Attachment 2

Comment Letter and Response to Comment

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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

August 2, 2023

David Cook
Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, CA 95403
DCook@scwa.ca.gov

Subject: Santa Rosa Creek Fish Passage Improvements Project, Mitigated Negative Declaration, SCH No. 2023060757, Sonoma County

Dear Mr. Cook:

The California Department of Fish and Wildlife (CDFW) received a Notice of intent to adopt a Mitigated Negative Declaration (MND) for the Santa Rosa Creek Fish Passage Improvement Project (project) pursuant to the California Environmental Quality Act (CEQA).[1]

CDFW appreciates Sonoma County Water Agency's (Sonoma Water) efforts to improve fish passage. CDFW is submitting comments on the MND to inform Sonoma Water, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive biological resources associated with the project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal Code Regs., tit. 14, § 15386). 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.

REGULATORY REQUIREMENTS

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.

[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.

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Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The project would impact Santa Rosa Creek and the associated riparian area; therefore, an LSA notification is warranted, as further described below.** CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

PROJECT DESCRIPTION SUMMARY

Proponent: Sonoma Water

Objective: The project would include replacing and building instream structures, addressing bank erosion, and constructing access roads to improve fish passage directly or indirectly. The proposed construction activities at the E Street Bridge Fishway Extension site would cover a total area of approximately 0.25-acre below the top of bank on Santa Rosa Creek and include fishway extension and trash rack replacement and improvement, right bank enhancement, grouted rock installation, and creation of an access road on the left bank. The total footprint of the project at this site including access and staging is 0.44-acre, with staging located on E Street. This project element would occur approximately 156 linear feet upstream of the E Street Bridge. The proposed construction activities at the Melita Road Dam site would cover a total area of approximately 0.35-acre below the top of bank on Santa Rosa Creek. The total footprint of the proposed project at this site including access and staging is 0.56-acre. The proposed construction activities would include creating a series of rock weir step pools, grading in stream, creating a temporary access road, and staging in an existing gravel parking area on Channel Drive. Grading would be conducted downstream of the dam to improve upstream fish passage for juvenile and adult steelhead at this site by increasing depths at areas where there are low passage design flows and decreasing velocities at areas of high passage design flows.

Location: The project is located at Santa Rosa Creek, in Sonoma County. The E Street site is located at Latitude 38.439740°, Longitude -122.708775° and Assessor's Parcel Number (APN) 009-181-037, and the Melita Road site is located at Latitude 38.456693°, Longitude -122.637778° and APN 031-101-031.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist Sonoma Water in adequately identifying and/or mitigating the project's significant, or potentially significant,

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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 recommendations included below and in **Attachment 1**, CDFW concludes that an MND is appropriate for the project.

I. Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

Comment 1: Section 3.4, Mitigation Measure Shortcoming

Issue: The MND Mitigation Measure (MM) BIO-5 may not reduce impacts to riparian habitat to less-than-significant. Additionally, the project may result in a violation of Fish and Game Code section 1600 et seq. because the MND does not require Sonoma Water to submit an LSA notification to CDFW and comply with the related LSA Agreement, if issued, prior to project construction.

Specific impact and why impact would occur: The project would result in permanent impacts to 0.376-acres of riparian habitat along Santa Rosa Creek and may result in temporary impacts.

Evidence impact would be potentially significant: Riparian habitat is of critical importance to protecting and conserving the biotic and abiotic integrity of an entire watershed. When riparian habitat is substantially altered, riparian functions become impaired, thereby, likely substantially adversely impacting aquatic and terrestrial species. Substantial removal of trees and other vegetation significantly reduces suitable nesting and roosting habitat for many bird and bat species and causes the loss of important refugia for small mammals. Mature riparian trees and mid canopy vegetation will take considerable time to reestablish and grow to function. Therefore, project impacts stream and associated riparian habitat would be potentially significant.

Recommended Mitigation Measures: To comply with Fish and Game Code section 1600 et seq. and reduce impacts to riparian habitat to less-than-significant, CDFW recommends including the following mitigation measure.

