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Summary and response to comments received during public review period for the Initial Study and Mitigated Negative Declaration of Environmental Impact for the Vortex Tube Rehabilitation Project

The Initial Study and Mitigated Negative Declaration of Environmental Impact (Initial Study) for the Vortex Tube Rehabilitation Project (Proposed Project) was available for public review from August 28 to September 28, 2020. 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:** The Department stated that the federally listed as threatened California red-legged frog (*Rana draytonii*) occupy the watershed, there are known occurrences 3.2 to 4 miles from the project site, and the project area may be suitable dispersal habitat. CDFW recommended that the Initial Study require consultation with U.S. Fish and Wildlife Service (Wildlife Service) to determine if California red-legged frog take authorization pursuant to the federal Endangered Species Act is warranted.
    - **Response:** The Initial Study describes the low potential for 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 cobble substrate with no marsh vegetation that is characteristic of conditions suitable for Central California coast steelhead and foothill yellow-legged frog. 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's bypass channel and nearby Spring Lake were surveyed in 2010 using 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 County Water Agency's (Sonoma Water) Stream Maintenance Program, including as recently as 2020, that found degraded habitat conditions for 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 frog from known occurrences, 3.2 to 4 miles away, is extremely unlikely based on published movement studies and the dry inland 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 dispersing California red-legged frog because 1) no preferred habitat occurs onsite, 2) the dryer environment 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.

In addition, Sonoma Water submitted an application to the U.S. Army Corps of Engineers (Corps) for Nationwide Permits 31/33 pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act for the project. The Corps, in its review of the application, will determine if initiation of consultation regarding the California red-legged frog with the Wildlife Service (through the Corps) for the Proposed Project is warranted. The Initial Study includes Mitigation Measure BIO-5 (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, including the Corps, and comply with the permit terms.

- **Comment:** The Department stated that relocating special-status species out of construction areas as described in the Initial Study's Mitigation Measure BIO-2 could result in inadvertent adverse impacts such as inappropriate handling methods causing injury to individual animals. The Department recommended that the Initial Study require preparation of a special-status species relocation plan to be reviewed and accepted in writing by the Department.
    - **Response:** The Initial Study includes Mitigation Measure BIO-2: Special-Status Aquatic Species Relocation Out of Construction Areas, which identifies measures to avoid and minimize potential impacts to special-status aquatic species by relocating these species out of the project work area prior to construction and maintenance activities. The Initial Study also includes Mitigation Measure BIO-5 (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 Mitigation Measure BIO-2: Special-Status Aquatic Species Relocation Out of Construction Areas, has been revised to add preparation of a special-status species relocation plan to be reviewed and accepted in writing as recommended by the Department.
- **Comment:** The Department acknowledged receiving Sonoma Water's Lake and Streambed Alteration Agreement (LSA) application for the project. The

Department recommended that the Initial Study require the notification and compliance with the LSA upon issuance.

- **Response:** Mitigation Measure BIO-5 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 Agreements. No further change is necessary.