

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
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**CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR  
RESTORATION PROJECTS  
CONCURRENCE NO. 21080.56-2022-014-R6**

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**Project:** Bombay Beach Wetland Enhancement Project  
**Location:** Imperial County  
**Lead Agency:** California Natural Resources Agency (CNRA)  
**Lead Agency Contact:** Mario Llanos, mario.llanos@resources.ca.gov

### **Background**

Project Location: The Bombay Beach Wetland Enhancement Project (Project) is located on the eastern shore of the Salton Sea, approximately 1.5 miles east of the community of Bombay Beach, in Imperial County, California. Project activities will occur within areas owned by Imperial Irrigation District (IID) and the United States Bureau of Reclamation (USBR), centered on 33.354901 and -115.697146. The Project area encompasses approximately 800 acres of wetland, upland shrub, and pond habitat and is planned to be included in the State of California's Salton Sea Management 10-year Plan (SSMP).

Project Description: The Salton Sea is an important stopover for millions of migratory birds along the Pacific Flyway. Due to water transfers from agricultural uses to urban uses, water salinity has increased, causing changes in the food web and reducing the quality and availability of habitat for native species. The receding shoreline of the Salton Sea has created hydrologic variability that is decreasing the persistence of expansive wetlands and open water habitat and is degrading habitat conditions in the remaining wetlands. These degraded conditions have allowed for invasive species such as tamarisk (*Tamarix* spp.) to become established.

To address these issues, Audubon California (Audubon) will implement the Project, in partnership and coordination with IID, the USBR, the California Wildlife Conservation Board (WCB), CNRA, and the California Department of Water Resources (DWR). The Project is intended to protect, enhance, and stabilize existing wetland habitat areas for birds and aquatic species, such as the desert pupfish (*Cyprinodon macularius*). The Project is also intended to expand wetland habitat on the adjacent playa where possible and encourage the natural recruitment of vegetation to provide upland habitat. The Project will also promote dust control as an incidental benefit. Audubon is also collaborating with community-based organizations to ensure that the public is engaged, and that incidental public health, recreational, and educational benefits are realized.

The proposed Project includes two phases. Phase 1 actions will include:

- 1) Establishing staging and maintenance access routes/areas to support the implementation of the Project's restoration activities. These may include an aggregate-surfaced parking and maintenance staging area, maintenance roads and access paths, and biological observation and monitoring staging areas
- 2) Creating and reinforcing natural berms within the Bombay Beach wetland area to increase water residence time and maximize the footprint and habitat value of the wetland
- 3) Facilitating spreading of stormwater and excess flow onto the playa through a series of flow dispersal and low impact engineered structures to promote natural recruitment of shrubs species and expansion of wetlands species
- 4) Implementing a combination of surface roughening and water-efficient native vegetation (hedgerows) in areas adjacent to the Bombay Beach wetlands to reduce wind erosion within the Project

Phase 2 includes the following potential future actions that may be implemented separately or in combination:

- 1) Building a retention basin and diversion berms at the northern boundary of the wetland to control stormwater and facilitate groundwater recharge
- 2) Creating one or more ponds to provide open-water habitat and storage of stormwater
- 3) Building a terraced wetland playa to the west of the existing wetland to expand habitat
- 4) Following restoration work, some staging and access areas may be left in place to allow for ongoing Project management and use by the public

Interested Party and Tribal Coordination:

CNRA has performed outreach through community meetings for all proposed SSMP projects. As a result, this Project has been discussed with leaders and political representatives of the region, other agencies, interested parties, community organizations, and the public at large.

CNRA has also discussed the Project with local tribes and will continue its ongoing tribal outreach, engagement, and consultation for this Project as part of its comprehensive SSMP efforts.

Anticipated Project Implementation Timeframes:

Start date: June 2023

Completion date: September 2024

Lead Agency Request for CDFW Concurrence: On November 14, 2022, the Director of CDFW (CDFW Director) received a concurrence request from the California Natural Resource Agency (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 November 16, 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.).

## **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.

This 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.

Implementation of the Project will enhance management of existing surface water resources to expand aquatic features, including emergent marsh, scrub-shrub wetland, perennial and seasonal wetlands, and upland shrub habitat. Non-vegetated habitats will also be enhanced including freshwater pools/ponds and saline shoreline ponds. Creation and enhancement of these features will create high quality habitats for native, sensitive, and listed species.

- 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.

While the exclusive purpose of the Project is habitat restoration, the Project may incidentally benefit public health, safety, access, and recreation. These incidental benefits will support the restoration of the area by re-directing existing uncontrolled public use conditions to a more prescribed and focused public access strategy expected to maximize and assure lasting efforts of habitat restoration for fish and wildlife.

