



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



August 8, 2022

Andrew Allen
City of Santa Rosa
69 Stony Circle
Santa Rosa, CA 95401
aallen@srcity.org

Dear Mr. Allen:

Final Lake or Streambed Alteration Agreement, EPIMS Notification No. EPIMS-SON-16676-R3, Geysers-Delta Pond Connection/Diffuser Improvements Project

Attached is the final Streambed Alteration Agreement (Agreement) for the Geysers-Delta Pond Connection/Diffuser Improvements Project (Project). Before the California Department of Fish and Wildlife (CDFW) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, CDFW acting as a responsible agency filed a Notice of Determination (NOD) within five working days of signing the Agreement. The NOD was based on information contained in the Mitigated Negative Declaration prepared by the lead agency.

Under CEQA, the filing of an NOD triggers a 30-day statute of limitations period during which an interested party may challenge the filing agency's approval of the Project. You may begin the Project before the statute of limitations expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this letter, please contact James Hansen, Environmental Scientist, at (707) 576-2869 or by email at James.Hansen@Wildlife.ca.gov.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534



STREAMBED ALTERATION AGREEMENT
EPIMS-SON-16676-R3
SANTA ROSA CREEK

CITY OF SANTA ROSA
GEYSERS-DELTA POND CONNECTION/DIFFUSER IMPROVEMENTS PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and City of Santa Rosa (Permittee) as represented by Andrew Allen.

RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on December 28, 2021, that Permittee intends to complete the project described herein.

WHEREAS, pursuant to Fish and Game Code section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project is located at Santa Rosa Creek, in the City of Santa Rosa, County of Sonoma, State of California; Latitude 38.450257°, Longitude -122.833556°; Assessor's Parcel Number 130-040-014 (Exhibit A).

PROJECT DESCRIPTION

The project is limited to the removal of approximately 300 cubic yards of accumulated sediment surrounding the Diffuser by a combination of mechanical and hydraulic dredging techniques and removing vegetation to create a permanent unpaved access route to the Diffuser. Throughout the dredging efforts, two "U" shaped turbidity curtains will be installed around the dredging area to minimize sediment migration. It is

anticipated that the dredging area consists of approximately 70% gravel and 30% sand. Mechanical dredging, for removing large quantities of sediment, will be conducted with a long-reach excavator operating from the stream banks. Hydraulic dredging will be conducted within the direct vicinity and adjacent to the Diffuser by deployed divers performing vacuum pumping operations of sediment material. Mechanically dredged material will be loaded into haul trucks, which will drive to the upland Soil Handling Area where the material will be decanted and then off hauled to an approved disposal site. Hydraulically dredged material will be pumped into Geotubes located in the upland Soil Handling Area. Water will be allowed to permeate through the Geotubes; once the material is dry, it will be off-hauled to an approved disposal site. Nuisance water from the upland Soil Handling Area will be spray irrigated in upland areas. After all material is off hauled, all disturbed upland areas will be hydroseeded with native seed mixes.

The project will result in permanent impacts to approximately 2,600 square feet of riparian habitat due to access and staging. No trees over 6 inches in diameter at breast height (DBH) will be removed as part of this project.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include:

- Coho salmon – central California coast ESU (*Oncorhynchus kisutch* pop. 4), State Endangered, Federal Endangered
- Central California coast steelhead trout (*Oncorhynchus mykiss irideus* pop. 8), Federal Threatened
- California coastal chinook salmon (*Oncorhynchus tshawytscha* pop. 17), Federal Threatened
- California red-legged frog (*Rana draytonii*), Federal Threatened and California Species of Special Concern (SSC)
- Western pond turtle (*Emys marmorata*), SSC
- Red-bellied newt (*Taricha rivularis*), SSC
- California giant salamander (*Dicamptodon ensatus*), SSC
- American badger (*taxidea taxus*), SSC
- Western red bat (*Lasiurus blosseveillii*), SSC
- Pallid bat (*Antrozous pallidus*), SSC
- Tricolored blackbird (*Agelaius tricolor*), State Threatened
- Burrowing owl (*Athene cunicularia*), SSC
- common aquatic organisms
- nesting birds
- aquatic habitat
- riparian habitat
- riparian vegetation
- water quality

