
City of Santa Rosa
July 22, 2022
Page 5 of 6

Mitigation Measures

Comment 3: MND Page 57

Issue: MM BIO1 indicates that to mitigate impacts to western red bat (*Lasiurus blossevillii*), any felled trees should be left overnight prior to removal from the site or on-site chipping to allow any bats to exit the roost. However, the project is also within the range of pallid bat (*Antrozous pallidus*) and potentially other special-status bats and the above measure may not be adequate to mitigate impacts to less-than-significant. Both species are designated as California Species of Special Concern.

Recommendation: To reduce impacts to western red bat, pallid bat, and other special-status bats to less-than-significant, CDFW recommends that MM BIO1 be replaced with the measure below.

Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features. (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. Trees may be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable habitat, and removal using the two-step removal process detailed below occurs only 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 emergency surveys or complete 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. If a bat roosting or maternity colony cannot be avoided, the project shall prepare and implemented a bat mitigation and monitoring plan approved in writing by CDFW.

Environmental Setting

Comment 4: MND Pages 43 and 47

Issue: The MND indicates that no special-status plants would be impacted based on surveys conducted in 2020. However, it is unclear if the surveys were conducted according to CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-*

Andy Wilt
City of Santa Rosa
July 22, 2022
Page 6 of 6

Status Native Plant Populations and Natural Communities and are therefore adequate to detect special-status plants (see: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>).

Recommendation: To reduce impacts to special-status plants to less-than-significant, CDFW recommends including an MM requiring the project to submit the plant survey report to CDFW and obtain CDFW's written acceptance of the survey results. If necessary, additional plant surveys shall be conducted in accordance with the above CDFW protocol until CDFW is able to accept the survey results.

Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Mitigation Measures

Comment 5: MND Page 56

Issue: MM BIO2 indicates that nesting bird surveys will be conducted within 250 feet of the project site. However, nesting birds may be impacted beyond 250 feet, and it is unclear when the surveys would occur.

Recommendation: To reduce impacts to nesting birds to less-than-significant, CDFW recommends increasing the nesting bird survey area to a minimum 500-foot radius around the project site, particularly for raptors, and specify that the pre-construction survey must occur within seven days of construction and whenever a lapse of seven days or more in construction occurs during the avian nesting season.

Please be advised that the LSA Agreement, if issued, will likely include the above recommendations, as applicable.

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 the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found 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>.

Andy Wilt
City of Santa Rosa
July 22, 2022
Page 7 of 6

FILING FEES

The project, as proposed, would have an impact on fish and/or wildlife, and assessment of 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 fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs., tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

To ensure significant impacts are adequately mitigated to a level less-than-significant, CDFW recommends the feasible mitigation measures described above be incorporated as enforceable conditions into the final CEQA document for the project. CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov; or Craig Weightman, Environmental Program Manager, at (707) 339-1332 or Craig.Weightman@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

ec: State Clearinghouse (SCH No. 2022060720)

Justin Witt, Brelje & Race, witt@brce.com