> Lake and Streambed Alteration Notification and Agreement: The project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using CDFW's Environmental Permit Information Management System (see: https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS) for project activities affecting lakes or streams, associated riparian habitat and any connected wetlands, and shall comply with the LSA Agreement, if issued. Alternatively, the project may consult with CDFW to determine if obtaining an approval under the Habitat Restoration and Enhancement Act (HREA) would be appropriate for the project, and if so shall obtain the HREA approval from CDFW (see:

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https://wildlife.ca.gov/Conservation/Environmental-Review/HREA). Permanent impacts to riparian habitat shall be mitigated by restoring riparian habitat at a minimum 3:1 mitigation to impact ratio as close to the site as possible within the same stream, temporary impacts to riparian habitat shall be restored, and restoration shall be completed in the same year of the impact, unless otherwise approved in writing by CDFW. If restoration is not possible within the same stream or watershed or within the same year of the impact, restoration requirements may increase at the discretion of CDFW.

To mitigate for the removal of trees, replacement trees shall be planted at the below minimum replacement to removal ratios:

- 1:1 for removal of non-native trees;
- 1:1 for removal of native trees up to 3 inches diameter at breast height (DBH);
- 3:1 for removal of native trees greater than 3 inches to 6 inches DBH;
- 6:1 for removal of native trees greater than 6 inches DBH;
- 1:1 for removal of oak (*Quercus* sp.) trees up to 3 inches DBH;
- 4:1 for removal of oak trees greater than 3 inches to 6 inches DBH;
- 8:1 for removal of oak trees greater than 6 inches to 15 inches DBH; and
- 10:1 for removal of oak trees greater than 15 inches DBH.

Replacement tree plantings shall consist of 5-gallon or greater saplings and locally-collected seeds, stakes, or other suitable nursery stock as appropriate, and shall be native species to the area adapted to the lighting, soil, and hydrological conditions at the replanting site. If acorns are used for oak tree replanting, each planting will include a minimum of three acorns planted at an approximately two-inch depth to minimize predation risk. Large acorns shall be selected for plantings. Replacement oaks shall come from nursery stock grown from locally-sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted.

The project shall monitor and maintain, as necessary, all plants for five years to ensure successful revegetation. Planted trees and other vegetation shall each have a minimum of 85 percent survival at the end of five years. If revegetation survival and/or cover requirements do not meet established goals as determined by CDFW, the project is responsible for replacement planting, additional watering, weeding, invasive exotic eradication, or any other practice, to achieve these requirements.

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Replacement plants shall be monitored with the same survival and growth requirements for five years after planting.

II. 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 the CDFW or USFWS?

Comment 2: Section 3.4, Environmental Setting Shortcoming

Issue: The MND does not address potential impacts to California red-legged frog (*Rana draytonii*). California Natural Diversity Database (CNDDB) records indicate a 2017 occurrence of California red-legged frog within three miles of the project site. The project site is located within the California Wildlife Habitat Relationships (CWHR) predicted range for the species and supports potentially high value habitat.

Specific impact and why impact would occur: Impacts to suitable habitat could result in injury or direct mortality of California red-legged frogs if they occur on-site. Frogs can migrate long distances and occupy riparian habitat and any area with persistent summer moisture as they search for new breeding habitat.

Evidence impact would be potentially significant: California red-legged frog is listed as threatened under the federal Endangered Species Act (ESA) and is a California Species of Special Concern (SCC), their populations throughout the State have experienced ongoing and drastic declines and many have been extirpated (Thompson et al. 2016). Habitat loss from growth of cities and suburbs, mining, overgrazing by cattle, invasion of nonnative plants, impoundments, water diversions, stream maintenance for flood control, degraded water quality, and introduced predators, such as bullfrogs are the primary threats to the species (Thompson et al. 2016). Therefore, if California red-legged frog is present in the project area and would be impacted, project impacts to California red-legged frog would be potentially significant.

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to California red-legged frog to less-than-significant, CDFW recommends including the following mitigation measure:

California Red-Legged Frog Habitat Assessment and Surveys. At least two weeks prior to the commencement of ground-disturbing activities, the project 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

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feature assessment and survey shall be submitted to CDFW 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 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. If California red-legged frog is encountered or the qualified biologist determines that impacts to the species are likely to occur, the project shall consult with USFWS pursuant to the federal ESA 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 project.

