

Dry Creek Commons Project  
Final Initial Study/  
Mitigated Negative Declaration

SEPTEMBER 2022

PREPARED FOR

**City of Healdsburg  
Community Development Department  
401 Grove Street  
Healdsburg, California 95448**

PREPARED BY

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**DRY CREEK COMMONS PROJECT  
FINAL INITIAL STUDY/  
MITIGATED NEGATIVE DECLARATION**

Prepared for

**City of Healdsburg**  
**Community Development Department**  
401 Grove Street  
Healdsburg, California 95448  
Attn: Ellen McDowell, Senior Planner

Prepared by

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SWCA Project No. 72075

September 2022

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## SECTION 1. INTRODUCTION

### 1.1 PURPOSE

The Public Review Draft Initial Study/Mitigated Negative Declaration (Public Review Draft IS/MND) for the Dry Creek Commons Project at 155 Dry Creek Road (project) was published and circulated for public review for a 30-day period starting on July 15, 2022 and ending on August 15, 2022. One public agency provided comments on the Public Review Draft IS/MND on August 17, 2022. Although not required by the California Environmental Quality Act (CEQA) and State CEQA Guidelines, the City of Healdsburg (City) has evaluated the comments received on the Public Review Draft IS/MND. The Responses to Comments and Revisions to the Public Review Draft IS/MND, which are included in this document, together with the Public Review Draft IS/MND, the Public Review Draft IS/MND Appendices, and the Mitigation Monitoring and Reporting Program (MMRP), comprise the Final IS/MND for use by the City in its review and consideration of the project.

This document is organized into three sections:

- **Section 1: Introduction**
- **Section 2: Responses to Written Comments:** Provides a list of the agencies, organizations, and individuals who commented on the Public Review Draft IS/MND. Copies of all of the letters received regarding the Public Review Draft IS/MND and responses thereto are included in this section.
- **Section 3: Revisions to Public Review Draft IS/MND:** Includes an addendum listing refinements and clarifications on the Public Review Draft IS/MND, which have been incorporated.

The Final IS/MND is made up of the following:

- Public Review Draft IS/MND (provided under separate cover)
- Public Review Draft IS/MND Appendices (provided under separate cover)
- Responses to Written Comments and Revisions to Public Review Draft IS/MND (Sections 2 and 3 of this document)
- Mitigation Monitoring and Reporting Program (provided under separate cover)

## **SECTION 2. RESPONSES TO WRITTEN COMMENTS**

### **2.1 LIST OF AUTHORS**

One public agency provided comments on the Public Review Draft IS/MND for the Dry Creek Commons Project at 155 Dry Creek Road, which are presented below. The comment letter is reprinted and followed by the corresponding responses. Individual comments within the letter have been bracketed and numbered so comments can be cross-referenced with responses.

<b>Author</b>	<b>Author Code</b>
California Department of Fish and Wildlife, dated August 17, 2022 .....	CDFW

### **2.2 RESPONSES TO WRITTEN COMMENTS**

#### **2.2.1 Introduction**

In accordance with State CEQA Guidelines Section 15088, the City of Healdsburg, as the lead agency, evaluated the comments received on the Public Review Draft IS/MND and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final IS/MND for the project in accordance with State CEQA Guidelines Section 15132.

#### **2.2.2 Comment Letter and Responses**

The bracketed and numbered California Department of Fish and Wildlife (CDFW) comment letter is reproduced in the following pages.

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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](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



August 17, 2022

Letter 1

Ellen McDowell  
City of Healdsburg  
401 Grove Street  
Healdsburg, CA 95448  
[emcdowell@healdsburg.gov](mailto:emcdowell@healdsburg.gov)

Subject: Dry Creek Commons Project, Mitigated Negative Declaration,  
SCH No. 2022070272, City of Healdsburg, Sonoma County

Dear Ms. McDowell:

The California Department of Fish and Wildlife (CDFW) received a Notice of Completion of a Mitigated Negative Declaration (MND) for the Dry Creek Commons Project (project) pursuant to the California Environmental Quality Act (CEQA).<sup>1</sup>

1-1

CDFW is submitting comments on the MND to inform the City of Healdsburg (City), 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 (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a California Endangered Species Act (CESA) Permit, a Lake and Streambed Alteration (LSA) Agreement, or other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

1-2

#### REGULATORY REQUIREMENTS

##### California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the project. Issuance of a CESA Permit 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

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<sup>1</sup> 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.

