

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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**CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR
RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2023-040-R3**

Project: Staten Island Wetland Restoration and Carbon Farming for Habitat, Climate, and Communities
Location: San Joaquin County
Lead Agency: Sacramento-San Joaquin Delta Conservancy
Lead Agency Contact: Rachel Wigginton, contact@deltaconservancy.ca.gov

Background

Project Location: The Staten Island Wetland Restoration and Carbon Farming for Habitat, Climate, and Communities (Project) is located on the 9,200-acre Staten Island in the Sacramento-San Joaquin Delta (Delta), approximately eight kilometers south of the census-designated place of Walnut Grove. The Project is being implemented on a 745.9-acre portion of the island, owned by The Nature Conservancy (TNC), and centered at coordinates 38.138725, -121.515167.

Project Description: Through implementation of the Project, TNC, in partnership with the Sacramento-San Joaquin Delta 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 and restore or provide habitat for California native fish and wildlife. Historically, the Project site has been used to farm row crops, resulting in deep subsidence and a loss of wetland habitat. Subsidence in the Delta has resulted in a loss of shallow habitat, and an increase in deep, open water habitat. The Project is designed to restore 745.9 acres of semi-permanent and seasonal wetland habitats on Staten Island. Restoration of these wetland habitats would benefit multiple native species of the Delta, including Swainson's hawk (*Buteo swainsoni*), song sparrow "Modesto population" (*Melospiza melodia*), Caspian tern (*Hydroprogne caspia*), greater sandhill crane (*Grus canadensis tabida*), and lesser sandhill crane (*Grus canadensis*), all of which have been observed at the Project site. Additionally, the Project site has the potential to support steelhead – Central Valley Distinct Population Segment (*Oncorhynchus mykiss*), Delta smelt (*Hypomesus transpacificus*), longfin smelt (*Spirinchus thaleichthys*), giant garter snake (*Thamnophis gigas*), Western pond turtle (*Actinemys marmorata*), and a variety of native special-status plant species.

The Project is designed to create 241.4 acres of managed seasonal wetlands and 504.5 acres of semi-permanent wetlands. Wetland habitats will be created through excavation and

grading and will include features such as habitat islands, deep water ponds, and swales, as well as water control infrastructure. On-site fill will be taken from high areas within the wetlands area and excavated from ditches and deep-water ponds to create wetland berms and habitat features. Additionally, to facilitate water management, a pump and water delivery pipes will be installed to recirculate water from the primary drainage canal located along the center of the island to the wetland site. Several roads will be constructed to support restoration and management of the site. The wetlands will be managed, which will include the drainage of wetlands for vegetation management on a rotational basis, pesticide application for invasive species, ditch cleaning, leveling, replacement of water control structures, and maintenance of roads.

The Project will result in enhanced habitat for native species, particularly birds. The Delta is a critical stopover on the Pacific Flyway, and the Delta's wetlands provide forage habitat for both migratory and local waterfowl. Improved wetland foraging habitat will lead to improved breeding success for these species. Currently, Swainson's hawk, song sparrow "Modesto population", Caspian tern, greater sandhill crane, and lesser sandhill crane have all been observed at the Project site and are anticipated to benefit from new roosting sites and complementary food sources offered by the restored wetland habitat. Additionally, other bird species not already observed at the Project, including tricolored blackbird (*Agelaius tricolor*) and black rail (*Laterallus jamaicensis*), may visit and benefit from the Project site. Restored aquatic habitat on the Project site may also enhance phytoplankton production, and drainage of wetlands into the outside channel will support the aquatic food web immediately outside of the island, where species such as Delta smelt, Chinook salmon (*Oncorhynchus tshawytscha*), and steelhead have been observed. The Project site will be managed to enhance the cover of native wetland plants, creating better opportunities for the 20 special-status plant species that are considered to have a high or moderate potential to occur at the Project site. Lastly, and over a longer time scale, converting the deeply subsided Project site to wetlands will help halt and reverse subsidence, leading to a decrease in greenhouse gas emissions and reduced flooding risk at both Staten Island and the neighboring Delta islands, as well as preventing the further conversion of shallow water habitat to deep, open water habitat.