Comment 3: Section 3.4, Mitigation Measure Shortcoming

Issue: The MND MM BIO-2 does not sufficiently reduce potential impacts to western pond turtle (*Emys marmorata*) to less-than-significant. CNDDB records indicate an occurrence from 2007 of western pond turtle within 0.1 miles of the project site. The project is located within the CWHR predicted range for the species and supports potentially suitable habitat.

Specific impact and why impact would occur: The project could result in the removal of suitable habitat within western pond turtle dispersal distance from aquatic habitat and could result in direct mortality of the species. Western pond turtles can move more than four miles up or down stream; therefore, the project area is within the mobility range of western pond turtle observations (Holland 1994). The species may also survive outside of aquatic habitat for several months in uplands up to several hundred feet from aquatic habitat (Purcell et al. 2017; Zaragoza et al. 2015). The MND does not require a survey for western pond turtle prior to the commencement of project activities.

Evidence impact would be potentially significant: Western pond turtle is a California SCC. The SSC designation is given to species native to California satisfying one or more of the following criteria: 1) is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role; 2) is listed as federally, but not State threatened or endangered; 3) meets the State definition of threatened or endangered but has not formally been listed; 4) is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; or 5) has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. Therefore, if western pond turtle is present in the project area and would be impacted, project impacts to western pond turtle would be potentially significant.

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Recommended Mitigation Measure: To reduce impacts to western pond turtle to less-than-significant, CDFW recommends including the following mitigation measure:

> 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 suitable stream habitat closest to where it was found. The project 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.

Comment 4: Section 3.4, Mitigation Measure Shortcoming

Issue: The MND MM BIO-2 does not sufficiently reduce potential impacts to foothill yellow-legged frog (*Rana boylii*) North Coast distinctive population segment (DPS). CNDDB records indicate an occurrence from 2002 of foothill yellow-legged frog within 2.3 miles of the project site. The project is located within the CWHR predicted range for the species and supports potentially suitable habitat.

Specific impact and why impact would occur: Removal of riparian habitat adjacent to Santa Rosa Creek could result in direct mortality of foothill yellow-legged frog. After breeding occurs in the spring, juvenile frogs can migrate long distances and occupy riparian habitat, moist grassland habitat, and any area with persistent summer moisture as they search for new breeding habitat. The MND does not require a survey for foothill yellow-legged frog prior to the commencement of project activities.

Evidence impact would be potentially significant: Foothill yellow-legged frog North Coast DPS is as an SSC. Therefore, if foothill yellow-legged frog is present in the project area and would be impacted, project impacts to foothill yellow-legged frog would be potentially significant.

Recommended Mitigation Measure: To reduce impacts to foothill yellow-legged frog to less-than-significant, CDFW recommends including the following mitigation measure:

> Foothill Yellow-Legged Frog - Survey Methodology: A qualified biologist shall provide a foothill yellow-legged frog survey methodology for CDFW review and written approval at least 30 days prior to conducting project activities, unless otherwise approved in writing by CDFW. Project activities shall not begin until foothill yellow-legged frog surveys have been completed using a methodology approved by CDFW. Survey methodology is not required if the stream is dry and there are no areas of persistent summer moisture present in or within 500 feet upstream and downstream of the project area. Survey methodology shall target all life stages and shall include carefully searching under rocks, within vegetation such as sedges and

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other clumped vegetation, and under undercut banks, no-less-than 50 feet from the streambed, where appropriate, and at least 500 feet upstream and downstream of the project area. Surveys should be conducted at different times of day and under variable weather conditions, if possible. Surveys should avoid windy days (15 miles per hour or greater), as ripples in the water make it more challenging to detect frogs.

Foothill Yellow-Legged Frog Surveys: Prior to starting project activities, a qualified biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology. The results of the surveys shall be emailed to a CDFW representative, and the project shall receive written acceptance of the survey results from CDFW prior to starting project activities. The project shall install exclusionary fencing and prepare and implement a Foothill Yellow-Legged Frog Relocation and Habitat Improvement Plan if foothill yellow-legged frog or their eggs are found, if required and approved by CDFW.

