



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



Governor's Office of Planning & Research

June 22, 2021

**June 23 2021**

## STATE CLEARINGHOUSE

Mr. Andy Wilt  
City of Santa Rosa  
Transportation and Public Works Department  
69 Stony Circle  
Santa Rosa, CA 95401  
[AWilt@srcity.org](mailto:AWilt@srcity.org)

Subject: Geysers-Delta Pond Connection/Diffuser Improvements Project,  
Mitigated Negative Declaration, SCH No. 2021050577, 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 Geysers-Delta Pond Connection/Diffuser Improvements Project (project) pursuant 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 resources associated with the proposed 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 (CESA), 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. **Based on information provided in the MND, additional evaluation is necessary to determine if the project may result in take of the following listed as endangered species: Coho salmon**

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**(*Oncorhynchus kisutch*), Sebastopol meadowfoam (*Limnanthes vinculans*), and Sonoma sunshine (*Blennosperma bakeri*), as further described below.** Issuance of a CESA 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 a CESA 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, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings and a Statement of Overriding Consideration (SOC). The CEQA Lead Agency's SOC does not eliminate the project proponent's obligation to comply with CESA.

### **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. **According to the MND, the project would result in impacts to Santa Rosa Creek, requiring an LSA Notification. It is unclear if the project would result in impacts to the Delta Pond or an unnamed drainage immediately south of Delta Pond, as described in additional detail below; such impacts would also require an LSA Notification.** CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

### **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Santa Rosa

**Objective:** Upsize the connection between the existing Geysers pipeline and the Delta Pond to meet the City's desired recycled water conveyance capacity of 50 million gallons per day. Additionally, sediment that has built up over the effluent diffuser within Santa Rosa Creek will be removed by hydraulic dredging sediment around the diffuser's nozzles. An existing gravel access road from Willowside Road to the Delta Pond would also be improved.

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**Location:** The project is located at the Delta Pond and Santa Rosa Creek, in the Santa Rosa, approximately 0.60 miles west of Willowside Road where it intersects with Santa Rosa Creek Trail. It is on Assessor's Parcel Numbers 130-040-008, 130-210-028, 130-040-014 and centered at approximately 38.445796°N, -122.817932°W.

**Timeframe:** The project is anticipated to take approximately four months to complete.

## **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.

***Mandatory Findings of Significance: Does the project have the potential to substantially reduce the number or restrict the range of a rare or endangered plant or animal?***

### **Mitigation Measures**

#### **Comment 1: MND Page 3-25**

The MND Mitigation Measure (MM) BIO-5 indicates that the project would be conducted during seasonal windows when salmonids are not expected to be present, including Coho salmon, a CESA and federally listed as endangered species, and other federally listed fish species.

However, CDFW must complete a review of the project details to determine if the project could result in impacts to Coho salmon, and it appears that impacts to other federally listed fish species could occur. Therefore, to reduce project impacts to less-than-significant, CDFW recommends that the MND MM BIO-5 require that the project consult with CDFW and National Marine Fisheries Service regarding the need for a CESA ITP or federal authorization and obtain such authorizations if warranted prior to project construction.

#### **Comment 2: MND Pages 3-19 and 3-24**

The MND indicates Sonoma sunshine and Sebastopol meadowfoam, CESA listed and federally listed as endangered plant species, may occur on the project site. MM BIO-5 indicates that a rare plant survey will be conducted prior to project construction.

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However, it is unclear if habitat suitable for these species occurs on or adjacent to the project site. Additionally, Appendix D of the Santa Rosa Plain Conservation Strategy requires two years of botanical surveys to document absence of listed plants (see: <https://www.fws.gov/sacramento/es/Recovery-Planning/Santa-Rosa/santa-rosa-strategy.php>). Therefore, to reduce project impacts to less-than-significant, CDFW recommends that the MND include a habitat suitability assessment for Sonoma sunshine and Sebastopol meadowfoam to determine if they may occur on or adjacent to the project site. If suitable habitat is present, the MND should require:

- 1) Authorization from the U.S Fish and Wildlife Service (USFWS) for impacts to suitable habitat even if it is not occupied by the species.
- 2) Two years of botanical surveys following *CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities* (see: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>).
- 3) CDFW's written acceptance of each year of survey results.
- 4) The project to obtain a CESA ITP from CDFW for CESA listed plants if surveys are not conducted or if listed plants may be impacted by the project as determined by CDFW's review of the survey results.

***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 the California Department of Fish and Wildlife or USFWS?***

**Comment 3:** MND Pages 3-22, 3-24, and 3-25

### **Mitigation Measures**

The MND indicates the project would impact Santa Rosa Creek, and it appears that it could impact Delta Pond and the unnamed drainage immediately south of Delta Pond as mapped on the California Aquatic Resources Inventory. MMs BIO-3 and BIO-6 indicate that Best Management Practices would be implemented, and tree removal would comply with a City ordinance requiring a permit for tree removal.

However, for impacts to Santa Rosa Creek or associated riparian habitat, the project would also require an LSA Notification to CDFW and it is unclear if impacted habitat would constitute a sensitive natural community (see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>). Therefore, to reduce project impacts to less-than-significant CDFW recommends that the MND require:

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- 1) Identifying any sensitive natural communities that would be impacted.
- 2) The project to submit an LSA Notification to CDFW prior to project construction for impacts to Santa Rosa Creek, and if applicable, the Delta Pond and the unnamed drainage, and comply with the LSA Agreement if issued by CDFW.
- 3) Impacts to riparian habitat as a result of the project shall be compensated for at the below mitigation to impact ratios.
  - 1:1 replacement based on area and linear feet for temporary impacts
  - 3:1 replacement based on area and linear feet for permanent impacts

Habitat replacement shall occur on-site or as close to the site as possible within the same stream or watershed, and may consist of restoration or enhancement of riparian habitat. If mitigation is not possible within the same stream or watershed, mitigation ratios may increase at the discretion of CDFW.

- 4) Trees removed or impacted as a result of the project shall be replaced pursuant to the below mitigation to impact ratios.

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:

- 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.

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***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?***

### **Environmental Setting**

#### **Comment 4: MND Page 3-23**

The project would result in removal of trees that could provide habitat for pallid bat (*Antrozous pallidus*), a California Species of Special Concern, and other bat species.

For an adequate environmental setting, and to reduce impacts to bats to less-than-significant, CDFW recommends that the MND require that 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, or exfoliating bark for colonial species, and 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 bat 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 bat biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence 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 direct supervision and instruction by a qualified bat 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.

***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?***

#### **Comment 5: MND Page 3-24**

CDFW recommends that MM BIO-2 for nesting bird protection be revised to require a nesting bird survey no more than 7 days prior to project construction, and an additional survey for any lapses of 7 days or more in construction activities.

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Please be advised that the LSA Agreement, if issued by CDFW, will likely require 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 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>.

## FILING FEES

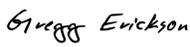
The project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs., tit. 14, § 753.5; Fish and Game 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 [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov); or Craig Weightman, Environmental Program Manager, at [Craig.Weightman@wildlife.ca.gov](mailto:Craig.Weightman@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
BE74D4C93C604EA...  
Gregg Erickson  
Regional Manager  
Bay Delta Region

ec: State Clearinghouse (SCH No. 2021050577)  
Vincent Griego, U.S. Fish and Wildlife Service, [Vincent.Griego@fws.gov](mailto:Vincent.Griego@fws.gov)