CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2023-021-R4

Project: Black Lake Ecological Area Enhancement Project

Location: San Luis Obispo County

Lead Agency: County of San Luis Obispo

Lead Agency Contact: Schani Siong; ssiong@co.slo.ca.us

Person Making Request: Jonathan Hall, The Land Conservancy of San Luis Obispo County

Background

Project Location: The Black Lake Ecological Area Enhancement Project (Project) is located within 56 acres of the greater Guadalupe-Nipomo Dune Complex (GNDC), west of Highway 1, south of the City of Arroyo Grande, within the County of San Luis Obispo, California; Latitude 35.057528, Longitude -120.601355; or Section 00, Township 12 North, Range 34, 35, and 36 East; US Geological Survey (USGS) map Arroyo Grande; Assessor's Parcel Numbers 075-261-005, 075-261-006, 091-141-013, and 075-301-015.

Project Description: Due to agricultural, urban, and recreational development, California's coastal dune systems have been reduced to an isolated range, which has subsequently reduced the number of coastal dune freshwater ponds. Black Lake and other coastal dune freshwater ponds within the GNDC, are the only occurrences of coastal dune freshwater ponding on California's Central Coast. In addition, the Black Lake Ecological Area (BLEA) contains other rare habitat types, including active coastal dunes and central coast dune scrub. Due to the rarity of habitat types within the BLEA, it is vital that BLEA be protected and restored.

The Land Conservancy of San Luis Obispo County (LCSLO) 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, with implementation of the Project. The Project is designed to reverse the effects of sedimentation and hydrophytic vegetation overgrowth to replenish subsurface recharge, thereby preventing habitat conversion to upland characteristics. This Project will directly aid in the recovery of two listed plant species, marsh sandwort (*Arenaria paludicola*) and La Graciosa thistle (*Cirsium scariosum* var. *loncholepis*) and will indirectly support other native resident and transient species that occur within the GNDC. Proposed restoration activities can be divided into three components: Open Freshwater and Wetland Enhancement, La Graciosa Thistle Habitat Enhancement, and Coastal Dune Scrub Enhancement.

Open Freshwater and Wetland Enhancement activities include the following:

- Establishment of a temporary sand access road and staging area.
- Removal of 10,715 cubic yards of sediment from the eastern edge of Black Lake; spoils will be spread at an adjacent abandoned agricultural field.
- Removal of up to one acre of marsh to a depth of at least five feet; removal of up to 0.5 acres of marsh to a depth of 1-2 feet; and corresponding recontour of bank slopes.
- Removal of dense strands of vegetation along the shoreline.
- Removal of invasive vegetation within upland areas, including poison hemlock (*Conium maculatum*) and iceplant (*Carpobortus spp.* and *Conicosia pugioniformis*).
- Planting a minimum of 350 propagated plugs of marsh sandwort within freshwater marsh, and establishment of a 25-foot buffer surrounding planting sites.
- Seeding of the sediment disposal site and temporary access road with native coastal dune scrub seed.

La Graciosa Thistle Habitat Enhancement activities include the following:

- Chemical and mechanical removal of approximately one acre of vegetation along the shores of Black Lake, including blackberry (*Rubus ursinus*), stinging nettle (*Urtica dioica*), and emergent wetland species such as cattails (*Typha* spp.) and bulrush (*Schoenoplectus* spp).
- Collection of La Graciosa thistle seed from local existing occurrences. LCSLO will track the maternal lines of each collection and record their GPS positions.
- Planting of La Graciosa thistle seedlings along the shores of Black Lake at two locations. LCSLO will record the GPS positions of each seedling.
- Monitoring of installed seedlings will occur for two years. Plants which establish successfully will be reported to the California Natural Diversity Data Base (CNDDB) annually.
- Mechanical and chemical removal of non-native plant species, annually.

Coastal Dune Scrub Enhancement activities include the following:

- Approximately one acre of non-native eucalyptus trees east of Black Lake will be felled and chipped onsite.
- Four wind sensors will be installed within the eucalyptus grove.
- Collection, cleaning, and storage of seeds from native flowering plants within the GNDC.
- Planting and caging of 25 California elderberry trees (*Sambucus nigra*) near a Monarch butterfly (*Danaus plexippus*) overwintering site, on the western end of the eucalyptus grove.
- Sowing of native coastal dune scrub species over 13 acres. Species may include California Native Plant Society, Rare Plant Rank (CRPR) List 1B.2 – crisp monardella (*Monardella undulata* ssp*. crispa*); CRPR List 1B.2 - San Luis Obispo monardella (*M. undulata* ssp*. undulata*); mock heather (*Ericameria ericoides*); and coastal buckwheat (*Eriogonum parvifolium*).
- Annual chemical treatment of invasive plant species.
- Annual monitoring to measure percent cover within the Project area and evaluate the health of planted species.