If documentation is provided to CDFW that the stream has been completely dry for greater than 30 days prior to starting project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the project site, then surveys for foothill yellow-legged frogs are not necessary.

Please be advised that an LSA Agreement obtained for this project would likely require the above recommended mitigation measures, as applicable, in addition to other avoidance and minimization measures to protect fish and wildlife.

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 CNDDB. The CNDDB field survey form, online field survey form, and contact information for CNDDB staff can be found at the following link: https://wildlife.ca.gov/data/CNDDB/submitting-data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

FILING FEES

CDFW anticipates that the project will 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 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).

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CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist Sonoma Water in identifying and mitigating project impacts on biological resources. 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 in the final CEQA document for the project.

Questions regarding this letter or further coordination should be directed to James Hansen, Environmental Scientist, at (707) 576-2869 or James.Hansen@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Stacy Sherman for
692D021D81CA4F7...
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No.2023060757)

REFERENCES

Purcell, Kathryn L.; McGregor, Eric L.; Calderala, Kathryn. 2017. Effects of drought on western pond turtle survival and movement patterns. Journal of Fish and Wildlife Management. 8(1): 15-27.

Thomson, R.C., A.N. Wright, and H.B. Shaffer. 2016. California amphibian and reptile species of special concern. University of California Press, Oakland, CA.

Zaragoza, George; Rose, Jonathan P.; Purcell, Kathryn.; Todd, Brian. 2015. Terrestrial habitat use by western pond turtles (*Actinemys marmorata*) in the Sierra Foothills. Journal of Herpetology. 49(3): 437-441.

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	**Description**	**Timing**	**Responsible Party**
MM-BIO-1	Lake and Streambed Alteration Notification and Agreement: The project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using CDFW's Environmental Permit Information Management System (see: https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS) for project activities affecting lakes or streams, associated riparian habitat and any connected wetlands, and shall comply with the LSA Agreement, if issued. Alternatively, the project may consult with CDFW to determine if obtaining an approval under the HREA would be appropriate for the project, and if so shall obtain the HREA approval from CDFW (see: https://wildlife.ca.gov/Conservation/Environmental-Review/HREA). Permanent impacts to riparian habitat shall be mitigated by restoring riparian habitat at a minimum 3:1 mitigation to impact ratio as close to the site as possible within the same stream, temporary impacts to riparian habitat shall be restored, and restoration shall be completed in the same year of the impact, unless otherwise approved in writing by CDFW. If restoration is not possible within the same stream or watershed or within the same year of the impact, restoration requirements may increase at the discretion of CDFW. To mitigate for the removal of trees, replacement trees shall be planted at the below minimum replacement to removal ratios: • 1:1 for removal of non-native trees; • 1:1 for removal of native trees up to 3 inches diameter at breast height (DBH); • 3:1 for removal of native trees greater than 3 inches to 6 inches DBH; • 6:1 for removal of native trees greater than 6 inches DBH; • 1:1 for removal of oak (*Quercus* sp.) trees up to 3 inches DBH;	Prior to Ground Disturbance	Project Applicant

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	• 4:1 for removal of oak trees greater than 3 inches to 6 inches DBH; • 8:1 for removal of oak trees greater than 6 inches to 15 inches DBH; and • 10:1 for removal of oak trees greater than 15 inches DBH. Replacement tree plantings shall consist of 5-gallon or greater saplings and locally-collected seeds, stakes, or other suitable nursery stock as appropriate, and shall be native species to the area adapted to the lighting, soil, and hydrological conditions at the replanting site. If acorns are used for oak tree replanting, each planting will include a minimum of three acorns planted at an approximately two-inch depth to minimize predation risk. Large acorns shall be selected for plantings. Replacement oaks shall come from nursery stock grown from locally-sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted. The project shall monitor and maintain, as necessary, all plants for five years to ensure successful revegetation. Planted trees and other vegetation shall each have a minimum of 85 percent survival at the end of five years. If revegetation survival and/or cover requirements do not meet established goals as determined by CDFW, the project 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.		
MM-BIO-2	California Red-legged Frog Habitat Assessment and Surveys. At least two weeks prior to the commencement of ground-disturbing activities, the project 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 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	Prior to Ground Disturbance	Project Applicant

