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STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE

*GAVIN NEWSOM, Governor*
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Bay Delta Region
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October 8, 2026

Robin Bartlett, Principal Engineer
Marin County Flood Control and Water Conservation District
3501 Civic Center Drive, Suite 304
San Rafael, CA 94903
EnvPlanning@marincounty.gov

**Subject: Santa Venetia Floodwall Project, Supplemental Mitigated Negative Declaration, SCH No. 2019079013, Marin County**

Dear Robin Bartlett:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Supplemental Mitigated Negative Declaration (MND) from the Marin County Flood Control and Water Conservation District (District) for the Santa Venetia Floodwall Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1] CDFW previously provided comments for the original and Subsequent MNDs a letters dated August 20, 2019, and January 17, 2024, respectively.

CDFW is submitting comments on the Supplemental MND to inform the District, as the Lead Agency, of our concerns regarding potentially significant impacts to biological resources associated with the Project, and recommended mitigation measures, as further described below and in **Attachment 1.**

## CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (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 a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), Lake and Streambed Alteration (LSA) Agreement, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

[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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## PROJECT DESCRIPTION SUMMARY

**Proponent:** Marin County Flood Control and Water Conservation District

**Objective:** The Project changes prompting the Supplemental MND include adding a section of sheet pile installation approximately 600 feet long and construction of a floodgate within the roadway. The Project involves constructing a sheet pile floodwall along the top of an existing earthen levee totaling an approximate length 7,800 feet and a maximum width at approximately 14 inches. This structure would replace an existing timber-reinforced berm floodwall and provide improved protection from floods to approximately 900 homes located on the landward side of the floodwall. Sheet piles would be installed using a vibratory hammer. A 10- to 18-foot-wide work zone along the length of the floodwall would be cleared to facilitate construction. In addition to land access from Vendola Drive, the contractor may access the work zone from South Fork Gallinas Creek. Water access would involve using an amphibious excavator to move material from a barge in South Fork Gallinas Creek to a slide pontoon, and from the pontoon to the work zone. Water access would occur at approximately 20 designated areas, each up to 30 feet wide and 100 feet long.

**Location:** The Project is located in the unincorporated Community of Santa Venetia in the City of San Rafael, Marin County, State of California, between the South bank of South fork Gallinas Creek from 5 to 825 Vendola Drive, with an approximate centroid of 38.0131° Latitude, -122.5191° Longitude.

## REGULATORY REQUIREMENTS

### California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed or candidate species under CESA, either during construction or over the life of the Project.[2] **The Project has the potential to impact longfin smelt (*Spirinchus thaleichthys*), a CESA listed as threatened species, as further described below.** Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065.).

[2] "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill (Fish & G. Code, § 86).

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Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

**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. 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 Gallinas Creek therefore an LSA Notification would be required. The Project has submitted an LSA Notification (EPIMS-MAN-14846-R3) to CDFW; thank you for notifying pursuant to Fish and Game Code section 1600 et seq.** CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

**Raptors and Other Nesting Birds**

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

**California Fully Protected Species**

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

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Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (Fish & G. Code, § 2081.15). Project proponents should consult with CDFW early in the project planning process. **The Project also has potential to impact the following California fully protected species: salt marsh harvest mouse (*Reithrodontomys raviventris*) and Ridgeway's rail (*Rallus obsoletus*) which are both also CESA listed as endangered species, and California black rail (*Laterallus jamaicensis coturniculus*), also CESA listed as threatened species. Thank you for including Mitigation Measures BIO-1b to avoid impacts to salt marsh harvest mouse, Ridgeway's rail, and California black rail.**

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the District in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below which are also included in **Attachment 1, and in CDFW's prior CEQA comment letters for the Project mentioned above**, CDFW concludes that a MND is appropriate for the Project.

### I. Environmental Setting Related Impact Shortcoming

**Mandatory Findings of Significance: Does the Project have the potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?**