*Conserving California's Wildlife Since 1870*

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species, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA Permit. **CESA listed as endangered plants that may be impacted by the project include Burke's goldfields (*Lasthenia burkei*), and Sonoma Sunshine (*Blennosperma bakeri*) as further described below.**

↑  
1-3

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). 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 Fish and Game Code section 2080.

#### Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., 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 unnamed wetland tributaries to Foss Creek; 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 (or CESA Incidental Take Permit (ITP)) until it has complied with CEQA as a Responsible Agency.

1-4

#### Raptors and Other Nesting Birds

CDFW also 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.

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#### PROJECT DESCRIPTION SUMMARY

**Proponent:** Burbank Housing Development Corporation

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**Objective:** Design and construction of a 58-unit, four-story, 100% affordable apartment building and associated amenities on an undeveloped lot. The project includes 104 parking spaces and is accessed from Dry Creek Road. The project requests waivers under the State Density Bonus Law for additional height to accommodate the maximum height of 56 feet at the penthouse stairwells, elimination of covered parking requirements, reduced lighting and landscaping requirements, and reduced open space requirements. The project also proposes to protect the Foss Creek watershed and riparian corridor by avoiding impacts within the 35-foot setback and mitigate for wetland impacts of 0.25 acres on-site at a ratio slightly greater than 1.64:1.

1-6

**Location:** The project is located at 155 Dry Creek Road, City of Healdsburg, County of Sonoma. It is centered at approximate coordinates 38.626983 degrees latitude and -122.874825 degrees longitude; Assessor Parcel Number 089-071-002.

#### COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist City of Healdsburg 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, in part through implementation of CDFW's recommendations, CDFW concludes that an MND is appropriate for the project.

1-7

#### Environmental Setting and Mitigation Measures

**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: Section 2.4.3.a, page 32

**Issue:** The MND does not identify potential impacts to including Burke's goldfields and Sonoma Sunshine.

**Specific impact and why impact would occur:** The project would remove 0.25 acres of seasonal wetland habitat, which is potential habitat for Burke's goldfields and Sonoma sunshine. The MND does not require adequate surveys for the above species prior to the commencement of project activities. Although one year of protocol level plant surveys was conducted according to the MND, a second year of surveys is necessary as further described below.

1-8

**Evidence impact would be potentially significant:** Removal of wetland habitat may result in direct mortality of Burke's goldfields and Sonoma sunshine and substantially reduce their number and restrict their range. Burke's goldfields and Sonoma sunshine

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are designated as endangered plants under CEQA because they are listed as endangered under CESA and the federal Endangered Species Act (ESA) (CEQA Guidelines, § 15380). Therefore, if Burke's goldfields and Sonoma sunshine are present on or adjacent to the site, project impacts to these species would be considered a mandatory finding of significance.

**Recommended Mitigation Measures:** To reduce impacts to Burke's goldfields and Sonoma sunshine to less-than-significant, CDFW recommends including the following mitigation measure:

Pre-Project Special-Status Plant Surveys: A Qualified Biologist shall conduct botanical surveys during the appropriate blooming period for Burke's goldfields and Sonoma sunshine, which have the potential to occur in or near the project site, prior to the start of construction. Surveys shall be conducted following CDFW's 2018 Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>). A minimum of **two years of surveys** shall be conducted as recommended in the Santa Rosa Plain Conservation Strategy Appendix D and pursuant to the above survey protocols to establish that the above plant species are absent. Survey reports shall be submitted to CDFW for written approval prior to the start of construction. If Burke's goldfields or Sonoma Sunshine are detected the project shall:

- 1) avoid all direct and indirect impacts to Burke's goldfields and Sonoma Sunshine, **and**
- 2) prepare and implement an avoidance plan that is approved in writing by CDFW prior to project start, **or**
- 3) obtain a CESA ITP from CDFW including providing habitat compensation at a minimum 3:1 mitigation to impact ratio unless otherwise approved in writing by CDFW and consult with the U.S. Fish and Wildlife Service (USFWS) pursuant to the ESA.