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	red-legged frogs are encountered during the assessment or project activities, the project 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. If California red-legged frog is encountered or the qualified biologist determines that impacts to the species are likely to occur, the project shall consult with USFWS pursuant to the federal ESA 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 project.		
MM-BIO-3	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 suitable stream habitat closest to where it was found. The project 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.	Prior to Ground Disturbance	Project Applicant
MM-BIO-4	Foothill Yellow-Legged Frog - Survey Methodology: A qualified biologist shall provide a foothill yellow-legged frog survey methodology for CDFW review and written approval at least 30 days prior to conducting project activities, unless otherwise approved in writing by CDFW. Project activities shall not begin until foothill yellow-legged frog surveys have been completed using a methodology approved by CDFW. Survey methodology is not required if the stream is dry and there are no areas of persistent summer moisture present in or within 500 feet upstream and downstream of the project area. Survey methodology shall target all life stages and shall include carefully searching under rocks, within vegetation such as sedges and other clumped vegetation, and under undercut banks, no less than 50 feet from the streambed, where appropriate, and at least 500 feet upstream and downstream of the project area. Surveys should be conducted at different times of day and under variable weather conditions, if possible. Surveys should avoid windy days (15 miles per hour or greater), as ripples in the water make it more challenging to detect frogs. Foothill Yellow-Legged Frog Surveys: Prior to starting project activities, a qualified biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-	Prior to Ground Disturbance	Project Applicant

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	approved methodology. The results of the surveys shall be emailed to a CDFW representative, and the project shall receive written acceptance of the survey results from CDFW prior to starting project activities. The project shall install exclusionary fencing and prepare and implement a Foothill Yellow-Legged Frog Relocation and Habitat Improvement Plan if foothill yellow-legged frog or their eggs are found, if required and approved by CDFW. If documentation is provided to CDFW that the stream has been completely dry for greater than 30 days prior to starting project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the project site, then surveys for foothill yellow-legged frogs are not necessary.		

Summary and response to comments received during public review period for the Initial Study and Mitigated Negative Declaration of Environmental Impact for the Santa Rosa Creek Fish Passage Improvements Project

The Initial Study and Mitigated Negative Declaration of Environmental Impact (Initial Study) for the Santa Rosa Creek Fish Passage Improvements Project (Proposed Project) was available for public review from June 29 to July 28, 2023. One comment letter was received during the public review period from the California Department of Fish and Wildlife (Department) and is summarized below.

Summary of Comment Received and Response

- **Comment 1, Item 1:** The MND Mitigation Measure (MM) BIO-5 may not reduce impacts to riparian habitat to less-than-significant. Additionally the project may result in a violation of Fish and Game Code section 1600 et seq. because the Mitigated Negative Declaration (MND) does not require Sonoma Water to submit an LSA notification for CDFW and comply with the related Lake and Streambed Alteration Agreement, if issued, prior to project construction.
    - **Response:** Mitigation Measure BIO-6 included in the Initial Study already states that "Sonoma Water shall apply for permits from the appropriate regulatory agencies and comply with terms", including "Streambed Alteration Agreement under 1602 of the California Fish and Game Code". No further change is necessary.
- **Comment 1, Item 2:** To mitigate for the removal of trees, replacement trees shall be planted at specified minimum replacement to removal ratios. The Department recommends increased plant replacement ratios ranging from 1:1 for non-native trees to as high as 10:1 for large oak trees. Plantings are to be maintained for five years with a minimum of 85 percent survival.
    - **Response:** Mitigation Measure BIO-5 included in the Initial Study requires Sonoma Water to prepare a Revegetation Plan and proposes minimum requirements of this Plan. Item 6 of the Mitigation Measure states "The Revegetation Plan shall be submitted to the California Department of Fish and Wildlife for approval prior to commencement of construction activities". Sonoma Water will incorporate Department's plant replacement ratios into the Revegetation Plan prior to submission. Also, Sonoma Water will comply with 1602 of the California Fish and Game Code as stated above, which has oversight on restoration requirements. The Final Initial Study Mitigation Measure BIO-5 (Revegetation of Riparian Areas) has been revised to reflect the Department's recommended tree replacement ratios and success criteria.
- **Comment 2:** The MND does not address potential impacts to California red-legged frog (*Rana draytonii*). California Natural Diversity Database (CNDDB) records indicate a 2017 occurrence of California red-legged frog within three miles of the project site. The project site is located in the California Wildlife Habitat Relationships (CWHR) predicted range of the species and supports

