

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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**CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR
RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2022-008-R4**

Project: Merced River Plan Implementation: Sugar Pine Bridge Floodplain and Riverbank Restoration

Location: Yosemite National Park, Mariposa County

Lead Agency: Central Valley Regional Water Quality Control Board

Lead Agency Contact: Matt Scroggins; Matt.Scroggins@waterboards.ca.gov

Background:

Project Location: The Merced River Plan Implementation: Sugar Pine Bridge Floodplain and Riverbank Restoration (Project) is located at the confluence of Tanaya Creek with the Merced River in the Yosemite Valley, in Mariposa County within Yosemite National Park (Park). Restoration will occur within the footprint of the former Lower Pines Campground southwest of the historic Sugar Pine Bridge, centering on 37°44'29" N and 119°34'17" W. The Project area encompasses 17.31 acres of floodplain and riverbank restoration.

Project Description: Euro-American activities in the Yosemite Valley have facilitated conversion of wetland to forested upland. These activities include cessation of indigenous burning, ditching, draining, tilling, and grazing of meadows and wetlands, development, and hydrologic alterations such as systematic removal of large wood, undersized bridges, gravel mining, riprap installation, and the destruction of a terminal moraine. The construction of the former Lower Pines campground filled overflow channels, prohibiting water to flow freely across the floodplain. These channels played an important role during flood events, alleviating flows under Sugar Pine Bridge and mitigating the hydrologic impacts of the bridge. Heavy visitor use also contributed to erosion of the riverbank. Following campground construction, conifers grew to dominate the historically riparian over-story. Only 2.81 acres of the 17.31-acre Project area currently qualify as waters of the U.S. This Project will serve to reverse the decades of damage associated with the Sugar Pine Bridge and Lower Pines campground construction, and therefore restore wetland habitat within the 14.5 acres that do not qualify as waters of the U.S. within the Project footprint.

The Project is designed to benefit lower montane riparian and wetland habitat by reconnecting the Merced River to its historic floodplain overflow channels, re-naturalizing its banks, and reducing conifer forest encroachment. Restoring the Project area to its original condition and enhancing riparian habitat will support recovery of the California red-legged frog (CRLF, *Rana draytonii*) and Western pond turtle (WPT, *Actinemys marmorata*). The restored floodplain and riverbank habitat may also benefit other listed or special status species, including bald eagle (*Haliaeetus leucocephalus*), great gray owl (*Strix nebulosa*),

and willow flycatcher (*Empidonax traillii*).

This Project will be implemented by the National Park Service (NPS). The undersized and misaligned Sugar Pine Bridge¹ and associated rip-rap has caused the reach of river to become over-widened and confined within its banks. Lack of connectivity between the Merced River and its once-active floodplain has altered vegetation communities and water-dependent biota and amplified erosive forces within the channel. The Project plans to resolve these issues by implementing the following habitat restoration activities:

1. Excavation of fill from historic overflow channels;
2. Removal of asphalt and decompaction of soils from the former campground;
3. Restoration of channel topography to the 1919 USGS map conditions;
4. Removal of encroaching conifers to allow re-establishment of riparian deciduous species;
5. Installation of an engineered log jam to direct water toward overflow channels; and
6. Revegetation with native species such as willow, cottonwood, and sedges.

These actions will restore riparian zone function, encourage more frequent overbank flooding and off channel flows, restore dynamic river and tributary channels, and create more complex in-channel habitat to assist in the recovery of California native fish and wildlife.

Stakeholder and Tribal Coordination: All seven of the Park's affiliated tribes provided review and feedback on the Project in January of 2022. These affiliated tribes are: Southern Sierra Miwuk Nation, Tuolumne Band of Me-wuk Indians, Picayune Rancheria of Chukchansi Indians, Bridgeport Indian Colony, Mono Lake Kutzadikaa, North Fork Rancheria of Mono Indians of California, and Bishop Piute Tribe. Tribal consultation resulted in the following Project measures to reduce and avoid impacts to tribal cultural resources: tribal monitors shall be required for ground-disturbing work; Project managers and archeologists shall educate construction personnel on the cultural sensitivity of the Project area; and heavy equipment access routes shall be designed to avoid impacts tribal cultural resources.

NPS has also engaged with State agencies, including with the Central Valley Regional Water Quality Board (RWQCB) and California Department of Fish and Wildlife (CDFW), during the planning of this project. Additionally, NPS conducted three stakeholder meetings between May of 2017 to October of 2019.

Anticipated Project Implementation Timeframes:

Start date: August of 2022

Completion date: September of 2023

Lead Agency Request for CDFW Concurrence: On July 25, 2022, the Director of CDFW (CDFW Director) received a concurrence request from the RWQCB (Lead Agency) pursuant to Public Resources Code section 21080.56, subdivision (e) (Request). The Request seeks the CDFW Director's concurrence with the Lead Agency's determination on July 25, 2022 that the Project meets certain qualifying criteria set forth in subdivisions (a) to (d), inclusive, of the same section of the Public Resources Code (Lead Agency Determination). The CDFW Director's concurrence is required for the Lead Agency to approve the Project relying on this section of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

¹ The Sugar Pine Bridge, built in 1928, will not be removed due to its historic significance.