Tribal Engagement: On behalf of the Lead Agency, in July 2023 TNC contacted the California Native American Heritage Commission (NAHC), requesting a search of the NAHC's Sacred Lands File for the Project area and a list of California Native American Tribes that may have interest in the Project. TNC also consulted with the tribal liaison at the Delta Stewardship Council and contacted five local tribes. Site tours with interested tribes will be scheduled for the upcoming winter of 2023-2024, and engagement is anticipated to continue as Project permitting and implementation progress, and beyond.

Interested Party Coordination: The Lead Agency has conducted outreach with multiple agencies, neighboring property owners, and other interested parties. Following the approach outlined in the Good Neighbor Checklist in the Delta Plan, the Lead Agency contacted six neighboring property owners and has received letters of support from multiple organizations/agencies, including the California Farm Bureau, The Delta Counties Coalition, Ducks Unlimited, Metropolitan Water District, HydroFocus, Inc., The California Climate and Agriculture Network, Audubon Society, Point Blue, Pew Charitable Trust, and neighboring

landowners. Additionally, the Lead Agency and TNC have met with the Delta Stewardship Council for early consultation to discuss a Delta Plan Consistency Determination. Under a CDFW Proposition 1-funded planning grant, TNC is completing consultation with various regulatory agencies and will submit applications for any permits required for the Project.

Anticipated Project Implementation Timeframes:

Start date: April 2024

Completion date: April 2039

Lead Agency Request for CDFW Concurrence: On October 4, 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 September 29, 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 will restore wetland habitat on Staten Island, which will increase breeding and foraging habitat for migratory and locally breeding waterbirds and wetland species including bitterns, ducks, and several special-status birds. Restored aquatic habitat on the Project site may also enhance phytoplankton production, and drainage of wetlands into the South Mokelumne River will support the aquatic food web immediately outside of the island, and in the Delta more generally. Additionally, the Project site will be managed to enhance the cover of native wetland plants, with 20 special-status plant species being considered to have a high or moderate potential to occur in the Project site.

- 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 may result in incidental public health and safety benefits. Specifically, the Project will improve water quality and conditions for nearby island levees. The restored wetland habitats on Staten Island will receive water recirculated from working farm fields, and passing this water through the wetland before returning it to the river will reduce return flows of sediment and pesticides into the Delta. Additionally, wetland habitat restoration will also halt and, over a longer time scale, reverse ground subsidence and reduce hydrostatic pressure on the levees, decreasing the risk of flooding on Staten Island and surrounding islands.

- 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: Currently, cultivation at the Project site and throughout the Delta has led to an increase in greenhouse gas emissions and land subsidence through oxidation of the Delta's organic soil. The Project will result in an increase in wetland habitat, leading to a reduction in greenhouse gas emissions and land subsidence. In flooded wetlands, greenhouse gas emissions reductions and carbon sequestration are obtained by halting or greatly reducing soil organic carbon oxidation and increasing soil organic carbon storage. Converting the land type of the Project site from corn and row crop production to wetlands will reduce emissions and sequester carbon by rebuilding peat soils and stored carbon and reducing oxidation of soils. Once completed, the Project site is expected to emit approximately 22,000 fewer tons of CO₂ each year compared to current conditions.

Long-term Net Benefits to Biodiversity: The Project's conversion of land used for row crops to restored wetlands will result in a variety of benefits to biodiversity. The Project will create heterogeneity across the landscape by providing wildlife with shallow water habitat populated by native plants that varies in depth, as well as enhancing upland and channel margin habitat. The restored wetlands' proximity to these upland transition, riparian, and riverine habitats will increase connectivity among the habitat types across the landscape mosaic. The increased plant species diversity, mixed aquatic and terrestrial nature of wetland habitat, and the increased availability of shade plants and protected nesting habitat will directly increase biodiversity. Restored aquatic habitat may also enhance phytoplankton production and help support the broader Delta food web.