potentially high value habitat. Recommendations include habitat assessment, pre-construction surveys, avoidance of habitat features and frogs, if found.

- **Response:** The Initial Study describes the low potential for the California red-legged frog to occur at the Proposed Project site due to the unsuitable breeding habitat and lack of detections during previous surveys. To clarify, Santa Rosa Creek in the project area is a moderate to high gradient stream with gravel to cobble substrate and no marsh vegetation that is characteristic of conditions suitable for steelhead and foothill yellow-legged frog. Both steelhead and foothill yellow-legged frog are present in the project area. Preferred habitats for California red-legged frog are pond, marsh, and slow moving sections of creek with overhanging willows or wetland vegetation, which does not occur in the project area. Also, steelhead and foothill yellow-legged frog typically do not co-occur with red-legged frog.

  The Project site downstream of Melita Dam was surveyed in 2010 using US Fish and Wildlife Service California red-legged frog survey protocols. No red-legged frogs were found and non-native predators were observed in abundance, including warm water fish, bullfrog, and red crayfish (Cook, D. 2010. California red-legged frog surveys for the Stream Maintenance Program, 2010). Several annual habitat evaluations since 2010 have been completed for Sonoma Water's Stream Maintenance Program, including as recently as 2023, that found unsuitable habitat conditions for red-legged frog. In addition, the Vortex Tube Rehabilitation Project is located adjacent to Melita Dam site, was intensively surveyed for California red-legged frog in 2021, and none were found.

  The E Street Fishway site is located in the center of the highly urbanized area of downtown Santa Rosa. The creek downstream of the Fishway Extension is underground and upstream is channelized with no suitable breeding habitat for California red-legged frog.

  Although CRLF can occupy any habitat type during dispersal, preferred habitats are not present in the project area. In addition, dispersal of red-legged frogs from known occurrences, three miles away, is extremely unlikely based on published movement studies and the dry inland and dense urban environment in the project vicinity. Bulger et al. 2003 (Terrestrial activity and conservation of adult California red-legged frogs *Rana aurora draytonii* in coastal forest and grasslands) found red-legged frogs moved up to 3.6 km (2.2 miles) in a cool and moist coastal environment, while Tartarian 2008 (Movement patterns of California red-legged frog [*Rana draytonii*] in an inland California environment) found that red-legged frogs moved terrestrially less than 100 m (330 feet) at a dryer inland site. In both these studies California red-legged frogs dispersed during the cool rainy winter season and were inactive during warm/hot and dry summer conditions. In conclusion, the Proposed Project is not expected to affect California red-legged frog because 1) no preferred habitat occurs onsite, 2) the dryer environment and urbanization

likely precludes the long distance dispersal of frogs from known occurrences to the Project area, and 3) Project activities would occur in summer when red-legged frog dispersal activity is very low.

The Department infers that CRLF may be present in the project area based on a habitat model program (CWHR). Sonoma Water has conducted extensive habitat evaluations and focused surveys for CRLF in and around the project area. These studies have not found CRLF and atypical, marginal habitat is present onsite. Although the Project is not expected to impact CRLF or suitable habitat based on site-specific conditions, the Final Initial Study, Mitigation Measure BIO-2 (Special Status Aquatic Species Protection and Relocation), has been revised so that pre-construction habitat assessment and surveys, avoidance measures, and CDFW notifications will be incorporated into the Relocation Plan.