***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 CDFW or USFWS?***

**Comment 2: Section 2.4.3.a, page 32**

**Issue:** The MND does identify potential impacts to foothill yellow-legged frog (*Rana boylei*) Northwest/North Coast Clade.



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**Specific impact and why impact would occur:** The project would result in the removal of seasonal wetland and grassland habitat, which are potential dispersal habitat for foothill yellow-legged frog and could result in direct mortality of the species. After breeding occurs in the spring, juvenile frogs can migrate long distances and occupy seasonal wetland and moist grassland 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:** Removal of wetland and grassland habitat adjacent to Foss Creek could result in direct mortality of foothill yellow-legged frog. Foothill yellow-legged frog is as a California Species of Special Concern (SSC). 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 (nonscyclical) 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 foothill yellow-legged frog is present on-site, project impacts to this species would be potentially significant.

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

Foothill Yellow-Legged Frog - Survey Methodology: A CDFW-approved 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 CDFW-approved Qualified Biologist shall conduct surveys for foothill yellow-legged frog

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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 Permittee 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.

1-9

**Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS?**

**Comment 3: Section 2.4.3.b, page 33**

**Issue:** Mitigation Measure (MM) BIO-3 may not reduce impacts to riparian habitat to less-than-significant.

**Specific impact and why impact would occur:** The project would result in permanent impacts to 0.25 acres of wetland swales that drain into Foss Creek. As the wetland swales are hydrologically connected to Foss Creek, they are considered jurisdictional for CDFW pursuant to Fish and Game Code section 1600 et seq.

**Evidence impact would be potentially significant:** Riparian habitat including connected wetland tributaries 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. Removing connected wetland habitat may result in the degradation of riparian habitat. Therefore, if the above impacts to riparian habitat occur, project impacts to riparian habitat would be potentially significant.

**Recommended Mitigation Measures:** To reduce impacts to riparian habitat to less-than-significant, CDFW recommends including the following mitigation measures:

The project shall submit to CDFW a Lake and Streambed Alteration Notification for the impacts to wetlands connected to Foss Creek and comply with the Final Agreement, if issued, prior to commencement of project activities. The notification shall include habitat restoration or preservation at a minimum ratio of 3:1 based on area and linear distance of permanent impacts to wetlands connected to Foss Creek. Habitat restoration or preservation shall occur in the same calendar year as the impact on-site or as close to the site as possible

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within the same stream or watershed and may consist of restoration or enhancement of riparian habitat, unless otherwise approved in writing by CDFW. If mitigation is not possible within the same stream or watershed, mitigation ratios may increase at the discretion of CDFW.

The Permittee 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, 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.

**Please be advised that an LSA Agreement obtained for this project would likely require the above recommended mitigation measures, as applicable.**

#### ENVIRONMENTAL DATA

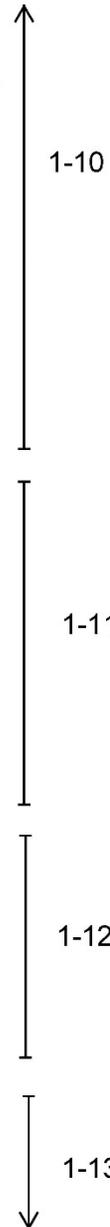
CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during project surveys to California Natural Diversity Database (CNDDDB). The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link: <https://wildlife.ca.gov/data/CMNDDDB/submitting-data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/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).

#### CONCLUSION

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. CDFW



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appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating project impacts on biological resources.

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](mailto:James.Hansen@wildlife.ca.gov); or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov).

↑  
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Sincerely,

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

ec: State Clearinghouse #2022070272

## **STATE AGENCY: CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (CDFW)**

### **Response to CDFW Comment 1-1**

The comment is an introductory statement and does not address the adequacy of the Public Review Draft IS/MND. No further response is required.

### **Response to CDFW Comment 1-2**

The comment provides an overview of the CDFW’s role as Trustee Agency and/or Responsible Agency in the regulatory process. The CDFW’s role as a Trustee Agency and/or Responsible Agency is acknowledged. This comment is acknowledged; it does not address the adequacy of the Public Review Draft IS/MND, and no further response is required.