Interested Party and Tribal Coordination: LCSLO has engaged with local tribes and interested parties to allow opportunity for comment, outreach, and collaboration. Several tribes have expressed interest in using bulrush removed by the Project for tribal demonstration purposes. Project development has included involvement from the California Native Plant Society (CNPS), the California Central Coast Chapter of The Wildlife Society (TWS), and the United States Fish and Wildlife Service (USFWS). During implementation, LCSLO will work directly with California Polytechnic State University San Luis Obispo and Monarch Alert to initiate Monarch overwintering microhabitat research.

Project funding derives from the National Coastal Wetland Conservation Fund, the California State Coastal Conservancy, California Department of Fish and Wildlife Office of Spill Prevention and Response, the National Fish and Wildlife Foundation, CNPS, and TWS.

Anticipated Project Implementation Timeframes: Start date: September 2023
Completion date: December 2025

Lead Agency Request for CDFW Concurrence: On February 15, 2023, the Director of CDFW (CDFW Director) received a concurrence request from Jonathan Hall of The Land Conservancy of San Luis Obispo County on behalf of the County of San Luis Obispo (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 15, 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.

   Implementation of the Project will restore and enhance the coastal dune freshwater and coastal dune scrub systems present within the Project area, thereby assisting in the recovery of native wildlife species that may occur within Project area. Restoration efforts will establish new occurrences of rare, listed plant species. California red-legged frog (*Rana draytonii*) are known to utilize nearby coastal dune freshwater ponds within the GNDC; with implementation of the Project, Black Lake would suitably support the species due to its retained water capacity and marsh slope improvements. The Project will actively conserve and protect habitat communities with the implementation of ongoing monitoring and site treatment efforts.

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.

   There are no incidental public benefits accounted for within the Project design. All Project activities actively contribute to habitat restoration and environmental research.

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.

   <u>Long-term Net Benefits to Climate Resiliency</u>:
   Due to anthropogenic and climate change influences, Black Lake has experienced a lowered groundwater table, biostimulation, and non-native overgrowth. Without implementation of the Project, site conditions would continue to decline in the face of a changing climate. Proposed restoration efforts will restore native coastal freshwater and coastal dune scrub resources, thus providing long-term protection against climate change impacts. Increased diversity of native vegetation will create an abundance of climate buffers and persistent food sources for native species and pollinators, thereby allowing habitat to become more resilient to climate change. Habitat complexity and connectivity established by the Project will allow for species to find favorable refuge

conditions within the changing landscape. Black Lake will be restored to a more natural and sustainable hydrological state.

Long-term Net Benefits to Biodiversity:
Freshwater ecosystems support a myriad of aquatic and terrestrial organisms and provide crucial ecosystem services, including notable nutrient retention. The Project will provide valuable wetland and upland refugia, supporting the utilization of the site by an array of amphibian, terrestrial, and avian species. Thirteen acres within the eucalyptus corridor will provide enhanced wildlife connectivity for the recruitment of coastal dune scrub species and improved Monarch butterfly access. The removal and recurring treatment of non-native invasive species will allow for native plant recruitment from seed, and will also support the success of planting efforts, thereby creating a diverse ecosystem and expanded rare habitat communities. This promotion of native species will limit the ability of invasive species to recolonize.

Long-term Net Benefits to Sensitive Species Recovery:
The Central Coast supports a diverse range of habitat communities and many special status species. The Project will restore and enhance dispersal, foraging, and potential breeding habitat for the federally threatened California red-legged frog. Freshwater marsh restoration activities may support aquatic habitat favored by the western pond turtle (*Emys marmorata*), a species of special concern. The restoration of coastal dune scrub habitat will likely support coast horned lizard (*Phrynosoma blainvillii*) and Northern California legless lizard (*Anniella pulchra*), two species that are also listed as species of special concern. The Project may also have long-term net benefits to an abundance of avian species, due to the expected increase in open water foraging habitat. Revegetation efforts will establish populations of state endangered marsh sandwort and state threatened La Graciosa thistle. The Biological Resource Assessment (BRA) prepared for the Project lists known biological resources associated with the site.

Procedures and Ongoing Management for the Protection of the Environment:
The Project will have specific measures in place to ensure protection of the environment. Construction and monitoring impacts to special status species and other biological resources will be avoided and minimized following the measures set forth in the BRA. Measures outlined in the BRA include, but are not limited to, specified work windows, pre-construction special status species and nesting bird surveys, worker environmental awareness training, construction monitoring to be conducted by a USFWS representative and a biological monitor, soil stabilization practices, and protective buffering of environmentally sensitive areas. LCSLO will abide by the procedures outlined in all local, state, and federal permits, including the CDFW Lake and Streambed Alteration Agreement (EPIMS-SLO-28566-R4) and the USFWS Endangered Species Act Section 7 Consultation.

Post-construction, ongoing management of the BLEA will occur for a minimum of two years. Management efforts include, but are not limited to, invasive species monitoring and retreatment, monitoring of the success of plantings, monitoring of natural

recruitment, and a compilation of findings within annual reports and submissions to CNDDB.

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 construction activities associated with the Project are solely related to habitat restoration. This includes equipment and material mobilization, access road and staging preparation, as well as restoration of a coastal dune perennial freshwater pond and upland refugia. Post-construction, all equipment and excess materials will be removed from Project areas.

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: 4/4/23

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