



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

JAN 24 2023

STATE CLEARING HOUSE

January 24, 2023

Andy Wilt, Associate Civil Engineer
City of Santa Rosa, Transportation and Public Works Department
69 Stony Circle
Santa Rosa, CA 95401
awilt@srcity.org

Subject: Laguna Treatment Plant Flood Protection Project, Mitigated Negative Declaration, SCH No. 2022120534, City of Santa Rosa, 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 Laguna Treatment Plant Flood Protection Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of our concerns regarding 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.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Sana Rosa

Objective: The Project includes installation of a flood protection berm, flood gate, warning system and barrier arms, pier and lagging retaining wall, modifications to the existing stormwater system, and modifications to Llano Road at the Laguna Treatment Plant entrance.

Andy Wilt
City of Santa Rosa
January 24, 2023
Page 2

Location: The Project is located at, and within the vicinity of, the Laguna Treatment Plant at 4300 Llano Road in Santa Rosa, Sonoma County, at approximately 38.369029°N and -122.768220°W.

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 result in take of California tiger salamander (CTS, *Ambystoma californiense*), a listed as threatened species, and the City has applied for an ITP for impacts to CTS (ITP No. 2081-2021-088-03). **The Project also has the potential to result in take of Sonoma sunshine (*Blennosperma bakeri*), Sebastopol meadowfoam (*Limnathes vinculans*), and Burke’s goldfields (*Lasthenia burkei*), which are listed as endangered species, as further described below.** 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 Agreement

CDFW will require an LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq. 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. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The Project would impact riparian habitat; therefore, an LSA Notification is warranted as further described below.** CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Andy Wilt
City of Santa Rosa
January 24, 2023
Page 3

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below 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 with implementation of mitigation measures, including those CDFW recommends below and in Attachment 1, CDFW concludes that an MND is appropriate for the Project.

I. **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?**

Environmental Setting Shortcoming

COMMENT 1: Page 3-14

Issue: The MND indicates that surveys were conducted for special-status plants including Sonoma sunshine, Sebastopol meadowfoam, and Burke's goldfields with negative results and therefore impacts to these species are not anticipated. However, it is unclear if the surveys, and the survey reports provided to CDFW, followed protocol survey and reporting requirements as outlined in CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) and the Santa Rosa Plain Conservation Strategy Appendix D *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain*. Additionally, the Project has communicated to CDFW that additional plant surveys will be conducted in 2023.

Specific impacts and why they may occur and be significant: If the above CESA and federally listed plants occur within wetlands on or adjacent to the Project site where they could be directly or indirectly impacted, the plants may go undetected due to inadequate surveys and the Project may result in loss of the species through direct impacts or degradation of habitat adjacent to ground disturbance. These species are considered endangered under CEQA pursuant to CEQA Guidelines section 15380. Therefore, if the above CESA and federally listed plants are present on or adjacent to the Project site where they may be directly or indirectly impacted, the Project may substantially reduce the number or restrict the range of these species, which would be a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1).

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to Sonoma sunshine, Sebastopol meadowfoam, and Burke's goldfields,

Andy Wilt
City of Santa Rosa
January 24, 2023
Page 4

to less-than-significant, CDFW recommends including the following mitigation measure in the MND.

MM-BIO-1. The Project shall conduct a minimum of two years of botanical surveys in conformance with the CDFW's 2018 *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>) and the Santa Rosa Plain Conservation Strategy Appendix D *Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain*, including, but not limited to, conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts, and obtain CDFW's written acceptance of the survey reports. Surveys conducted during drought conditions may not be acceptable. If impacts to CESA listed plants may occur based on the survey results, the Project shall obtain a CESA ITP from CDFW and comply with the ITP, including providing habitat compensation at a minimum 3:1 mitigation to impact ratio unless otherwise approved in writing by CDFW. Alternatively, with CDFW's written approval the Project may assume presence of CESA listed plants, forgo surveys, and obtain and comply with an ITP including providing habitat compensation as described above.

Impacts to suitable habitat for the above federally listed plant species shall be mitigated according to the 2020 USFWS programmatic Biological Opinion for Projects on the Santa Rosa Plain, which requires a 1:5:1 ratio for mitigation within the same core area as the impact, and a 3:1 ratio if within a different core area.

II. 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?

Mitigation Measure Shortcoming

COMMENT 2: Page 1-8

Issue: The MND indicates that the Project would impact riparian habitat and may obtain an LSA Agreement from CDFW.

Recommended Mitigation Measure: To reduce impacts to stream and riparian habitat to less-than-significant, CDFW recommends including in a mitigation measure the requirement to submit an LSA Notification and comply with the LSA Agreement, if issued, for impacts to stream and riparian habitat, consistent with the mitigation measures requiring obtaining an ITP for CTS and permits from the U.S. Army Corp of Engineers and the North Coast Regional Water Quality Control Board.

Andy Wilt
City of Santa Rosa
January 24, 2023
Page 5

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 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. (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 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 Nick Wagner, Senior Environmental Scientist, at (707) 428-2075 or Nicholas.Wagner@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation Monitoring and Reporting Program

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022120534)

Andy Wilt
 City of Santa Rosa
 January 24, 2023
 Page 6

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 1	<p>The Project shall conduct a minimum of two years of botanical surveys in conformance with the CDFW's 2018 <i>Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities</i> (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants) and the Santa Rosa Plain Conservation Strategy Appendix D <i>Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Plants on the Santa Rosa Plain</i>, including, but not limited to, conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts, and obtain CDFW's written acceptance of the survey reports. Surveys conducted during drought conditions may not be acceptable. If impacts to CESA listed plants may occur based on the survey results, the Project shall obtain a CESA ITP from CDFW and comply with the ITP, including providing habitat compensation at a minimum 3:1 mitigation to impact ratio unless otherwise approved in writing by CDFW. Alternatively, with CDFW's written approval the Project may assume presence of CESA listed plants, forgo surveys, and obtain and comply with an ITP including providing habitat compensation as described above.</p> <p>Impacts to suitable habitat for the above federally listed plant species shall be mitigated according to the 2020 USFWS programmatic Biological Opinion for Projects on the Santa Rosa Plain, which requires a 1:5:1 ratio for mitigation within the same core area as the impact, and a 3:1 ratio if within a different core area.</p>	Prior to Ground Disturbance	Project Applicant
MM 2	<p>The Project shall submit the LSA Notification to CDFW and comply with the LSA Agreement, if issued, for impacts to stream and riparian habitat.</p>	Prior to Ground Disturbance and continuing over the course of the Project	Project Applicant