### **Response to CDFW Comment 1-3**

The comment provides an overview of the California Endangered Species Act (CESA) and requirements to obtain a CESA permit. The comment notes that 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. A discussion related to Burke’s goldfields (*Lasthenia burkei*), Sonoma sunshine (*Blennosperma bakeri*), the biological resource analysis in the Public Review Draft IS/MND, and the supporting technical background study—the Biological Resource Assessment (BRA)—is included under Response to CDFW Comment 1-8.

### **Response to CDFW Comment 1-4**

The comment notes that the CDFW requires a Lake and Streambed Alteration (LSA) Notification, pursuant to California Fish and Game Code Section 1600 et seq., for project activities affecting lakes or streams and associated riparian habitat. The comment asserts the project would impact unnamed wetland tributaries to Foss Creek; therefore, an LSA Notification and Agreement is warranted. A discussion related to CDFW jurisdiction, the need for an LSA Notification and Agreement, and Mitigation Measure BIO-4 (Section 404 Permit and 401 Certification) associated with the project’s wetland impacts is included under Response to CDFW Comment 1-10.

### **Response to CDFW Comment 1-5**

The comment reaffirms the CDFW’s jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of raptors, nesting, and/or migratory birds. The CDFW requirements associated with the California Fish and Game Code and federal requirements associated with the Migratory Bird Treaty Act (MBTA) are acknowledged and understood. As noted in the Public Review Draft IS/MND (p. 33 and pp. 35–36) and the BRA (pp. 10–11 and 14–16), potential impacts on nesting passerines, nesting raptors, and/or migratory birds are discussed, and Mitigation Measure BIO-2 (Passerines and Raptors) is identified to reduce the impact to less-than-significant levels. This comment is acknowledged; it does not address the adequacy of the Public Review Draft IS/MND, and no further response is required.

### **Response to CDFW Comment 1-6**

The comment provides a summary of the project description and location. This comment is acknowledged; it does not address the adequacy of the Public Review Draft IS/MND, and no further response is required.

## Response to CDFW Comment 1-7

The comment is an introductory statement about CDFW comments and recommendations related to the project. This comment is acknowledged; it does not address the adequacy of the Public Review Draft IS/MND. No further response is required.

## Response to CDFW Comment 1-8

The comment asserts that the Public Review Draft IS/MND did not identify potential impacts to Burke’s goldfields and Sonoma sunshine due to the removal of 0.25 acre of seasonal wetlands, which could be potential habitat for these special-status plant species. As a result, the CDFW recommended mitigation to include time-appropriate pre-construction surveys for Burke’s goldfields and Sonoma sunshine.<sup>1</sup>

Representatives from Burbank Housing, Jane Valerius Environmental Consulting (JVEC), and the CDFW held a conference call on August 25, 2022, to discuss the CDFW recommendations in their August 17, 2022, comment letter. The contents of the call were recorded in an August 29, 2022, memorandum prepared by JVEC. Clarifications to original CDFW comments and recommendations related to potential occurrence of Burke’s goldfields and Sonoma sunshine were confirmed by James Hansen (CDFW) in a September 1, 2022, email.<sup>2</sup> As summarized below, the information provided in the Public Review Draft IS/MND and BRA, included as Appendix C-1 of the Public Review Draft IS/MND, indicates that no special-status plants were found on the project site and that suitable habitat does not currently exist on the project site to support special-status plants such as the Burke’s goldfields and Sonoma sunshine. As stated, the CDFW agreed that evidence in the record indicates the site does not contain suitable habitat for special-status plants such as the Burke’s goldfields and Sonoma sunshine.

As discussed in the Public Review Draft IS/MND (pp. 33–34) and documented in the BRA, protocol-level seasonal surveys for special-status plants were conducted on April 27, May 13, and June 9, 2021, to cover the flowering period for all special-status plants with the potential to occur based on the presence of potential habitat, including Burke’s goldfields and Sonoma sunshine (see Appendix C-1 of the Public Review Draft IS/MND, p. 14 and Figure 3). The BRA evaluated the potential for occurrence of 46 special-status plant species. Of the 46 special-status plant species identified, including Burke’s goldfields and Sonoma sunshine, only four had the potential to occur on the parcel and none were identified during any of the protocol-level surveys conducted on the parcel; therefore, no further plant surveys were required or conducted. For a list of every potentially occurring special-status plant species and special-status plant species observed when the protocol-level surveys were conducted, refer to Appendix C-1 of the Public Review Draft IS/MND (see BRA Appendix B, pp. 32 and 35, for *Special-Status Plant Species Potentially Occurring in the Study Area* and BRA Appendix E, pp. 45–46, for *Plant Species Observed* on April 27, May 13, and June 9, 2021).