- **Comment 3:** The MND MM BIO-2 does not sufficiently reduce potential impacts to western pond turtle (*Emys marmorata*) to less-than-significant. CNDDB records indicate an occurrence from 2007 of western pond turtle within 0.1 miles from the project site. The project is located within the CWHR predicted range for the species and supports potentially suitable habitat. The MND does not require a survey for western pond turtle prior to the commencement of project activities. Recommendations include pre-construction surveys and relocation of turtles, if found. Also, Habitat Improvement Plan may be necessary.
    - **Response:** The Initial Study's Table D-3 (Special-Status Fish and Wildlife Species Potentially Occurring in the Proposed Project Area) describes the high potential for western pond turtle to occur at the Proposed Project site. As such, the western pond turtle is likely present in the project area. To avoid and minimize impacts to special-status aquatic species, Sonoma Water will implement Mitigation Measure BIO-2 (Special Status Aquatic Species Protection and Relocation), which involves preparation of a Special-Status Species Relocation Plan that will describe steps to survey for, avoid, and relocate (if necessary) western pond turtles to an area outside of the Proposed Project work area prior to construction activities. Item i of Mitigation Measure BIO-2 states that "The Special-Status Species Relocation Plan shall be submitted to the California Department of Fish and Wildlife for approval prior to commencement of relocating aquatic species out of construction or maintenance areas." The Initial Study also includes Mitigation Measure BIO-6 (Avoid, Minimize, or Compensate for Impacts to Jurisdictional Wetlands and Other Protected Waters), which states that Sonoma Water shall apply for permits from the appropriate regulatory agencies and comply with the permit terms. The Department has the authority under Fish and Game Code Section 1603 to include terms in the permit it issues for the project that it deems necessary to protect fish and wildlife resources, including but not limited to a special-status species relocation plan. The Initial Study's requirement of a Special-Status Species Relocation Plan with Department approval will

adequately protect western pond turtles. The Final Initial Study, Mitigation Measure BIO-2 (Special Status Aquatic Species Protection and Relocation), has been revised to clarify that specific pre-construction survey methods for the western pond turtle will be incorporated into the Relocation Plan.

- **Comment 4:** The MND MM BIO-2 does not sufficiently reduce potential impacts to foothill yellow-legged frog (*Rana boylii*) North Coast distinct population segment (DPS). CNDDB records indicate an occurrence from 2002 of foothill yellow-legged frog within 2.3 miles of the project site. The project is located within the CWHR predicted range for the species and supports potentially suitable habitat. Recommendations include providing the Department with a survey method report, pre-construction surveys, and installing fencing, if needed. Also, habitat improvement and relocation plans may be necessary.
    - **Response:** The Initial Study's Chapter 3.4 (Biological Resources) and Table D-3 (Special-Status Fish and Wildlife Species Potentially Occurring in the Proposed Project Area) describe the high potential for foothill yellow-legged frog to occur at the Proposed Project site. As such, the foothill yellow-legged frog is likely present in the project area. To avoid and minimize impacts to special-status aquatic species, Sonoma Water would implement Mitigation Measure BIO-2 (Special Status Aquatic Species Protection and Relocation), which involves preparation of a Special-Status Species Relocation Plan that will describe steps to survey for, avoid, and relocate (if necessary) foothill yellow-legged frogs to an area outside of the Proposed Project work area prior to construction activities. Item i of Mitigation Measure BIO-2 states that "The Special-Status Species Relocation Plan shall be submitted to the California Department of Fish and Wildlife for approval prior to commencement of relocating aquatic species out of construction or maintenance areas." The Initial Study also includes Mitigation Measure BIO-6 (Avoid, Minimize, or Compensate for Impacts to Jurisdictional Wetlands and Other Protected Waters), which states that Sonoma Water shall apply for permits from the appropriate regulatory agencies and comply with the permit terms. The Department has the authority under Fish and Game Code Section 1603 to include terms in the permit it issues for the project that it deems necessary to protect fish and wildlife resources, including but not limited to a special-status species relocation plan. The Initial Study's requirement of a Special-Status Species Relocation Plan with Department approval will adequately protect foothill yellow-legged frogs. The Final Initial Study, Mitigation Measure BIO-2 (Special Status Aquatic Species Protection and Relocation), has been revised to clarify that specific pre-construction survey methods for the foothill yellow-legged frog will be incorporated into the Relocation Plan.