



Legislation Text

File #: 2020-0908, **Version:** 1

To: Board of Directors, Sonoma County Water Agency
Department or Agency Name(s): Sonoma County Water Agency
Staff Name and Phone Number: David Cuneo 547-1935
Vote Requirement: Majority
Supervisory District(s): Fourth

Title:

Dry Creek Project Partnership Agreement

Recommended Action:

Authorize the Chair of the Board of Directors of the Sonoma County Water Agency to sign a Project Partnership Agreement with United States Army Corps of Engineers for funding habitat enhancement work in Dry Creek (Fourth District)

Executive Summary:

This item requests authorization for the Chair of the Board of Directors of the Sonoma County Water Agency (Sonoma Water) to enter into a Project Partnership Agreement (Agreement) with the U.S. Army Corps of Engineers (Corps) for funding at a 65% (Corps) to 35% (Sonoma Water) ratio under the Corps' General Investigation Ecosystem Restoration process for the construction of approximately 3 miles of Dry Creek habitat improvements as it relates to implementation of the Russian River Biological Opinion (Project). The Project consists of ultimately constructing six miles of high quality habitat for coho salmon and steelhead within Dry Creek in a phased approach. To date, a little over three miles of habitat enhancement work has been completed. The Agreement with the Corps would cover the anticipated remaining miles to be constructed from 2021 through 2024. Planning and design efforts are already under way for these remaining portions and the Corps has already secured the federal portion (approximately \$28 million) of the funding necessary for the construction of these future miles. The Agreement obligates Sonoma Water for the local sponsor portion of the project construction costs and allows the Corps to move forward with the construction phase of the process.

Discussion:

Dry Creek is home to endangered Central California Coast coho salmon and threatened California Coastal Chinook salmon and Central California Coast steelhead. The creek also serves as a conduit for water that is released from Lake Sonoma by the Corps for flood control purposes and by Sonoma Water for water supply. The Agreement would allow Sonoma Water to cost-share with the Corps for the construction of additional habitat enhancement projects along Dry Creek to fulfill the requirements of the Russian River Biological Opinion.

Russian River Biological Opinion

The National Marine Fisheries Service issued the Russian River Biological Opinion on September 24, 2008. This opinion is a culmination of more than a decade of consultation between Sonoma Water, the Corps, and the

National Marine Fisheries Service regarding the impact of Sonoma Water's and Corps' water supply and flood control activities on three fish species listed under the federal Endangered Species Act: Central California Coast steelhead, Central California Coast coho salmon, and California Coastal Chinook salmon. With respect to Dry Creek, the National Marine Fisheries Service concluded in the Russian River Biological Opinion that the continued operation of Warm Springs Dam by the Corps and Sonoma Water in a manner similar to recent historic practices, is likely to jeopardize and adversely modify critical habitat for endangered coho salmon and threatened steelhead because summer flow velocities in Dry Creek are too high for optimal juvenile coho salmon and steelhead habitat. Because of a difference in life history, Chinook salmon do not spend the summer in Dry Creek and are therefore not impacted by summer flow velocities. Current summer flows in the creek typically range from 105 to 175 cubic feet per second. The velocities associated with these summer flows make it difficult for the juvenile fish to thrive. The Russian River Biological Opinion recognizes that large reductions in the summertime flows in Dry Creek would impair Sonoma Water's ability to deliver water to its customers. Therefore, the Russian River Biological Opinion requires habitat enhancement of six miles of Dry Creek to improve summer rearing conditions for coho salmon and steelhead while allowing Sonoma Water to maintain the existing flow range in Dry Creek of 105 to 175 cubic feet per second for water supply purposes. The six miles of habitat enhancement are to be distributed over the entire length of Dry Creek below Warm Springs Dam, and implemented at a minimum of eight locations on the creek. It is intended that the enhancements for summer rearing will also provide winter rearing and refugia habitat. The habitat enhancements are to be implemented in phases to allow for evaluation of their effectiveness as the effort progresses.

Dry Creek Habitat Enhancement Demonstration Project (Phase 1)

In October 2008, Sonoma Water entered into an agreement with Inter-Fluve, Inc. to perform a feasibility assessment of geomorphic and habitat conditions along Dry Creek to identify habitat enhancement opportunities and develop conceptual designs of enhancement projects. During this initial habitat assessment, Sonoma Water was approached by a group of landowners in the Dry Creek Valley who agreed to participate in a demonstration project. These landowners' properties along Dry Creek make up the Dry Creek Habitat Enhancement Demonstration Project (Demonstration Project), the first mile of the six miles of habitat enhancements required under the Russian River Biological Opinion. Installation of the first mile of habitat enhancement was completed in the fall of 2014.