As noted in the BRA appendices, Burke’s goldfields and Sonoma sunshine were not present on the site because the site does not provide suitable habitat (valley and foothill grassland [mesic], vernal pools at elevations between 11 and 110 meters; and meadows and seeps [mesic], vernal pools at elevations between 15 and 600 meters, respectively). This is due to the fact that the project site is dominated by a

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<sup>1</sup> The project site is not located within the Santa Rosa Plains Conservation Strategy Area. California Department of Fish and Wildlife (CDFW). 2005. *Santa Rosa Plain Conservation Strategy, Figure 1: Santa Rosa Plain Conservation Strategy Study Area*. Prepared on November 25. Available at: <https://www.fws.gov/sites/default/files/documents/2-Figures-1-to-5-Santa-Rosa-Plain-508.pdf>. Accessed September 2022.

<sup>2</sup> Memorandum from Jane Valerius Environmental Consulting to James Hansen (Environmental Scientist, CDFW) re: Dry Creek Commons Project, Mitigated Negative Declaration, SCH No. 2022070272, City of Healdsburg, Sonoma County; and Email from James Hansen (Environmental Scientist, CDFW) to Karen Massey (Senior Project Manager, Burbank Housing) re: Dry Creek Commons MND Response to comments; SCH No. 2022070272, September 1, 2022.

very dense cover of non-native species and, therefore, is not good habitat for special-status plants. The project site also lacks the proper hydrology/hydroperiod for vernal pool plants and the soils that are generally associated with vernal pools and these listed special-status plant species. The protocol-level plant surveys further determined the absence of any vernal pool associates, including semaphore grass (*Pleuropogon californicus*), coyote thistle (*Eryngium armatum*), calico flower (*Downingia concolor*), popcorn flower (*Plagiobothrys* spp.), and many flowered navarretia (*Navarretia leucocephala* ssp. *plieantha*). Based on the results of the protocol-level surveys for special status-plant species, the potential for occurrence, and the fact that the high floodplain terrace wetlands found on the project site do not provide suitable habitat for Burke's goldfields and Sonoma sunshine, the removal of 0.25 acre of seasonal wetland habitat would not result in significant impacts to special-status plant species, and mitigation would not be required.

Revisions Section 2.4, Biological Resources (pp. 31–36), of the Public Review Draft IS/MND are not proposed and no further response is required.

### Response to CDFW Comment 1-9

The comment asserts that the Public Review Draft IS/MND did not identify potential impacts to foothill yellow-legged frog (*Rana boylei*) Northwest/North Coast Clade due to the removal of 0.25 acre of seasonal wetlands, which could function as potential, albeit marginal, dispersal habitat for foothill yellow-legged frog. The CDFW recommended a mitigation measure to conduct a pre-construction survey for foothill yellow-legged frog. As detailed below, a pre-construction survey for foothill yellow-legged frog will be incorporated into the project as a component of Mitigation Measure BIO-1 (Western Pond Turtle Pre-Construction Survey) to prevent the take of an individual.

As discussed in the Public Review Draft IS/MND (p. 32), the BRA evaluated the potential for occurrence of 38 special-status wildlife species to occur on the project site (see Appendix C-1 of the Public Review Draft IS/MND, p. iv). The BRA identified 11 special-status wildlife species with potential to occur within the larger study area and nine special-status wildlife species with potential to occur within the proposed project impact area; however, no focused surveys for any special-status wildlife species were conducted. The BRA identified foothill yellow-legged frog as potentially occurring but determined that the site does not provide suitable breeding habitat (i.e., permanent stream pools, creeks with emergent and/or riparian vegetation, and/or cobble-stone habitat), and that no impact would occur to eggs, tadpoles, or breeding adults. Refer to BRA Appendix D (p. 40) for *Special Status Animals Potentially Occurring in the Study Area* and Appendix F (p. 47) for *Wildlife Species Observed* on May 13, 2021.

