



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



February 4, 2025

Philip Benedetti, Senior Engineer
Ross Valley Sanitary District
1111 Andersen Drive
San Rafael, CA 94901
PBenedetti@rvsd.org

Subject: Fiscal Year 2024/2025 Gravity Sewer Improvements Project,
Initial Study/Mitigated Negative Declaration, SCH No. 2025010340,
Marin County

Dear Mr. Benedetti:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to adopt an Initial Study/Mitigated Negative Declaration (IS/MND) from the Ross Valley Sanitary District (District) for the Fiscal Year 2024/2025 Gravity Sewer Improvements Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the IS/MND to inform the District, 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) or Native Plant Protection Act (NPPA), 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: Ross Valley Sanitary District

Objective: The Project consists of construction, rehabilitation, and replacement within existing alignments of sanitary sewer pipelines, manholes, and related appurtenances within the Towns of Fairfax and San Anselmo, and Kentfield, a census-designated place, all of which are within the County of Marin. All work will occur within existing

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

alignments, which fall within existing roadways. The primary objective of this Project is to relieve structural deficiencies by replacing aging infrastructure.

Location: The Project has four site locations within Marin County with an approximate GPS centroid listed below:

- Site 1: San Anselmo, 37.989358, -122.580135
- Site 2: Fairfax, 37.985342, -122.589907
- Site 3: Kentfield A, 37.957267, -122.534792
- Site 4: Kentfield B, 37.950910, -122.543416

REGULATORY REQUIREMENTS

California Fully Protected Species

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish and Game Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an Incidental Take Permit for unavoidable impacts to fully protected species if certain conditions are met (Fish and Game Code § 2081.15). Project proponents should consult with CDFW early in the project planning process. **The Project has the potential to impact California Ridgway's rail (*Rallus obsoletus obsoletus*, CRR) and California black rail (*Laterallus jamaicensis coturniculus*, CBR), which are both California fully protected species and CESA listed as endangered and threatened species, respectively, as further described below.**

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 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 LSA Notification requirements. **As described in the IS/MND (page 26), it is unclear if the Project will be using trenchless pipe installation methods such as horizontal directional drilling underneath any streams, which could warrant an LSA Notification, as further described below.** 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.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the District 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 Draft Mitigation and Monitoring Reporting Plan**, CDFW concludes that an MND is appropriate for the Project.

I. Mitigation Measure and Related Impact Shortcomings

MANDATORY FINDINGS OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

AND

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 U.S. Fish and Wildlife Service?

COMMENT 1: California Ridgway's rail (IS/MND pages 15, 24) and California black rail

Issue: The IS/MND page 24 states that "California Ridgway's rail...are known to occur within Corte Madera Creek and the adjacent marshlands proximal to the Project site in Kentfield" (Site 4) and states "...work...would occur outside the nesting season such that species associated with the adjacent marshlands would not be impacted by the proposed Project." Additionally, CBR may nest in the same area and there is a nearby record of the species in the California Natural Diversity Database (CNDDDB). However, Mitigation Measure BIO-1 (IS/MND pages 3 and 25) does not require that Project activities at the Kentfield site (Site 4) avoid CRR or CBR nesting season and therefore does not adequately mitigate potential impacts to CRR or CBR to less-than-significant.

Recommended Mitigation Measures: To reduce potential impacts to CRR and CBR less-than-significant and comply with Fish and Game Code section 3511 (fully protected avian species) and CESA, CDFW recommends including the following mitigation measure in the MND.

Mitigation Measure BIO-2 (California Ridgeway's Rail and California Black Rail Surveys and Avoidance): Work at the Kentfield site within 700 feet of marshlands along McAllister Avenue shall be avoided during the breeding season (January 15 to August 31), each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted in writing by CDFW, or the Project implements noise and visual avoidance measures below. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that CRR or CBR are not nesting in these locations.

If breeding CRR or CBR are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where CRR or CBR have been detected during the breeding season.

If work must be done during the breeding season within 700 feet of CRR or CBR nesting habitat, and annual surveys have not documented CRR and CBR absence, noise levels shall not exceed 10 decibels A (dBA) over existing ambient noise levels and a noise attenuating fence and/or visual barrier shall be installed to reduce visual and/or acoustic impacts. In this case, the Project shall prepare a noise and visual avoidance plan and obtain CDFW's written approval of the plan, and implement the CDFW approved plan, prior to conducting Project activities.

II. Stream Impacts

COMMENT 2: Lake and Streambed Agreement Notification

Issue: It is unclear if the Project would use trenchless pipe installation methods such as horizontal directional drilling underneath any streams, which could result in a hydraulic fracture releasing drilling fluid into a stream.

Recommended Mitigation Measures: To comply with Fish and Game Codes section 1600 et seq., CDFW recommends including the below mitigation measure.

Mitigation Measure BIO-3 (LSA Notification): If the Project uses trenchless pipe installation methods such as horizontal directional drilling underneath any streams, the Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. and shall comply with the LSA Agreement, if issued (for more information see: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA> and <https://epims.wildlife.ca.gov/index.do>).

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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 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 IS/MND to assist the District in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist, at Jordan.Beaton@wildlife.ca.gov or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

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. 2025010340)

ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
BIO-2	<p><i>California Ridgeway's Rail and California Black Rail Surveys and Avoidance:</i> Work at the Kentfield site within 700 feet of marshlands along McAllister Avenue shall be avoided during the breeding season (January 15 to August 31) each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted in writing by CDFW, or the Project implements noise and visual avoidance measures below. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that CRR or CBR are not nesting in these locations.</p> <p>If breeding CRR or CBR are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where CRR or CBR have been detected during the breeding season.</p> <p>If work must be done during the breeding season within 700 feet of CRR or CBR nesting habitat, and annual surveys have not documented CRR and CBR absence, noise levels shall not exceed 10 dBA over existing ambient noise levels and a noise attenuating fence and/or visual barrier shall be installed to reduce visual and/or acoustic impacts. In this case, the Project shall prepare a noise and visual avoidance plan and obtain CDFW's written approval of the plan, and implement the CDFW-approved plan, prior to conducting Project activities.</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>
BIO-3	<p><i>LSA Notification:</i> If the Project uses trenchless pipe installation methods such as horizontal directional drilling underneath any streams, the Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. and shall comply with the LSA Agreement, if issued (for more information see: https://wildlife.ca.gov/Conservation/Environmental-Review/LSA and https://epims.wildlife.ca.gov/index.do).</p>	<p>Prior to Ground Disturbance and for Duration of Construction</p>	<p>Project Applicant</p>