Increased aquatic habitat and vegetation cover is intended to lead to the reduction of particulate matter (PM) emissions from the Salton Sea playa, which will contribute to the improvement of public health and safety through better air quality.

Following implementation of the Project's restoration activities, existing access and staging routes/areas will be optimized for public health, access, and recreation purposes and will be kept in place to be used as public hiking trails, wildlife viewing areas, parking, and for planned ongoing monitoring and maintenance. The re-purposed staging routes/areas will also enhance the restoration benefits of the Project by servicing as designated access points that are meant to influence public behavior by focusing foot-traffic and human-waste within certain designated less impactful areas and away from more sensitive habitat. Finally, these access and staging areas will be utilized on an ongoing basis for Project maintenance and monitoring.

It is anticipated that interpretive exhibits and signage may be added to support public education. Visitors could include residents of Salton Sea communities, as well as local school groups and those from other southern California communities. Interpretive education would focus on habitat types and species use, sensitive species, the history of the Salton Sea, and the benefits of dust control and public health awareness.

- 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.

Long-term net benefits to climate resiliency:

The Project is intended to decrease habitat decline and desertification happening within the area that is in part due to climate change. Moreover, the Project will accomplish climate resiliency by stabilizing and enhancing existing wetland habitat, spreading water on the adjacent playa, and establishing land cover that decreases playa emissions, while also providing more suitable habitat and refuge for native and sensitive fish and wildlife in adjacent areas that are more affected by climate change. Adaptive management strategies of the Project will allow response to climate change scenarios and support evaluation of future strategies for climate resiliency.

Long-term net benefits to biodiversity:

The Project area supports several types of habitats and vegetation communities. Of particular interest are the emergent freshwater and saline wetland habitats. Emergent

freshwater marsh wetlands provide primary production (i.e., algae) and invertebrate habitat that support foraging habitat, as well as providing nesting and/or refugia for species such as the California black rail (*Laterallus jamaicensis coturniculus*), Yuma Ridgway's rail (*Rallus obsoletus yumanensis*), Virginia rail (*Rallus limicola*), least bittern (*Ixobrychus exilis*), and common gallinule (*Gallinula galeata*). Saline wetlands and brackish ponds occur behind beach ridges along the Sea's shoreline and between the beach ridges and the actual shoreline. They facilitate primary production (i.e., algae) and the invertebrate community that supports shorebirds, such as American avocet (*Recurvirostra americana*), western snowy plover (*Charadrius nivosus nivosus*), marbled godwit (*Limosa fedoa*), dowitcher (*Limnodromus spp.*), dunlin (*Calidris alpina*), western sandpiper (*Calidris mauri*), and least sandpiper (*Calidris minutilla*). Shallow ponds and channels within the wetlands provide habitat for the desert pupfish. Other habitat types include native and nonnative, salt-tolerant desert shrub species that develop on beach ridges and exposed playa. Tamarisk, a highly invasive nonnative, has widely established where low-salinity water is available, but the land is not flooded. The Tamarisk areas provide lower-quality habitat compared to the wetland areas and areas on the exposed adjacent playa where native species, such as Iodine bush (*Allenrolfea occidentalis*), are naturally recruiting.

The Project will further enhance these biodiversity benefits by implementing the following measures:

- Plant community and land cover variability will be protected and enhanced by increasing the extent, frequency, and duration of surface water and shallow groundwater resource availability in the Project area
- Increased land cover variation will improve habitat function and quality to native wildlife species, including rare and listed species, and particularly to breeding and migratory shorebirds and waterfowl
- Increased area and quality of aquatic habitats that are expected to positively affect the abundance and condition of native wildlife species, including sensitive and listed species, within and near the Project area

Long-term net benefits to sensitive species recovery:

This Project will provide additional habitat and refugia for the recovery of sensitive species, including long-term benefits for special status species including desert pupfish, California black rail, Yuma Ridgway's rail, western snowy plover, California gull (*Larus californicus*), and black-tailed gnatcatcher (*Poliopitila melanura*).

The Project includes net benefits of expansion and protection of desert pupfish habitat, and features that will decrease the potential for dislocation of desert pupfish into the Salton Sea during major flood events. In consultation with the US Fish and Wildlife Service (USFWS) and CDFW, the Project will also include habitat enhancements to minimize the potential for desert pupfish stranding on the playa. The habitat of protected Yuma Ridgeway's rail may be temporarily impacted during construction but is designed to significantly expand habitat upon completion.

