

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
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**CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR  
RESTORATION PROJECTS  
CONCURRENCE NO. 21080.56-2023-020-R3**

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**Project:** Knightsen Wetland Restoration Project  
**Location:** Contra Costa County  
**Lead Agency:** East Contra Costa County Habitat Conservancy  
**Lead Agency Contact:** Abigail Fateman; Abigail.Fateman@dcd.cccounty.us

### **Background**

Project Location: The Knightsen Wetland Restoration Project (Project) is located in unincorporated Contra Costa County, partially in the community of Knightsen. The Project will occur on a 645-acre site, which consists of two parcels: the North Parcel (APN 020-171-001), located north of Delta Road; and the South Parcel (APN 020-172-004), located south of Delta Road. The South Parcel is divided into two areas referred to as the Central and East Sub-Parcels. The approximate coordinates of the Project are 37.961865, -121.629017.

Project Description: East Contra Costa County Habitat Conservancy (Lead Agency) proposes to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend. The Project will restore and convert 645 acres of former agriculture and rangeland to native habitat types and will benefit the native species that utilize these habitats.

The Project is designed to restore the Project area by creating seasonal wetlands, alkali meadow, grassland, and oak savanna on the Central Sub-Parcel, and emergent wetlands with adjacent alkali meadow and grassland habitat on the East Sub-Parcel. On the North Parcel the design will enhance and restore seasonal wetland and remnant interior dune habitat. The native species that may benefit from the Project include: giant garter snake (*Thamnophis gigas*), western pond turtle (*Emys marmorata*), tricolored blackbird (*Agelaius tricolor*), fairy shrimp (*Branchinecta lynchi*), white-tailed kite (*Elanus leucurus*), Swainson's hawk (*Buteo swainsoni*), golden eagle (*Aquila chrysaetos*), western burrowing owl (*Athene cunicularia*), California black rail (*Laterallus jamaicensis coturniculus*), green sturgeon (*Acipenser medirostris*), delta smelt (*Hypomesus transpacificus*), steelhead (*Oncorhynchus mykiss irideus*), longfin smelt (*Spirinchus thaleichthys*), hoary bat (*Lasiurus cinereus*), northern California legless lizard (*Amniella pulchra*), northern harrier (*Circus cyaneus*), and migratory birds.

The Lead Agency will implement the following actions to carry out the Project:

- Shallow excavation of uplands to direct runoff and create depressions to support seasonal wetland habitat types. This will create topography that will support shallow inundation, soil saturation, flow in response to storms, and will move surface water more efficiently through the system.
- Excavation of channel networks and grading of adjacent areas to create wetland and transitional elevation topography to support emergent wetland, open water, and alkali meadow habitats. This will create a dendritic channel network to focus flows and support aquatic and adjacent wetland habitats connected to an adjacent waterway, create transitional elevation lands/microtopography to support meadow habitat, enhance productivity, and provide refuge/basking areas for California native fish and wildlife.
- Grading to raise elevations to create oak savanna, grassland, and dunes. Higher elevation features will be formed to create conditions that will support upland habitats, increase habitat heterogeneity across the site, and confine wetlands to protect adjacent private property from potential drainage effects.
- Construction of drainage inlet features along Project area perimeters to create seasonal wetland and alkali meadow conditions. This will allow stormwater to flow onto the Project area to support formation of wetland habitats and drainage.
- Construction of water conveyance features and modification of berms between Central and Eastern Sub-parcels to create seasonal wetland, emergent wetland, open water, and alkali meadow habitats. This will connect seasonal wetland areas to emergent wetland and open water areas throughout the Project area.

An existing drainage pump that has been used to move water from the site into an adjacent waterway will remain on site and will be relocated to the eastern boundary of the Central Sub-Parcel. This pump will be available to operate as an emergency overflow from the Central Sub-Parcel, to move water to the restored East Sub-Parcel wetlands and convey water more rapidly if needed in extreme storm events. An existing supply pump located on the agricultural berm between the East Sub-Parcel and No Name Slough, used for irrigation purposes during past agricultural operations, will be retained in place for use in dust control, irrigation of restoration plantings, and for other restoration construction and post restoration construction establishment period operations.

The Project will help implement the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). The HCP/NCCP was adopted in 2007 by Contra Costa County; the cities of Brentwood, Clayton, Oakley, and Pittsburg; and the East Bay Regional Park District. These entities formed the East Contra Costa County Habitat Conservancy, a joint powers authority, to oversee the implementation of the Plan. The HCP/NCCP provides for the conservation and management of native species and natural communities in East Contra Costa County, including state and federally listed species, and provides a science-based approach to landscape-scale natural communities conservation. Over the HCP/NCCP's 30-year term, it will create a preserve system of lands managed for the benefit of 28 covered species and associated natural communities (Preserve System).