The adverse effects the project could have on the fish or wildlife resources identified above include:

- disruption to species listed above
- disruption to other aquatic organisms
- disruption to nesting birds and other wildlife
- disruption of aquatic and riparian habitat
- loss of riparian and/or emergent marsh habitat
- colonization by exotic plant species
- temporary loss of aquatic and terrestrial wildlife species
- temporary impediment to migration of aquatic and terrestrial species
- alter the existing drainage pattern of the site in a manner which would result in on- or off-site erosion
- change in flow depth, width, or velocity
- change in composition of channel materials
- change in contour of bed, channel or bank
- change in gradient of bed, channel or bank
- change in channel cross-section
- loss of bank stability during construction
- soil compaction or other disturbance to soil layer
- increased bank erosion during construction
- increased turbidity
- restriction or increase in sediment transport
- disturbance from project activity
- short term release of contaminants

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a

provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.

- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Notify CDFW Prior to Work. The Permittee shall notify CDFW by email at least five working days prior to commencement of covered activities. See contact information below.
- 1.6 No Trespass. To the extent that any provisions of this Agreement provide for activities that require the Permittee to traverse another owner's property, such provisions are agreed to with the understanding that the Permittee possesses the legal right to so traverse. In the absence of such right, any such provision is void.
- 1.7 Unauthorized Take. The Permittee is required to comply with all applicable State and Federal laws, including the California Endangered Species Act (CESA) and Federal Endangered Species Act. This Agreement does not authorize the take of any State or Federal endangered or threatened species. Liability for any take or incidental take of such listed species remains the responsibility of the Permittee for the duration of the project. Any unauthorized take of such listed species may result in prosecution and nullification of the Agreement.
- 1.8 Fish Passage. The project shall be in compliance with Fish and Game Code section 5901 and shall not install or maintain any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream.
- 1.9 Designated Representative. Before initiating ground-disturbing project activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this Agreement. The Permittee shall notify CDFW in writing 5 days prior to commencement of project activities of the Designated Representative's name, business address, and contact information. Permittee shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this Agreement.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Work Period. All work shall begin on or after June 15 and all work shall be completed by October 15. Revegetation work is not limited to this work window but must be completed within the same season as project activities. If more time is needed to complete Project activities, the work period may be modified in writing on a week-by-week basis by a CDFW representative. Requests for a work period

extension shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; 4) provide photographs of both the current work completed and the proposed site for continued work; and 5) include an assessment of additional biological impacts as a result of the work extension.

- 2.2 Conduct Work During Daylight Hours. Work is restricted to daylight hours (one hour after sunrise to sunset).
- 2.3 Work According to Documents. Except as they are contradicted by measures required by this Agreement, all work shall be conducted in conformance with the project description above and the avoidance, minimization, and mitigation measures provided in the notification package.
- 2.4 Work according to plans. All work shall be completed according to the plans, and all associated appendices and attachments, submitted to CDFW including the *Delta Pond Diffuser Maintenance*, prepared by City of Santa Rosa, dated May 22, 2022 (Exhibit A). If the Permittee finds it necessary to update project plans prior to construction, the updated plans will be submitted to CDFW at least 30 days prior to beginning project activities to determine if an Amendment to this Agreement is required. Project activities shall not proceed until CDFW has accepted the updated plans in writing. At the discretion of CDFW, minor plan modifications may require an amendment to this Agreement. At the discretion of the CDFW, if substantial changes are made to the original plans this Agreement becomes void and the Permittee shall submit a new notification.
- 2.5 Turbidity Minimization. Permittee shall minimize the effects of turbidity. Permittee shall employ a silt curtain during Project activities or propose an alternative operational control subject to CDFW written approval.

A silt curtain shall be used as an impermeable barrier typically constructed of a flexible reinforced thermoplastic material. It shall be used to contain the suspended sediment plume generated during removal of debris from the creek bed so that the sediments will settle out of suspension within a controlled area. The upper hem shall have a floatation material and the lower hem shall have ballast material. The barrier shall be maintained as needed to prevent sagging, breaking, or overtopping.