Concurrence Determination

The CDFW Director concurs with the Lead Agency Determination that the Project meets the qualifying criteria set forth in Public Resources Code section 21080.56, subdivisions (a) to (d), inclusive (Concurrence).

Specifically, the CDFW Director concurs with the Lead Agency that the Project meets all of the following conditions: (1) the Project is exclusively to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend; or is exclusively to restore or provide habitat for California native fish and wildlife; (2) the Project may have public benefits incidental to the Project's fundamental purpose; (3) the Project will result in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery; and includes procedures and ongoing management for the protection of the environment; and (4) Project construction activities are solely related to habitat restoration. Pursuant to Public Resources Code section 21080.56, subdivision (g), CDFW will post this Concurrence on its CEQA Notices and Documents internet page: <https://wildlife.ca.gov/Notices/CEQA>.

This Concurrence is based on best available science and supported, as described below, by substantial evidence in CDFW's administrative record of proceedings for the Project.

The CDFW Director's concurrence is also based on a finding that the Project is consistent with and that its implementation will further CDFW's mandate as California's trustee agency for fish and wildlife, including the responsibility to hold and manage these resources in trust for all the people of California.

Discussion

- A. Pursuant to Public Resources Code section 21080.56, subdivision (a), the CDFW Director concurs with the Lead Agency that the Project will exclusively conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend; or restore or provide habitat for California native fish and wildlife.

The Project will restore the floodplain and associated wetlands in the Sugar Pine Bridge area and re-establish riparian habitat on the Merced River riverbank. It will yield a net increase in habitat available for the federally threatened CRLF and WPT, a CDFW species of special concern. The CRLF was reintroduced to the Park in 2017 in partnership with the U.S. Fish and Wildlife Service (USFWS). Restoration of degraded and filled wetlands will assist in the recovery of these California native species and enhance the habitat upon which they depend.

- B. Pursuant to Public Resources Code section 21080.56, subdivision (b), the CDFW Director concurs with the Lead Agency that the Project may have incidental public benefits, such as public access and recreation.

The Project's outcomes will include revegetated riverbanks, healthy biodiverse wetlands, and the opening of the hardwood riparian canopy to sunlight and birds which may provide recreational opportunities such as birdwatching, photography, hiking, and fishing. Furthermore, removal of encroaching conifers will enhance the visibility of the

Park's iconic geologic features, improving sight-seeing opportunities in the vicinity of the Project area.

- C. Pursuant to Public Resources Code section 21080.56, subdivision (c), the CDFW Director concurs with the Lead Agency that the Project will result in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery, and includes procedures and ongoing management for the protection of the environment.

This Project will result in long-term net benefits to climate resiliency by restoring crucial floodplain wetland habitat that can store water and sequester carbon. Wetlands are biodiversity hotspots that support a myriad of aquatic and terrestrial organisms and provide crucial ecosystem services. By removing fill and constructing an engineered log jam structure, this Project will allow the river to reconnect to its floodplain, supporting critical habitat for sensitive and threatened species which will sustain the biodiversity present in Yosemite Valley on a long-term basis.

Long-term net benefits to climate resiliency: This Project will result in net benefits to climate resiliency by restoring crucial wetland habitat. Specifically, the project will restore wetlands and riverbanks that can provide refuge for many species in a future that is projected to be hotter and drier as a result of climate change. This project will also have the potential to serve as a water storage for habitat as climate change is expected to negatively affect the amount of snowpack in the region. Furthermore, the Project would offset emissions by sequestering carbon.

Long-term net benefits to biodiversity: A primary goal of this wetland and riparian riverbank restoration Project is to provide more habitat for species who rely on wetlands and riparian habitat, both of which have declined in the Yosemite Valley. A 2011 NPS study documented 41 species of birds in the Merced River corridor, including five riparian focal species and one California species of special concern, yellow warbler (*Setophaga petechia*). The most frequently utilized bat foraging habitat in Yosemite Valley is within the riparian zone. The re-establishment of these habitats may also support amphibians and reptile species such as Pacific chorus frogs (*Pseudacris sierra*) and Sierra garter snakes (*Thamnophis couchii*) that are known to rely on similar habitat within Yosemite Valley. NPS expects to see long term net benefits to CRLF, WPT, riparian hardwood nesting bird species, and rainbow trout, among others. Restoring wetland and riparian habitat is also a major priority of Park-affiliated tribes due to many culturally significant species, such as tule, willow, and sedges.