Long-term Net Benefits to Sensitive Species Recovery: The Delta is a critical stopover on the Pacific Flyway, and wetland habitats within the Delta provide habitat for migratory waterfowl. The Project's resulting restored wetland habitats will provide enhanced foraging opportunities, which results in improved breeding success. Delta wetlands are also important breeding habitat for locally breeding waterbirds and wetland species. Specifically, the Project is expected to benefit Swainson's hawk, song sparrow "Modesto population", Caspian tern, greater sandhill crane, and lesser sandhill crane, all of which have been observed at the Project site. Restoring wetland habitat will allow breeding populations to rear brood in secure, food rich habitats that provide cover from predation and shelter from anthropogenic threats.

The Project's restoration of shallow water, upland transition, riparian, and riverine habitats may benefit special-status plant species native to the Project site. Specifically, the Project may benefit special-status plant species such as bristly sedge (*Carex comosa*), Delta button-celery (*Eryngium racemosum*), Delta mudwort (*Limosella australis*), Delta tule pea (*Lathyrus jepsonii var. jepsonii*), marsh skullcap (*Scutellaria galericulata*), Mason's lilaeopsis (*Lilaeopsis masonii*), palmate-bracted bird's-beak (*Chloropyron palmatum*), saline clover (*Trifolium hydrophilum*), San Joaquin spearscale (*Extriplex joaquinana*), Sanford's arrowhead (*Sagittaria sanfordii*), side-flowering skullcap (*Scutellaria lateriflora*), Suisun Marsh aster (*Symphotrichum lentum*), and woolly rose-mallow (*Hibiscus lasiocarpus var. occidentalis*).

The Project's restored wetland habitat will increase food web productivity by facilitating the growth of primary producers like algae and vegetation and secondary consumers like zooplankton and invertebrates. Drainage of wetlands will support the aquatic food web immediately outside of the island, where species such as Delta smelt, Chinook salmon, and steelhead have been observed. Additionally, sensitive riparian species such as giant garter snake and tricolored blackbirds may also benefit from the restored wetlands by using the upland and transitional habitats at the Project site.

Procedures for the Protection of the Environment: The Project will implement construction best management practices and resource protection measures to protect the environment during Project implementation. These measures include construction work windows, equipment and vehicle restrictions, equipment and material storing and

staging measures, hazardous materials management and spill response plans, erosion control measures, revegetation measures, species protection measures, and mosquito management measures.

Ongoing Management for the Protection of the Environment: TNC will monitor and maintain the Project for at least 15 years based on the Lead Agency's general grant agreement guidelines. Biological monitoring of the Project site has been ongoing for several years and will continue post-construction. These biological monitoring efforts include overwintering waterbird use, large water bird surveys, sandhill crane foraging and roosting surveys, habitat surveys, and fixed radius shorebird surveys. Non-biological monitoring has also been conducted since 2020 and will continue post-construction, and includes monitoring greenhouse gas emissions, elevation, and water quality.

TNC will also implement post-construction adaptive management to achieve intended Project benefits. If subsidence has not been reversed within the Project area once plant communities have been established, additional seasonal wetlands will be managed as semi-permanent wetlands with denser tule habitat. If subsidence is successfully reversed under the proposed habitat matrixes, the seasonal wetlands will be maintained and managed using moist soil techniques to maximize migratory waterbird benefits. The post-construction monitoring of water quality will inform management of when and how much water is recirculated into the wetlands from the rest of the island.

- 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 construction activities are solely related to the overall goal of the Project to restore and manage wetland habitat.

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: 10/20/23 _____

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