Tribal Engagement: In the process of engaging local tribes about the Project, the Project team communicated directly with three tribal representatives in early 2023. This direct communication was preceded by past tribal outreach efforts. In 2017 and 2022, the Project team contacted the California Native American Heritage Commission (NAHC), requesting a search of the NAHC's Sacred Lands File (SLF) for the Project area and a list of California Native American Tribes who may have interest in the Project. The Project team also reached out on to the listed tribes on both occasions sending written letters via both mail and email.

Interested Party Coordination: The Lead Agency has conducted outreach with the local community, neighbors to the Project, local agencies, and local historical societies. Over the last 10 years, the Lead Agency has participated in multiple outreach events about the restoration of the Project area with the local community. These outreach events included two meetings with neighboring property owners, one community meeting, an onsite open house, presentations, interviews with stakeholders, and in-person listening sessions. The Lead Agency has also received a letter of support for the Project from the Delta Counties Coalition and completed the Delta Plan's Good Neighbor Checklist. The Lead Agency and its consulting team conducted a cultural resource study for the Project area, which did not identify foreseeable effects of the Project on cultural resources. The Contra Costa Historical Society (CCHS) and the Sacramento River Delta Historical Society were also contacted for information regarding cultural resources within the Project area. CCHS replied, stating that they were unable to provide any additional information regarding cultural resources within the Project area.

Anticipated Project Implementation Timeframes:

Start date: March 2025

Completion date: October 2026

Lead Agency Request for Concurrence: On February 15, 2023, the Director of the California Department of Fish and Wildlife (CDFW Director) received a concurrence request from the 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 February 14, 2023, 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.

The Project's exclusive purpose is to restore and protect habitat for native species in the region, and the Project advances the goals of the HCP/NCCP. The HCP/NCCP provides for the conservation and management of native species and natural communities in East Contra Costa County, including state and federally listed species, and provides a science-based approach to landscape-scale benefits for sensitive species and natural communities.

- 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 exclusive purpose is to restore and convert 645 acres of former agriculture and rangeland to native habitat types and benefit the native species that utilize these habitats. Although not part of this Project, the Project area could in the future provide opportunities for limited public access and recreation, subject to HCP/NCCP restrictions on public access, and recreation and would have to align with the HCP/NCCP's biological goals.

At a larger scale, the Project may also include other incidental public health and safety benefits, such as increased floodwater capacity within areas to be restored. The seasonal conveyance of stormwater runoff from adjacent areas to the Project area may reduce the threat of flood related impacts to public infrastructure and private property in the surrounding vicinity.

- 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 area elevations range from 4 to 19 feet, and areas adjacent to No Name Slough are not currently protected by a managed levee. These factors leave portions of the Project area vulnerable to sea level rise and extreme weather events. The Project will provide potential transgression space for tidal wetlands to persist and move landward as sea level rises, and will restore tidal emergent wetland, seasonal wetland, and upland habitats that have more resiliency to climate change. The Project will also reduce future threats of sea level rise through the management of water for habitat restoration purposes. By restoring and protecting habitat while increasing habitat complexity and connectivity for California native species, the Project will increase climate change resiliency.

Long-term Net Benefits to Biodiversity:

Through the conversion of 645 acres of farmland and rangeland to restored habitat for native species, the Project will provide long-term net benefits to biodiversity. The acquisition of the properties by the Lead Agency, and the subsequent removal of irrigated agriculture from the site, has already had immediate habitat and species benefits, with frequent sightings of burrowing owls since agricultural production ceased.

In 2018, the Lead Agency prepared a baseline Biological Resources Assessment (BRA) for the site. To prepare the BRA, a planning survey was conducted to identify existing habitat, including suitable habitat for species covered and consistent with requirements of the HCP/NCCP. The BRA concluded that a total of 18 sensitive or locally rare fish and wildlife species were considered to have the potential to occur within the Project area; four of these are HCP/NCCP covered or no-take species. The remaining 14 species include three invertebrate species, one reptile species, seven bird species, and three mammal species.

Furthermore, the Project could have long-term net benefits for sensitive aquatic species through the restoration of the canal/slough habitat by increasing habitat complexity and primary and secondary food web production, and by improving water quality before it enters the slough. The Project may also create movement corridors between habitats for amphibians, which could allow for new populations of sensitive amphibian species to become established.