Dry Creek Habitat Enhancement Project (Phases 2-6)

Sonoma Water staff have been in the process of planning for, and implementing, the remaining habitat enhancement miles required under the Russian River Biological Opinion. Construction efforts for the first two additional miles (Phases 2-3) occurred over multiple construction seasons beginning in the summer of 2016 and will be completed during the 2021 construction season. For the remaining habitat (Phases 4-6) efforts, Sonoma Water has been working and cost-sharing planning and design efforts with the Corps under the Corps' General Investigation funding mechanism. The final step of the Corps' General Investigation funding process is to enter into a Project Partnership Agreement for the construction phase of the process. Construction efforts for the Phases 4-6 work is anticipated to begin in 2021 and continue through 2024.

The habitat enhancement designs proposed for all locations are tailored to each site's geomorphic characteristics. Channel processes and dynamics vary along the length of Dry Creek; therefore the project designs at the upstream end of the creek (nearer to Lake Sonoma) tend to focus on direct habitat construction, with more process-reliant designs closer to the confluence with the Russian River. Designs

generally include a suite of tools. They include:

- 1) Backwater channels, alcoves and ponds off to the side of the creek that, in summer, connect to the main stream only at their downstream end but may support higher flows during the winter;
- 2) Side channels, which are parallel to the main stream and connect at both ends during both the summer and winter;
- 3) Log jams, which are accumulations of logs that can initiate or stabilize a turn or fork in the channel and create deep pools;
- 4) Riffles, which are areas where the streambed is steeper and the current is swift, and pools, which are areas of deeper, cooler, slower water that provide habitat for young fish;
- 5) Winter refuge habitat, which provide locations where fish can escape high velocities in the mainstream of Dry Creek during high winter flows;
- 6) Vegetation management, which includes removal of non-native or invasive weed species, or dense stands of vegetation which channelize the flow of the creek;
- 7) Streambank construction to stabilize eroding banks; and
- 8) Dynamic process-based floodplain enhancement, which includes process-based enhancements in portions of Dry Creek near the confluence with the Russian River that would reconnect the channel and its floodplain.

U.S. Army Corps of Engineers Funding Efforts

Together with Sonoma Water, the Corps has been working to fund the Dry Creek habitat efforts through different funding mechanisms. In 2013, the Corps was able to utilize operations and maintenance funds to construct a habitat project along a portion of Corps-owned property just downstream of Warm Springs Dam (Reach 15 project). Then the Corps determined it was able to fund a portion of the Phase 3 habitat work in Dry Creek under a Continuing Authorities Program pursuant to Section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662) as amended. The Continuing Authorities Program funding process required Sonoma Water, as the local cost-share sponsor, to enter into a Feasibility Cost Share Agreement (authorized by this Board on June 10, 2014 and signed October 10, 2014) and a Project Partnership Agreement (authorized by this Board on December 13, 2016 and signed June 10, 2017) with the Corps. Construction of the Phase 3 Continuing Authorities Program funded habitat work occurred in 2018.

The Corps also determined that Phases 4-6 of habitat work in Dry Creek could be funded under the authority of a Corps Ecosystem Restoration Project General Investigation. On January 27, 2015, the Board authorized Sonoma Water to enter into a feasibility cost share agreement associated with the Dry Creek Ecosystem Restoration Project General Investigation, for funding the design of portions of Phases 4-6 of Dry Creek habitat enhancement work (agreement signed May 6, 2015). As project feasibility planning progressed, the next major milestone of the General Investigation funding process was for Sonoma Water to enter into a cost-shared Design Agreement with the Corps (authorized by this Board on April 16, 2019 and signed on April 22, 2019) for the development of detailed designs for the project elements identified during the feasibility phase. As detailed designs have progressed, the next step of the General Investigation funding process requires Sonoma Water to enter into a Project Partnership Agreement with the Corps for cost-sharing the upcoming construction phase (Recommended Action A of this agenda item). The Agreement picks up where the previous design agreement ended, and establishes the obligations of the Corps and Sonoma Water for securing project right-of-way, finalizing project designs, and constructing, monitoring, and maintaining the Project. For the Dry Creek Ecosystem Restoration Project General Investigation, Sonoma Water recommends entering into an

Agreement with the Corps for the construction of Phases 4-6 of habitat work in Dry Creek (note in the Agreement documents that the Corps uses the term Phases 1-3 for what is considered Phases 4-6 for the whole Dry Creek habitat effort). Sonoma Water would be the local sponsor and would cost share the construction costs with the Corps at a 65/35 rate (federal and local, respectively) during the construction phase.