### Procedures and Ongoing Management for the Protection of the Environment:

During the implementation phase the Project will include procedures for the protection of the environment. Work will be performed in compliance with a Dust Control Plan and Storm Water Pollution Prevention Plan that will be prepared for the Project. Low impact construction methods have been incorporated into the Project design to minimize impacts to existing habitat to the extent feasible. These methods include:

- Conducting pre-construction clearance surveys and buffer zone surveys before allowing construction to begin in each area
- Construction scheduling to avoid impacts to sensitive species (i.e., nesting or breeding seasons)
- Using wildlife exclusionary barriers
- Designating construction speed limits and dust control requirements
- Use of appropriate vehicles and equipment suitable for work in unconsolidated soil
- Mandatory training for personnel

Following the implementation phase, the Project will include ongoing management measures for the protection of the environment. These measures will include development of an Operation and Maintenance Plan, an Adaptive Management Plan, and Project Performance Measures will be incorporated based on the data gathered.

Regular and episodic operation and maintenance activities will be necessary to address erosion, sedimentation, debris accumulation, and vegetation management, including periodic removal of tamarisk and aquatic weeds. In addition to routine operations, activities will include remote and on-site monitoring, inspection and maintenance of water conveyance and retention features, and making operational adjustments as needed based on an adaptive management approach. Operation and maintenance activities will generally be confined to the Project area, including leased land, rights-of-way, and any Project-owned land. Some watershed monitoring may be conducted upstream from the Project area. Operation and maintenance activities will follow all design feature considerations for special-status species and will implement avoidance or mitigation requirements specified in future Project permits.

Maintenance will occur periodically and as needed. An Operations and Maintenance Plan will be developed during Project permitting. Operations and maintenance activities are expected to include, but are not limited to the following:

- Routine site visits, including regular site inspections, equipment checks, waste removal and minor repairs
- Periodic site visits for storm watch (i.e., pre and/or post storm inspections)
- Sediment removal from channels, swales, ponds, and other areas
- Repairing damage from stormwater and erosion
- Drainage control structure adjustment, maintenance, and repair
- Repair of maintenance roads and access

- Non-routine waste removal or vandalism repair
- Vegetation management in the wetlands and ponded areas
- Periodic tamarisk removal to increase habitat quality, especially in new wetland areas where immature tamarisk is easier to remove
- Additional control methods for areas with tamarisk thickets, which could include physical removal, application of herbicide, burning, or other methods as feasible/necessary
- Inspection of fish exclusion screens and filters, and surveys for pupfish in refugia, and potential relocation, as needed

An Adaptive Management Plan will also be developed during Project permitting. The adaptive management process for the Project includes collecting monitoring data for the following elements:

- Flow and stormwater discharge response to precipitation events in the washes that converge in key locations in the Phase I Project area
- Erosion and sedimentation rates and distribution
- Water depths and flow rates at key locations in the habitat enhancement and expansion areas
- Remote sensing analysis of evapotranspiration, leaf area index, and open water area and distribution over time
- Type, rate, and extent of vegetation recruitment
- Effectiveness of tamarisk control measures
- Extent and quality of ponds, freshwater (perennial and seasonal), and saline wetland habitats
- Evidence of habitat productivity
- Number and types of species present, with emphasis on special-status species, such as Ridgway's rail, black rail, and desert pupfish
- Water quality

The data collected will be used to assess the performance of the Project relative to the Project objectives, and effectiveness of Phase I in meeting the overall Project's objectives so that Phase II approaches can be adjusted, as needed. The following will be assessed: (1) Stabilization and enhancement of the existing habitat, (2) performance of berm, and (3) flow control and pond features under varying conditions. Other performance measures that will be performed will include observation of:

- Expansion of wetland and pond habitat
- Protection and enhancement of habitat for special-status species
- Overall trends in habitat quality and populations of target species
- Verification that biotoxicity is not occurring
- Identification of opportunities for further improvement

Based on the above performance measures, procedures will be developed for the following:

- Changes to flow control operation and/or design, and other operational procedures to enhance habitat quality and extent
- Scheduling and prioritization of maintenance to assure habitat protection and to promote Project function and habitat quality
- Identification of needs and opportunities for operational or structural improvements that would support
- Project efficiency and effectiveness (i.e., tamarisk control, flow control, pond operation, allowed bund/micro-catchment habitat succession, etc.)
- Identification of areas where succession of habitat types should be promoted, such as succession from seasonal wetland to upland habitat, or bund/micro-catchment succession to upland habitat
- Approaches to habitat expansion or engineered flow control during Phase II

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. The Project-related construction activities described are all related to the overall goal of the Project to restore or enhance habitat in the Project area.

All Project construction activities are related to the protection, restoration, or enhancement of habitat in the Project area. Construction activities will include the following as part of the restoration Project:

- Establishment of site access roads, staging areas, and laydown areas
- Bulk earthwork for access, swales, bunds, channels, and berms
- Enhancement of beach berms in the existing wetland area
- Contouring or earth fill borrow areas
- Low flow control structures
- Establishment of staging, parking, and access paths for ongoing monitoring and maintenance

### **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: 

Date: 12/30/22

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