- 2.6 Silt Curtain Timing. Silt curtains shall not be installed prior to July 15 or after September 15 and shall be removed prior to October 15 of the same year, unless otherwise approved in writing by CDFW. If CDFW determines that any project activities could result in take of coho salmon, project activities shall halt and not proceed until approved in writing by CDFW, which may include obtaining of a CESA Incidental Take Permit.

- 2.7 Best Management Practices. All Best Management Practices (BMPs) and other conditions as submitted in the Notification shall be implemented as part of this project, unless otherwise conditioned herein.
- 2.8 No Equipment in Stream. No equipment shall be operated within the live stream prior to installation of silt curtains or after removal of silt curtains.
- 2.9 No Work in Stream. No work shall occur in the portion of the stream bed where surface water is present or anticipated during the term of this Agreement prior to installation of silt curtains or after removal of silt curtains.

Weather Restrictions

- 2.10 Work Period in Dry Weather Only. Project work shall be restricted to dry weather as allowed during the work period specified in Measure 2.1. Construction shall be timed with awareness of precipitation forecasts and potential increases in stream flow. Construction activities shall cease when the National Weather Service (NWS) 72-hour weather forecast indicates a 30 percent chance or higher of precipitation. All necessary erosion control measures shall be implemented prior to the onset of precipitation. Construction equipment and materials shall be removed if inundation is likely. Construction activities halted due to precipitation may resume when precipitation ceases and the NWS 72-hour weather forecast indicates less than a 30 percent chance of precipitation. No work shall occur during a dry-out period of 24 hours after the above referenced wet weather. Weather forecasts shall be documented upon request by CDFW.

Wildlife Protection and Prevention

- 2.11 CDFW Approved Qualified Biologist On-site. A Qualified Biologist shall be on site daily to monitor compliance with all conditions of this Agreement unless otherwise approved in writing by CDFW. The Qualified Biologist shall have the authority to halt project activities, through communication with the Project Manager or their on-site designee, in order to comply with the terms of this Agreement and otherwise avoid impacts to species and or habitats. If the on-site Qualified Biologist has requested a work stop due to failure to implement any of the conditions CDFW shall be contacted within 24 hours.
- 2.12 Biologist Approval. No later than 30 days prior to project activities covered by this Agreement, the Permittee shall submit to CDFW, for review and approval, the qualifications for the biologist(s) that shall oversee the implementation of the conditions in this Agreement and conduct surveys or monitoring work using the Biologist Resume Form, found in the Correspondence section of EPIMS, or another format containing the same information. Project activities covered by this Agreement may not commence unless CDFW has approved the proposed biologist(s) in writing. At minimum the CDFW approved biologist(s) shall have a minimum of five years of academic training and professional experience in

biological sciences and related resource management activities with a minimum of two years conducting surveys for each species that may be present within the project area.

- 2.13 Training Session for Personnel. Permittee shall ensure that a CDFW-approved Qualified Biologist conducts an education program for all persons employed on the project prior to performing covered activities. Instruction shall consist of a presentation by the designated qualified biologist that includes a discussion of the biology and general behavior of any sensitive species that may be in the area, how they may be encountered within the work area, and procedures to follow when they are encountered. The status of CESA and Federal Endangered Species Act listed species including legal protection, penalties for violations and project-specific protective management measures provided in this Agreement shall be discussed. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to on-site project activity. Copies of the Agreement for this project shall be maintained at the worksite with the project supervisor. Permittee or designated biologist shall prepare and distribute wallet-sized cards or a factsheet handout containing this information for workers to carry on-site. Upon completion of the program, employees shall sign an affidavit stating they attended the program and understand all protection measures. These forms shall be filed at the Permittee's office and be available to CDFW upon request.
- 2.14 California Red-legged Frog Habitat Assessment and Surveys. At least two weeks prior to the commencement of ground-disturbing activities, the Project activity area and nearby vicinity, including a minimum 500-foot radius surrounding the Project activity area, shall be assessed by a Qualified Biologist for the presence of California red-legged frog individuals and habitat features. Habitat features include both aquatic habitat such as plunge pools and ponds and terrestrial habitat such as burrows or other refugia. If habitat occurs, then no more than 48 hours prior to ground-disturbing activities the area shall be surveyed by a Qualified Biologist. The results of the habitat feature assessment and survey shall be submitted to CDFW via email (see Contact Information) for written acceptance prior to starting Project activities. Burrows and refugia sites shall be flagged or otherwise marked for avoidance. Project activities shall avoid habitat features to the extent feasible. If California red-legged frogs are encountered during the assessment or Project activities, the Project activity shall not proceed or all work shall cease, and CDFW shall immediately be notified. Work shall not proceed until the frog, through its own volition, moves out of harm's way and CDFW has provided permission in writing to proceed with the Project activity. If California red-legged frog is encountered or the Qualified Biologist determines that impacts to the species are likely to occur, Permittee shall consult with United States Fish and Wildlife Service (USFWS) pursuant to the Federal Endangered Species Act and receive written approval from CDFW prior to the impact. In this case, CDFW may require additional protection measures which shall be implemented by the Permittee.