Partnering with the Corps for funding the construction of habitat work in Dry Creek through the Ecosystem Restoration General Investigation process is expected to result in millions of dollars in cost savings locally if the majority of the future construction costs for habitat work in Dry Creek is paid for by the Corps. Without cost-sharing with the Corps, Sonoma Water would still be obligated to pay the full amount of the Dry Creek habitat enhancement work. The Agreement will allow for the use of approximately \$28 million of federal dollars towards the completion of Phases 4-6 of the Dry Creek habitat work.

Environmental Review

On November 17, 2015, the Board Certified the Final Environmental Impact Report (EIR) for the Dry Creek Habitat Enhancement Project (Miles 2-6) and approved the project. The EIR provided project-level analysis for Phases 2-3 and programmatic-level analysis for Phases 4-6 under the California Environmental Quality Act (CEQA). As specific sites were identified through the development of Phases 4-6, Sonoma Water's staff conducted a CEQA analysis of the potential for the Phase 4-6 work to result in any significant environmental impacts not previously identified. That analysis was memorialized in the form of a CEQA Addendum. The CEQA Addendum, dated June 19, 2020, added the additional properties to the Dry Creek Project. Based on site reconnaissance and other analysis, Sonoma Water staff concluded that no new impacts were identified that were not addressed in the project or its circumstances or new or substantial importance that was not known and could not have mitigation measures that have already been identified and incorporated into the EIR Mitigation Monitoring and Reporting Program.

On August 28, 2018, the Corps released an Environmental Assessment under the National Environmental Policy Act that provided a detailed environmental site-specific assessment of the Phase 4-6 project components. No new significant environmental impacts were identified in this document that were not previously identified in Sonoma Water's EIR. The Corps signed a Finding of No Significant Impact on July 25, 2019 for the Dry Creek Ecosystem Restoration General Investigation Project.

Prior Board Actions:

- 8/4/2020: Authorize Sonoma Water's General Manager to execute agreements to acquire the property rights needed for construction of the Dry Creek Habitat Enhancement Project, Phases 4-6.
- 4/16/2019: Authorize Sonoma Water's General Manager to sign a Design Agreement with the United States Army Corps (Miles 4-6)
- 2/27/2018: Authorize General Manager to execute agreements to acquire property rights for Phase 2, part 2.
- 12/13/2016: Authorize Chair of Board of Directors of Sonoma Water to sign a Project Partnership Agreement with the United States Army Corps; for Phase 3, part 2; authorize General Manager to execute agreements and compensate property owners for acquisition of easements up to \$403,000.
- 11/17/2015: Certify EIR Miles 2-6, approve the project Miles 2-6; file CEQA; authorize the General Manager to negotiate and execute agreements with property owners for Phase 2, Part 1.
- 01/27/15: Authorized Feasibility Cost Share Agreement with U.S. Army Corps of Engineers for Dry Creek Habitat Enhancements (Miles 4-6).

06/10/14: Authorized Feasibility Cost Share Agreement with U.S. Army Corps of Engineers for Dry Creek Habitat Enhancements (Miles 2-3).

FISCAL SUMMARY

Expenditures	FY 20-21 Adopted	FY21-22 Projected	FY 22-23 Projected
Budgeted Expenses	3,500,000	1,252,000	
Additional Appropriation Requested			
Total Expenditures	3,500,000	1,252,000	
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other	3,500,000	1,252,000	
Use of Fund Balance			
Contingencies			
Total Sources	3,500,000	1,252,000	

Narrative Explanation of Fiscal Impacts:

Budgeted amount of \$3,500,000 is available from FY 2020/2021 appropriations for the Watershed Planning and Restoration Fund. No additional appropriations are required. The Corps of Engineers and Sonoma Water are sharing the cost of phases 4-6 design and construction on a 65 percent federal/35 percent Sonoma Water basis. Under the cost-share agreement, design, environmental compliance, right-of-way, and project management costs count toward Sonoma Water's 35 percent cost share.

Future appropriations will be budgeted in FY 2021/2022.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Draft Project Partnership Agreement

Related Items "On File" with the Clerk of the Board:

None