In addition to the hydrological improvements, the Project will reduce encroachment of conifer forest into the Project area. The Project area has no recorded fire history and features a dense conifer canopy with significant accumulation of branches and duff in the understory, limiting understory plant diversity and abundance. In this Project, select conifers will be removed from the overflow channels, which will allow light to reach the floodplain and alleviate demands on water and nutrients for riparian deciduous trees and understory species, such as sedges, grasses, cottonwoods, and willows. The NPS expects to see an overall increase in plant diversity at the site due to increased availability of water, sunlight, nutrients, and microhabitats.

Long-term net benefits to sensitive species recovery: This Project will restore 17.31 acres of potential habitat for CRLF and WPT, which were previously extirpated from Yosemite Valley and are now managed to support recovery in the Park. The Project and other conservation actions being taken by the NPS in the Park will enhance riparian function along the Merced River and reduce other human-caused pressures on these species such as raccoon overpopulation and predation from the invasive American bullfrog (*Lithobates catesbeianus*). Reintroduced CRLF and WPT colonies have become largely self-sustaining breeding populations and were observed in a backwater channel adjacent to the Project area in spring 2022. As a result, it is expected that this project will serve as a long-term net benefit for both the CRLF and WPT recovery by further expanding the area of suitable habitat for two sensitive species.

Moreover, the habitat restoration improvements of the project will have the potential to have long-term net benefits to numerous other avian sensitive species that rely on the habitat the project will create during parts of their lifecycle. These sensitive species include the bald eagle, American peregrine falcon (*Falco peregrinus anatum*), great gray owl (*Strix nebulosa*), willow flycatcher, long eared owl (*Asio otus*), California spotted owl (*Strix occidentalis occidentalis*), black swift (*Cypseloides niger*), yellow warbler, pallid bat (*Antrozous pallidus*), spotted bat (*Euderma maculatum*), Western red bat (*Lasiurus blossevillii*), and the pacific fisher (*Pekania pennanti*).

Procedures and Ongoing Management for the Protection of the Environment:

Construction impacts to sensitive resources and the environment will be avoided and minimized to the greatest extent feasible with the implementation of protective measures. Procedures to protect the environment include but are not limited to those detailed in NPS policy (NPS Organic Act, 1916). Project related take of federally listed species is authorized by a 2018 USFWS Biological Opinion. NPS staff will adhere to all conservation measures in the Biological Opinion and any additional recommendations by the Park's aquatic ecologist. The NPS's aquatic ecologist provided input for the design specifications of the overflow channels' restoration to ensure optimal habitat features for CRLF breeding success.

Mitigation measures for the Project are described in detail in the "NEPA and NHPA Clearance: 2022-136 Merced River Plan Implementation: Sugar Pine Bridge Floodplain and Riverbank Restoration (PEPC: 105734) - Letter of Compliance Completion" from Cicely Muldoon, Superintendent of the Park, provided to CDFW by the Lead Agency. Additionally, this Project will implement Best Management Practices (BMPs) for Storm Water Pollution Prevention Plan (SWPPP) compliance.

Ongoing management of the project will be conducted by NPS staff and will involve long term monitoring and practicing adaptive management approaches at the Project site. Monitoring of physical, hydrologic, vegetation, and wildlife metrics will detect changes for at least five years following Project completion. Some of these field measurement activities will include a measure of the discharge of the Merced River above and below the restoration area, an assessment of native species richness and biotic structural complexity (CRAM score), visual assessment at eleven photo point locations, and bird and aquatic species abundance surveys. Monitoring will inform

adaptive management to address deficiencies or issues if they are to arise. The Park's designation as federal wilderness protects the Project area in perpetuity.

- D. Pursuant to Public Resources Code section 21080.56, subdivision (d), the CDFW Director concurs with the Lead Agency that the Project does not include any construction activities, except those solely related to habitat restoration.

All Project-related construction activities are related to the overall goal of the Project to restore or enhance habitat in the Project area. Therefore, the Project does not include any construction activities except those that are solely related to habitat restoration.

Scope and Reservation of Concurrence

This Concurrence is based on the proposed Project as described by the Lead Agency Determination and the Request. If there are any subsequent changes to the Project that affect or otherwise change the Lead Agency Determination, the Lead Agency, or any other public agency that proposes to carry out or approve the Project, shall submit a new lead agency determination and request for concurrence from CDFW pursuant to Public Resources Code section 21080.56. If any other public agency proposes to carry out or approve the Project subsequent to the effective date of this Concurrence, this Concurrence shall remain in effect and no separate concurrence from CDFW shall be required so long as the other public agency is carrying out or approving the Project as described by the Lead Agency Determination and the Request.

Other Legal Obligations

The Project shall remain subject to all other applicable federal, state, and local laws and regulations, and this Concurrence shall not weaken or violate any applicable environmental or public health standards. (Pub. Resources Code, § 21080.56, subd. (f).)

CDFW Director's Certification

By: CH Bonham

Charlton H. Bonham, Director
California Department of Fish and Wildlife

Date: 8/19/2022