- 2.15 Western Pond Turtle Surveys. A Qualified Biologist shall conduct a pre-construction survey for the western pond turtle and their nests within 48 hours of the commencement of project activities. If western pond turtle or their nests are detected at any time CDFW shall be notified immediately, and the Qualified Biologist shall relocate the turtle to appropriate habitat within the stream it was found. The Permittee shall prepare and implement a Western Pond Turtle Habitat Improvement Plan, if western pond turtle or their nests are found, if required and approved by CDFW.
- 2.16 American Badger Surveys. A Qualified Biologist shall conduct a pre-construction survey for the American badger and suitable dens within 48 hours of the commencement of project activities. The survey area shall include the project area and a 50-foot buffer zone within suitable habitat. If badgers are found on or adjacent to the project site a 50-foot construction avoidance buffer shall be established and CDFW shall be immediately notified. If the occupied den must be disturbed, Permittee shall submit a relocation plan to CDFW and receive written approval.
- 2.17 Bat Protection. Prior to any tree or vegetation removal, a Qualified Biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 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. CDFW reserves the right to provide additional provisions to this Agreement in the event that roosting bats are found and an Amendment to this Agreement may be required.
- 2.18 Tricolored Blackbird. If nesting tricolored blackbird or evidence of their presence is found, CDFW shall be notified immediately and work shall not occur without written approval from CDFW allowing the Project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by

CDFW. Presence of nesting tricolored blackbird may require a CESA Incidental Take Permit before Project activities may commence.

- 2.19 Burrowing Owl Surveys. To protect burrowing owl in their winter habitat, if project activities shall occur between September 1 and January 31, a Qualified Biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, pursuant to the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012) survey methodology prior to the commencement of project activities. Permittee shall obtain written approval of the habitat assessment and any survey reports from CDFW prior to the start of construction. If burrowing owl is detected, a Qualified Biologist shall establish suitable buffers to ensure the owl is not disturbed by the project pursuant to the buffer distances outlined in the Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012) or obtain CDFW written approval for any reduction of the no disturbance buffer. To prevent encroachment, the established buffers shall be clearly marked by high visibility material. The established buffers shall remain in effect until the burrow is no longer occupied as confirmed by the Qualified Biologist. If wintering burrowing owl exclusion is necessary, Permittee shall submit an exclusion plan to CDFW and receive approval in writing. The exclusion plan shall include permanent protection of occupied wintering burrowing owl habitat, including sufficient foraging habitat, through a conservation easement and funding for habitat management in perpetuity, unless otherwise approved in writing by CDFW. Permanent habitat protection and habitat management funding shall be completed prior to the Project activity, unless otherwise approved in writing by CDFW. CDFW reserves the right to require additional avoidance and minimization measures if burrowing owl is found, which shall be implemented by the Permittee.
- 2.20 Nesting Bird Surveys. If construction, grading, vegetation removal, or other project-related improvements are scheduled during the nesting season of protected raptors and migratory birds February 1 to August 31, a focused survey for active nests of such birds shall be conducted by a Qualified Biologist within 7 days prior to the beginning of project-related activities. The survey area shall be within a minimum of 500 feet from the project site. The results of the survey shall be sent to James Hansen, Environmental Scientist by email (James.Hansen@Wildlife.ca.gov) prior to the start of project activities, and uploaded to EPIMS. Refer to Notification Number EPIMS-SON-16676-R3 when submitting the survey to CDFW. If an active nest is found, Permittee shall consult with CDFW and appropriate action to comply with Fish and Game Code and the Migratory Bird Treaty Act of 1918. If a lapse in project-related work of 7 days or longer occurs, another focused survey and if required, consultation with CDFW and USFWS, shall be required before project work is reinitiated.
- 2.21 Breeding Bird Nest Take Prohibition. Permittee shall avoid active nests occurring near the project site. Permittee is responsible to comply with Fish and Game Code section 3503 et seq. and the Migratory Bird Treaty Act of 1918.