**COMMENT 1: Longfin Smelt**

**Issue, specific impacts, why they may occur and be potentially significant:** The MND does not adequately evaluate and mitigate potential impacts to longfin smelt. The MND identifies that longfin smelt adults may be present in the Project area during construction and provided a study titled Gallinas Creek Longfin Smelt Assessment, prepared by Kleinfedler, dated May 7, 2024, concluding that Gallinas Creek does not provide suitable spawning habitat for longfin smelt, indicating that longfin smelt larvae would not be present. However, in April 2025 the University of California, Davis (UCD) and the Wetland Regional Monitoring Program (WRMP) conducted trawl efforts and captured two longfin smelt, one of which was a young juvenile longfin smelt as shown in the photograph dated April 23, at the mouth of Gallinas Creek suggesting spawning may have occurred upstream (see: Fish in the Bay – May 2025, WRMP San Pablo Bay Trawls, Part 3 – Gallinas Creek to Hamilton Wetlands. – Otolith Geochemistry & Fish Ecology Laboratory, https://www.ogfishlab.com/2025/05/22/fish-in-the-bay-may-2025-wrmp-san-pablo-bay-trawls-part-3-gallinas-creek-to-hamilton-wetlands/). In April 2026 the UCD/WRMP conducted surveys in Gallinas Creek and noted "an occasional Longfin Smelt upstream

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during the spawning season" which supports the potential of longfin smelt spawning in Gallinas Creek (see: Fish in the Bay – North Bay Trawls in April 2026. – Otolith Geochemistry & Fish Ecology Laboratory, https://www.ogfishlab.com/2026/04/17/fish-in-the-bay-north-bay-trawls-in-april-2026/, and according to the table at the end of the article, two longfin smelt were caught in Gallinas Creek in April 2025 (as stated above) and one longfin smelt was caught in November 2025. Additionally, in an e-mail communication to CDFW, UCD/WRMP sampling crew staff indicated that seven longfin smelt were caught in Gallinas Creek during trawl efforts in January 2026 (January to March is considered the peak spawning season for longfin smelt), two adult males and two adult females, further suggesting spawning may be occurring. Therefore, CDFW concludes that longfin smelt larvae may be present in the Project area during spawning season.

The Project could result in mortality of longfin smelt larvae if they are crushed between the substrate and the barge, amphibious excavator, slide pontoon, or construction matting during in-water work access activities, as larvae are not sufficiently developed to move away from these Project activities.

Longfin smelt is CESA listed as threatened species and the San Francisco Bay-Delta Distinct Population Segment is a federal Endangered Species Act listed as endangered species and therefore is considered a threatened and endangered species pursuant to Section 15380 of the CEQA Guidelines. Impacts to longfin smelt could substantially reduce the species' population, which would be considered a Mandatory Finding of Significance pursuant to Section 15065, subdivision (a) of the CEQA Guidelines. Therefore, if longfin smelt are present in the Project area and would be impacted, Project impacts to longfin smelt would be *potentially significant*.

**Recommended Mitigation Measure:** CDFW recommends that the MND include the mitigation measure below to reduce potential impacts to longfin smelt larvae to less-than-significant and comply with CESA.

Mitigation Measure BIO-1c *(Longfin Smelt Avoidance):* All in-water Project activities shall be conducted between August 1 and November 30, when longfin smelt larvae are not expected to be present in the work area, unless otherwise approved in writing by CDFW. If take of longfin smelt may occur, the Project shall obtain a CESA ITP from CDFW and comply with the ITP and shall also consult with U.S. Fish and Wildlife Service (USFWS). The Project shall adhere to the work period and all other requirements of the LSA Agreement issued by CDFW for the Project.

**Please be advised that the LSA Agreement for the Project will likely include the above recommended mitigation measure and those in our prior CEQA comment letters for the Project, as applicable, and additional measures to protect fish and wildlife resources.**

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## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be filled out and submitted online 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 (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). 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.

## CONCLUSION

CDFW appreciates the opportunity to comment on the Supplemental MND to assist the District in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jordan Beaton, Environmental Scientist, at Jordan.Beaton@wildlife.ca.gov or (707) 980-5172; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:
Erin Chappell
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Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Land Use and Climate Innovation, State Clearinghouse (SCH No. 2019079013)
Kim Squires, U.S. Fish and Wildlife Service - Kim_Squires@fws.gov
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov

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# ATTACHMENT 1

## Draft Mitigation and Monitoring Reporting Plan

| Biological Resources (BIO) | | | |
|---|---|---|---|
| **Mitigation Measure (MM)** | **Description** | **Timing** | **Responsible Party** |
| **BIO-1c** | *Longfin Smelt Avoidance*: All in-water Project activities shall be conducted between August 1 and November 30, when longfin smelt larvae are not expected to be present in the work area, unless otherwise approved in writing by CDFW. If take of longfin smelt may occur, the Project shall obtain a CESA ITP from CDFW and comply with the ITP and shall also consult with USFWS. The Project shall adhere to the work period and all other requirements of the LSA Agreement issued by CDFW for the Project. | During in-water activities for Duration of Project Construction | Project Applicant |