As noted in the BRA (p. 5), none of the wetlands support ponding water but rather “provide an aboveground moisture that is important to amphibians as they move across a landscape. Amphibian species potentially using the fresh emergent wetland include the Sierran chorus frog (*Pseudacris sierra*) and western toad (*Bufo boreas*) when they move away from water bodies to forage on terrestrial invertebrates.” Although the high floodplain terrace wetlands and grasslands found on the project site east of the 35-foot-wide riparian setback may not provide suitable breeding habitat for foothill yellow-legged frog, it may provide marginal dispersal habitat for this species.

Thus, with regard to potential impacts to species of special concern, the CDFW's recommendation to add a pre-construction survey for foothill yellow-legged frog will be included as an additional component of Mitigation Measure BIO-1 to prevent the take of an individual. The required pre-construction survey for the foothill yellow-legged frog would be conducted in the dispersal habitat/movement corridor of the grassland and wetland habitats concurrent with the survey required for the western pond turtle (*Emys marmorata*) under Mitigation Measure BIO-1 and will utilize the same surveying methodology as required for the western pond turtle. If foothill yellow-legged frog is not found, no further action will be

taken. If foothill yellow-legged frog is found, the CDFW will be notified, and a relocation plan will be developed with the CDFW to prevent take of individuals.

With the inclusion of the pre-construction survey for foothill yellow-legged frog in Mitigation Measure BIO-1, potential impacts to this species of special concern would continue to be less than significant with mitigation.

Please refer to *Section 3, Revisions to Public Review Draft IS/MND*, for the revised language in Section 2.4, Biological Resources (pp. 33 and 35), of the Public Review Draft IS/MND, including Mitigation Measure BIO-1.

### **Response to CDFW Comment 1-10**

The comment asserts that an LSA Notification and Agreement would need to be filed and obtained for this project and would likely require the CDFW's recommended mitigation for wetland impacts. The comment further asserts that Mitigation Measure BIO-3 (Tree Roosting Bats Pre-Construction Survey) may not reduce riparian habitat to less than significant with mitigation. The comment incorrectly identified Mitigation Measure BIO-3 (Tree Roosting Bats Pre-Construction Survey) as the applicable riparian habitat mitigation measure. Mitigation Measure BIO-4 (Section 404 Permit and 401 Certification) is the relevant wetland impact mitigation measure.

Representatives from Burbank Housing, JVEC, and the CDFW held a conference call on August 25, 2022, to discuss the CDFW recommendations in their August 17, 2022, comment letter. The contents of the call were recorded in an August 29, 2022, memorandum prepared by JVEC. Clarifications to original CDFW comments and recommendations related to CDFW jurisdiction and wetland impacts were confirmed by James Hansen (CDFW) in an August 29, 2022, email.<sup>3</sup> As summarized below, the information provided in the Public Review Draft IS/MND, BRA (Appendix C-1 of the Public Review Draft IS/MND), and communications between Burbank Housing, JVEC, and the CDFW shows that the project will not cause direct impacts to CDFW jurisdictional wetland features because there is no direct overland flow from the 0.25 acre of impacted wetlands to Foss Creek. Because the project would not propose any activity or improvements in the bed, bank, or channel of Foss Creek and will not cause direct impacts to CDFW jurisdictional wetland features, an LSA Notification would not need to be filed and an LSA Agreement would not need to be obtained for the project.

Seasonal wetlands on-site occur as two features: Wetland W-1 and Wetland W-2. Wetland W-1 is 0.53 acre and occurs in the south-central portion of the site within the mapped AE flood zone. This wetland occurs as a broad swale feature that drains from the northeast to southwest towards Norton Slough/Foss Creek. Water to Wetland W-1 is primarily from direct precipitation and surface and subsurface runoff from the project site. Under normal rainfall years, only the extreme southwest corner of the project site may pond water; the ponded water does not appear to overtop the outlet barrier located along the western end of the wetland. Therefore, there is no direct discharge into Foss Creek in this area. Wetland W-2 is 0.04 acre and fed by a storm drain culvert under the railroad tracks that flows onto the property and towards Norton Slough/Foss Creek in an east–west direction. A berm located along the top of bank of Foss Creek prevents water from flowing into the creek in this area of the site near its northern boundary. There is no culvert or pipe at this location and therefore no direct discharge into Foss Creek in this area. Thus, the seasonal wetlands are high floodplain terrace wetlands that do not have a direct