2.22 Active Nest Buffers. Active bird nest sites shall be designated as “Ecologically Sensitive Areas” (ESA) and protected (while occupied) during project work by demarking a “No Work Zone” buffer around each nest site.

- Buffer distances for bird nests shall be site specific and an appropriate distance, as determined by a Qualified Biologist. The buffer distances shall be specified to protect the bird’s normal behavior thereby preventing nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The Qualified Biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.
- The Qualified Biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the Qualified Biologist, unless otherwise approved in writing by CDFW.

2.23 Nesting Habitat Removal or Modification. No habitat removal or modification shall occur within the ESA-fenced nest zone until the young have fully fledged and will no longer be adversely affected by the project. Any trees or shrubs that are removed shall be “downed” in such a manner as to minimize disturbance to stable soil conditions.

2.24 Trenching. At the end of each workday all trenches and holes greater than one foot deep shall be covered to prevent wildlife from entering. When trenches cannot be fully covered, an escape ramp shall be placed at each end of any constructed open trench to allow any wildlife that may have become entrapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees.

2.25 Pipes, Hoses, and Similar Structures. All pipes, hoses, or similar structures less than 12 inches in diameter shall be closed or covered to prevent animal entry. All construction pipes or similar structures greater than 2 inches in diameter stored at the project site overnight shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

2.26 Special Status Species Encountered During Work. If Permittee encounters special status species during project activities, work shall be suspended, CDFW notified,

and avoidance and minimization measures shall be developed in agreement with CDFW prior to re-initiating the activity.

2.27 Daily Inspections. At the beginning of each workday, a Biological Monitor shall inspect the project area unless otherwise approved in writing by CDFW. If special status species are encountered during project activities, all work shall cease and CDFW shall immediately be notified. Work shall not proceed without written approval from CDFW.

Vegetation Protection, Prevention, and Restoration

2.28 Restoration and Enhancement Plan. At least 30 days prior to the commencement of project activities, the Permittee shall submit to CDFW for review and written approval a Restoration and Enhancement Plan. The Plan shall detail the restoration onsite or offsite within the same stream or watershed of at least 7,800 square feet of riparian habitat to offset permanent impacts. The Plan shall also include monitoring and success criteria. The CDFW-approved Plan shall be implemented within the same season as project activities unless otherwise approved in writing by CDFW. More than one plan may be necessary for restoration activities in different locations. An amendment to this Agreement or a separate Agreement may be required by CDFW if another location is approved.

The Permittee shall replace all removed trees at the below minimum replacement ratios.

Oak trees (*Quercus* sp.):

- 3:1 replacement for trees 5 to 8 inches 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

2.29 Habitat Protection. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project. Vegetation outside the construction corridor shall not be removed or damaged without prior consultation and approval of a CDFW representative.