#### Long-term Net Benefits to Sensitive Species Recovery:

The Project is designed to result in numerous long-term net benefits for several native species, including 11 covered or no-take species identified in the HCP/NCCP, aiding in their recovery. Specifically, the BRA surveys indicated that the Project's restoration activities would support the following special-status species and their habitat, by creating the following habitats:

- Nesting (wetland) and foraging (upland) habitat for tricolored blackbird, which is listed as threatened under the California Endangered Species Act (CESA).
- Open, relatively flat expanses of grassland and dune habitat to support western burrowing owl.
- Enhancement of nesting and foraging habitat for Swainson's hawk and other native raptors in oak savanna and grasslands. The Swainson's hawk is listed as threatened under CESA.
- Aquatic and upland habitat for basking and winter retreat of giant garter snake, which is listed as threatened under the federal Endangered Species Act (ESA) and threatened under CESA.
- Seasonal wetland for vernal pool fairy shrimp, which is listed as threatened under the federal ESA.
- Interior dune habitat suitable for northern California legless lizard.
- Wetland and slough habitat suitable for western pond turtle.

The Project could also benefit other special status wildlife species such as northern harrier, California black rail (CESA threatened), hoary bat, green sturgeon (ESA threatened), delta smelt (ESA threatened; CESA endangered), California Central Valley Steelhead Distinct Population Segment (ESA threatened), and longfin smelt (ESA candidate; CESA threatened).

#### Procedures for the Protection of the Environment:

The Project will avoid and minimize construction impacts on sensitive resources and the environment through the implementation of protective measures established in the HCP/NCCP. Procedures include, but are not limited to, surveys for covered activities (e.g., preconstruction surveys, construction monitoring), landscape-level avoidance and minimization measures (e.g., buffers and setbacks), natural community-level avoidance and minimization measures, and species-specific avoidance and minimization measures.

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

The Project has been designed to support the restored habitats with reduced long-term maintenance or management demands, however the Project has built-in design features that can allow water to be removed from the site while repairs are completed. The Lead Agency has established a non-wasting endowment for the long-term management of land and restoration projects in the Preserve System, which include the Project area.

- 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.

The Project's construction activities include preparation, earthwork, construction of water conveyance features, revegetation, irrigation of restored vegetation, and construction of tidal connection.

- **Site Preparation:** Site preparation will include the installation of environmental protection measures required by Project permits (for plant/wildlife, cultural resources, water quality protection, onsite utility infrastructure), demolition and removal of remnant farming and land management infrastructure (such as pipelines, water conveyance features, and monitoring wells), and clearing and grubbing the farm fields. Material generated during clearing and grubbing will be reused on site as general fill as appropriate. Construction equipment used for site preparation may include mowers, flatbed trucks, backhoes, dump trucks, discing equipment, graders, scrapers, and water trucks.
- **Earthwork:** Implementation of the Project's habitat restoration components will begin with excavation, grading, and placement of fill to create the wetland and upland habitats. In the Central Sub-Parcel, the contractor will excavate and grade the site to create broad depressions and channel networks. Excavated material will be used to create/modify berms, dunes, grasslands, and alkali meadow in the Central Sub-Parcel or relocated to create/modify berms in the East Sub-Parcel, depending on soil characteristics. Minor grading of the high elevation areas in the Central Sub-Parcel will occur to create micro-topography to support grasslands and oak savanna and to direct overland water flow patterns. In the East Sub-Parcel, the contractor will excavate and grade the site to create tidal wetland topography and a tidal channel network. Excavated material will be used to form/reform the berm and areas of transitional elevation/habitat between the tidal channels/emergent wetlands and berm in the East Sub-Parcel. The Project is designed to balance cut and fill on-site and to not require import or export of material. Equipment used for earthwork may include excavators, dump trucks, bulldozers, graders, compactors, rollers, scrapers (conventional and/or track-pulled), backhoes, and water trucks.
- **Water Conveyance Features:** Concurrent with the earthwork, water conveyance features will be installed along Byron Highway, Delta Road, the eastern boundary of the Central Sub-Parcel, and between the Central and East-Sub parcels. Equipment used for water conveyance feature installation may include excavators, dump trucks, backhoes, cranes, and concrete pump trucks.
- **Revegetation, Irrigation, and Tidal Connection:** Following the completion of earthwork, revegetation will be accomplished using a combination of approaches which may include hydro-seeding, drill seeding, plug planting, and transplanting of dormant sod fragments and/or disking of sod fragments into the finished grades, as well as natural recruitment. Woody vegetation establishment

will be accomplished using a combination of approaches which may include pole plantings, tree planting, acorn (or other seed) planting. A temporary irrigation system to support the establishment of vegetation may also be installed. Once vegetation is planted, the existing agricultural berm along the southern East Sub-Parcel boundary will be breached to restore hydrological connection to No Name Slough. Equipment used may include excavators, dump trucks, tractors, drill seeders, hydroseeders, and flatbed trucks.

### 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:  \_\_\_\_\_

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

Date: 3/30/23 \_\_\_\_\_