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<sup>3</sup> Memorandum from Jane Valerius Environmental Consulting to James Hansen (Environmental Scientist, CDFW) re: Dry Creek Commons Project, Mitigated Negative Declaration, SCH No. 2022070272, City of Healdsburg, Sonoma County; and Email from James Hansen (Environmental Scientist, CDFW) to Karen Massey (Senior Project Manager, Burbank Housing) re: Dry Creek Commons MND Response to comments; SCH No. 2022070272, August 29, 2022.

hydrologic connection to Foss Creek. Given that there is no direct overland flow from the wetlands to Foss Creek, no impact to CDFW jurisdictional features would occur as a result of this project; therefore, no CDFW mitigation is required.

### **Response to CDFW Comment 1-11**

The comment requests that any special-status species and natural communities detected during project surveys be reported to the California Natural Diversity Database (CNDDDB). The CDFW comment to submit special-status and natural community observations to the CNDDDB is acknowledged. A CNDDDB occurrence form will be submitted if any special-status species are observed on the project site. This comment is acknowledged; it does not address the adequacy of the Public Review Draft IS/MND, and no further response is required.

### **Response to CDFW Comment 1-12**

The comment notes the filing fees required by CDFW upon filing the Notice of Determination (NOD) by the Lead Agency. The project applicant will pay the CDFW filing fee and County Clerk processing fee with filing of the NOD. This comment is acknowledged; it does not address the adequacy of the Public Review Draft IS/MND, and no further response is required.

### **Response to CDFW Comment 1-13**

The comment is a conclusion statement. This comment is acknowledged; it does not address the adequacy of the Public Review Draft IS/MND, and no further response is required.

## SECTION 3. REVISIONS TO PUBLIC REVIEW DRAFT IS/MND

### 3.1 OVERVIEW

The following are revisions to the Public Review Draft IS/MND for the Dry Creek Commons Project at 155 Dry Creek Road. These revisions are minor modifications and clarifications to the document, and do not change the significance of any of the environmental issue conclusions within the Public Review Draft IS/MND. The revisions are listed by page number. All additions to the text are double-underlined (underlined) and all deletions from the text are shown in ~~strikethrough~~.

### 3.2 REVISIONS IN RESPONSE TO SPECIFIC COMMENTS

#### 3.2.1 Section 2.4 Biological Resources

In response to CDFW Comment 1-9, text on page 33 of the Public Review Draft IS/MND is hereby revised as follows:

Western pond turtles and foothill yellow-legged frogs may occur within the vicinity of the project site and may use Foss Creek and move through the upland habitat (grasslands and seasonal wetlands) as a movement corridor. Development of a portion of the grasslands and seasonal wetlands within the project site may impact individual western pond turtles and foothill yellow-legged frogs. The project would incorporate **Mitigation Measure BIO-1** to reduce potential impacts to western pond turtles and foothill yellow-legged frogs to less than significant.

In response to CDFW Comment 1-9, Mitigation Measure BIO-1 on page 35 of the Public Review Draft IS/MND is hereby revised as follows:

**BIO-1 Western Pond Turtle and Foothill Yellow-Legged Frog Pre-Construction Surveys.** To prevent take of western pond turtle and/or foothill yellow-legged frog individuals, a pre-construction survey shall be conducted for both species. The pre-construction survey shall be conducted within 7 days prior to groundbreaking activities between January 1 and June 30 in the grasslands and seasonal wetland habitats within the project impact area on the project site.

If no western pond turtles or foothill yellow-legged frogs are observed, no further action is required. If western pond turtles or foothill yellow-legged frogs are observed in the grasslands or seasonal wetland habitats, the California Department of Fish and Wildlife (CDFW) shall be contacted, and all construction activities will be delayed until an appropriate course of action is established and approved by the California Department of Fish and Wildlife CDFW. This may be as simple as establishing a drift fence and/or exclusion fence around the project impact area to prevent western pond turtles and/or foothill yellow-legged frogs from moving into the project impact area. If required by the CDFW, a Qualified Biologist shall prepare and implement a western pond turtle or foothill yellow-legged frog relocation plan.

If construction is delayed for more than 30 days from the survey, another pre-construction survey for western pond turtles and foothill yellow-legged frogs shall be conducted.