- 2.30 Vegetation Marked for Protection. Prior to project activities, the Permittee shall clearly mark all vegetation within the project area that shall be avoided during project activities.
- 2.31 Riparian Tree Protection. Construction materials, equipment storage, and parking areas shall be located outside the drip line of any preserved tree. Construction equipment shall not cause root compaction. For each existing tree with a greater than four-inch diameter (at breast height) within or adjacent to the work area that will be retained following the project, a critical root zone shall be established by the Qualified Biologist. The critical root zone shall extend from the trunk to the drip-line (i.e., the outer extent of the tree canopy) of each tree within the project area and shall be flagged or fenced off from work. Protection and avoidance of the critical root zone shall be emphasized during the on-site education program to avoid impacts. If work will be conducted within the root protection zone of a tree that tree shall be considered an “impacted tree”, and the Permittee or Qualified Biologist shall monitor the tree for signs of mortality as a result of project. If the tree becomes injured or shows signs of mortality, additional revegetation actions shall be required.
- 2.32 Tree Removal. No trees larger than 6 inches in diameter shall be removed as part of this project. If the removal of trees larger than 6 inches in diameter is required, the Permittee must receive approval from CDFW in writing before construction activities begin.
- 2.33 Vegetation Success. To ensure a successful revegetation effort as required by Measure 2.28, all plants shall be monitored and maintained as necessary for five years. Planted oak trees, other native trees, and other native vegetation shall each have a minimum of 85% survival at the end of five years, unless otherwise approved in writing by CDFW.
- 2.34 Irrigation. When supplemental watering is used to establish and maintain plant growth to meet success criteria, irrigation shall be done in the most water efficient manner possible, such as using hand watering, drip/microirrigation or through the use of a time release system.
- 2.35 Revegetation Remediation. If revegetation survival and/or cover requirements do not meet established goals, Permittee is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.
- 2.36 Native Plant Materials Required. Revegetation shall include only local plant materials native to the project area, unless otherwise approved by CDFW in writing.

- 2.37 Prohibited Plant Species. Permittee shall not plant, seed or otherwise introduce invasive exotic plant species. Prohibited exotic plant species include those identified in the California Exotic Pest Plant Council's database, which is accessible at: www.cal-ipc.org/paf/.
- 2.38 Phytophthora. Permittee shall implement measures to avoid using plant stock that may be infected with the plant pathogen Phytophthora sp. Measures to avoid contamination with Phytophthora sp. may include, but are not limited to, avoiding collection of propagules from 1) known or likely infected areas; 2) during wet conditions; 3) when soil is muddy; or 4) from within 0.5 meters of the soil surface. Measures may also include implementing heat or chemical treatments to collected seeds prior to installation.
- 2.39 Treat Exposed Areas. All exposed/disturbed areas and access points within the riparian zone left barren of vegetation as a result of the construction activities shall be restored by seeding with a blend of native erosion control grass seed. Seeded areas shall be mulched. Landscape fabric shall not be used. Revegetation shall be completed as soon as possible after construction activities in those areas cease. Seeding placed after October 15 must be covered with broadcast straw, jute netting, coconut fiber blanket or similar erosion control blanket.
- 2.40 Control Invasive Species. Permittee is responsible for monitoring and if needed, eradication of invasive exotic species that may occur within the project area for a minimum of two years following construction. All revegetation efforts shall include local plant materials native to the project area.
- 2.41 Allowable Herbicide. If herbicide use is necessary, only herbicides registered with the California Department of Pesticide Regulation shall be used. All herbicides shall be applied in accordance with regulations set forth by the California Department of Pesticide Regulation and according to labeled instructions. Only herbicides approved for use in aquatic environments are permitted. Care shall be taken to avoid herbicide contact with native vegetation, and it shall only be applied on calm days (wind speed less than 5 miles per hour) to prevent airborne transfer of herbicide. No herbicides shall be used where threatened or endangered species occur, unless otherwise approved by in writing by CDFW.
- 2.42 Disposal of Vegetation and Debris. All removed vegetation and debris shall be moved outside the ordinary high-water mark prior to inundation by water. All removed vegetation and debris shall be disposed of according to state and local laws and ordinances.

Erosion and Sediment Control

- 2.43 Erosion Control. At no time shall silt-laden runoff be allowed to enter a river, stream, or lake or directed to where it may enter a river, stream, or lake. Erosion control measures shall be utilized throughout all phases of operation where

sediment runoff from exposed slopes threatens to enter a river, stream, or lake. Erosion control measures, such as, silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used wherever sediment has the potential to leave the work site and enter the river, stream, or lake.

- 2.44 Monofilament. Permittee shall not use erosion control materials containing plastic monofilament netting (erosion control matting) or similar material containing netting within the project area due to documented evidence of amphibians and reptiles becoming entangled or trapped in such material. Acceptable substitutes include coconut coir matting or similar.
- 2.45 Erosion Control Monitoring. Permittee shall monitor erosion control measures during and after each storm event and repair and/or replace ineffective measures immediately.
- 2.46 Excavation. No spoil from the excavation shall be placed on the stream side. Excavated spoil shall be removed to an area where the sediment will not deliver to a watercourse.
- 2.47 Groundwater Encountered. Nuisance groundwater encountered during excavation within the streambed or floodplain shall be discharged at a location where it will infiltrate into the soil, resulting in no overland flow. Turbid water shall not be allowed to flow downstream.

Material Handling, Debris, and Waste

- 2.48 Stockpiled Materials. Building materials and/or construction equipment shall not be stockpiled or stored where they may be washed into the water or cover aquatic or riparian vegetation. Stockpiles shall be covered when measurable rain is forecasted.
- 2.49 No Dumping. Permittee and all contractors, subcontractors, and employees shall not dump any litter or construction debris within the stream, or where it may pass into the stream.
- 2.50 Pick Up Debris. Permittee shall pick up all debris and waste daily.
- 2.51 Wash water. Water containing mud, silt, or other pollutants from equipment washing or other activities, shall not be allowed to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.
- 2.52 Disposal and Removal of Materials. All removed spoils and construction debris shall be moved outside the work area prior to inundation by water. Spoil sites shall not be located within the stream channel or areas that may be subjected to stream flows, where spoil may be washed back into a stream, or where it may impact

streambed habitat, aquatic or riparian vegetation. All removed material shall be disposed of according to State and local laws and ordinances.

Toxic and Hazardous Material

- 2.53 Toxic Materials. Any hazardous or toxic materials that could be deleterious to aquatic life that could be washed into the stream or its tributaries shall be contained in water tight containers or removed from the project site.
- 2.54 Hazardous Materials. Debris, soil, silt, bark, slash, sawdust, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, wildlife, or riparian habitat resulting from the project related activities shall be prevented from contaminating the soil and/or entering the Waters of the State.

Spills and Emergencies

- 2.55 Spill Kits. Prior to entering the work site, all field personnel shall know the location of spill kits and trained in their appropriate use.
- 2.56 Spill of Material Deleterious to Fish and Wildlife. In the event of a hazardous materials spill into a stream (e.g., concrete or bentonite), Permittee shall immediately notify the California Office of Emergency Services State Warning Center by calling 1-800-852-7550 and immediately provide written notification to CDFW by email at R3LSA@wildlife.ca.gov. Permittee shall take all reasonable measures to document the extent of the impacts and affected areas including photographic documentation of affected areas, injured fish and wildlife. If dead fish or wildlife are found in the affected area, Permittee shall collect carcasses and immediately deliver them to CDFW. Permittee shall meet with CDFW within ten days of the reported spill in order to develop a resolution including: site clean-up, site remediation and compensatory mitigation for the harm caused to fish, wildlife and the habitats on which they depend as a result of the spill. The Permittee shall be responsible for all spill clean-up, site remediation and compensatory mitigation costs. Spill of materials to waters of the state that are deleterious to fish and wildlife are in violation of Fish and Game Code section 5650 et. seq. and are subject to civil penalties for each person responsible. CDFW reserves the right to refer the matter to the District Attorney's Office if a resolution cannot be agreed upon and achieved within a specified timeframe, generally six months from the date of the incident.
- 2.57 Spill Containment. All activities performed in or near a river, stream, or lake shall have absorbent materials designated for spill containment and cleanup activities on-site for use in an accidental spill. The Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately

initiate the cleanup activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 Notification Prior to Work. As per Measure 1.5, at least 5 days prior to the start of Project activities, Permittee shall notify CDFW that work will commence.
- 3.2 Notification of Designated Representative. As per Measure 1.9, at least 5 days prior to the start of Project activities, Permittee shall submit to CDFW the name, business address, and contact information of the Designated Representative.
- 3.3 Biologist Approval. As per Measure 2.12, at least 30 days prior to commencement of project activities covered by this Agreement, the Permittee shall submit to CDFW, for review and approval, the qualifications for the biologist(s) that shall oversee the implementation of the conditions in this Agreement and conduct surveys or monitoring work.
- 3.4 California Red-Legged Frog Survey Results. Survey results for California red-legged frog shall be submitted to CDFW prior to the start of work.
- 3.5 Western Pond Turtle Survey Results. Survey results for western pond turtle shall be submitted to CDFW prior to the start of work.
- 3.6 American badger Survey Results. Survey results for American badger shall be submitted to CDFW prior to the start of work.
- 3.7 Roosting Bat Survey Results. Survey results for roosting bats shall be submitted to CDFW prior to the start of work.
- 3.8 Burrowing Owl Survey Results. Survey results for burrowing owl shall be submitted to CDFW prior to the start of work.
- 3.9 Nesting Bird Survey Reports. Survey results for nesting birds shall be submitted to CDFW prior to the start of work.
- 3.10 Restoration and Enhancement Plan. As per Measure 2.28, at least 30 days prior to the commencement of project activities, a Restoration and Enhancement Plan shall be submitted to CDFW for review and written approval.
- 3.11 Re-vegetation Annual Report. The Permittee shall submit an annual status report on the monitoring of planting to CDFW by January 31st of each year for five (5) years. This report shall include the survival, percent cover, and height of both tree and shrub species. The number by species of plants replaced, an overview of the

revegetation effort, and the method used to assess these parameters shall also be included. Photos from designated photo stations shall be included.

- 3.12 Photographic Documentation of Work. Prior to commencement of work a minimum of four (4) vantage points that offer representative views of the project site and work areas shall be identified. The Permittee shall photograph the project area from each of the vantage points, noting the direction and magnification of each photo. Upon completion of work, the Permittee shall photograph post-project conditions from the vantage points using the same direction and magnification as pre-project photos. A reference key shall be submitted with the photos describing the location of the photo, the direction of the view, and whether the photo is pre- or post-construction. All photos shall be submitted within 30 days of project conclusion.
- 3.13 Notification to the California Natural Diversity Database. If any listed, rare, or special status species are detected during project surveys or on or around the project site during project activities, the Permittee shall submit CNDDDB Field Survey Forms to CDFW in the manner described at the CNDDDB website (<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>) within five working days of the sightings. Copies of such submittals shall also be submitted to the CDFW regional office as specified below.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be submitted through EPIMS as instructed by CDFW.

To Permittee:

Andrew Allen
City of Santa Rosa
EPIMS-SON-16676-R3
Geysers-Delta Pond Connection Diffuser Improvements Project
69 Stony Circle
Santa Rosa, CA 95401
aallen@srcity.org

To CDFW:

Department of Fish and Wildlife
Bay Delta Region
EPIMS-SON-16676-R3
Geysers-Delta Pond Connection Diffuser Improvements Project
R3LSA@wildlife.ca.gov; James.Hansen@wildlife.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or obtaining any other permits or authorizations that might be required under, other federal, state, or local laws or regulations before beginning the project or an activity related to it. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and

subcontractors, from complying with other applicable statutes in the Fish and Game Code including, but not limited to, Fish and Game Code sections 2050 *et seq.* (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable Fish and Game Code section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

TERM

This Agreement shall expire on December 31, 2026, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as Fish and Game Code section 1605, subdivision (a)(2) requires.

EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

- A. *Delta Pond Diffuser Maintenance*, prepared by City of Santa Rosa, dated May 22, 2022

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with Fish and Game Code section 1602.

CONCURRENCE

Through the electronic signature by the permittee or permittee's representative as evidenced by the attached concurrence from CDFW's Environmental Permit Information

Management System (EPIMS), the permittee accepts and agrees to comply with all provisions contained herein.

The EPIMS concurrence page containing electronic signatures must be attached to this agreement to be valid.