

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DIRECTOR'S OFFICE
POST OFFICE BOX 944209
SACRAMENTO, CA 94244-2090



**CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR
RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2023-044-R2**

Project: Snake Marsh Restoration Project
Location: Sacramento County
Lead Agency: California Department of Fish and Wildlife
Lead Agency Contact: Sidney Fulford; Sidney.fulford@wildlife.ca.gov

Background

Project Location: The Snake Marsh Restoration Project (Project) is located at Snake Marsh within the Arno Unit of the Cosumnes River Ecological Reserve in southern Sacramento County, California, approximately 24 miles south of Sacramento and just west of Highway 99. The Project's central coordinates are 38.32607, -121.33659.

Project Description: The California Department of Fish and Wildlife (CDFW) 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 is designed to benefit giant garter snake (*Thamnophis gigas*) and other freshwater marsh species. The Project site supports a genetically important population of giant garter snake. However, due to issues related to unreliable and insufficient hydrology, chronic and intense drought, and an infestation of invasive Uruguayan water primrose (primrose, *Ludwigia hexapetala*) there has been a precipitous decline of the giant garter snake population in Snake Marsh. To address this, the Project will restore and enhance 343 acres of degraded perennial aquatic habitat by increasing hydrologic resiliency and by controlling primrose, supporting the continued survival of this unique population of giant garter snake.

The Project includes building berms with water control structures for rainwater retention, installing two pipelines to enhance water flow from an existing irrigation well to Snake Marsh, and controlling primrose through goat grazing and targeted herbicide application. These activities will result in improved giant garter snake foraging habitat, which requires surface water of sufficient depth to last through the dry season. Perennial surface water in Snake Marsh also benefits native birds, aquatic plant species, and aquatic invertebrates crucial for wetland-dependent wildlife. CDFW will survey the giant garter snake population, monitor and manage primrose extent, and ensure water delivery structures are performing as designed for ten years following implementation.

Tribal Engagement: In May 2022, CDFW sent Tribal Notification Letters to all tribes identified by the Native American Heritage Commission as being culturally or traditionally affiliated with the geographic area of the Project. Numerous virtual meetings, site visits, and on-going tribal consultations have resulted in a collaborative Project design that supports culturally important

wildlife species and minimizes adverse effects on tribal cultural resources.

Interested Party Coordination: CDFW has engaged with various public agencies and non-governmental organizations. CDFW, a property-owning partner of the Cosumnes River Preserve, discussed the project objectives and design in March 2021 with the other partners: the Bureau of Land Management, The Nature Conservancy, Sacramento County Department of Regional Parks, California Department of Water Resources, California State Lands Commission, Natural Resource Conservation Service, Galt Joint Union Elementary School District, and the Sacramento Valley Conservancy; and in April 2021 with Hansen Consulting and Ducks Unlimited.

Anticipated Project Implementation Timeframes: Start date: May 2024
Completion date: October 2035

Lead Agency Request for CDFW Concurrence: On November 22, 2023, the Director of the California Department of Fish and Wildlife (CDFW Director) received a concurrence request from CDFW (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 13, 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 exclusively enhance and restore aquatic habitat in Snake Marsh to assist in the recovery of a genetically distinct population of giant garter snake. Hydrology improvements will improve foraging habitat for giant garter snake and also support other native local and migratory species that utilize the marsh for foraging, roosting, and nesting, including special-status raptors, songbirds, and shorebirds.

- 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 will benefit regional bird populations, which may incidentally benefit public recreation at the accessible areas of the broader Cosumnes River Preserve. Snake Marsh is not open to public access or recreational use and will remain closed to the public after the project is completed.

- 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 will improve the resilience of perennial wetlands to the hydrologic and thermal pressures resulting from a changing climate. Currently, water is supplied via gravity flow from Badger Creek and pumped runoff from neighboring agricultural fields, sources that become unreliable in prolonged drought. The infrastructure constructed during the Project will improve water retention from rainfall and provide water from an existing irrigation well during drought. Removal of primrose will additionally increase the amount of open surface water and more natural water flows.

Long-term Net Benefits to Biodiversity: Enhancements implemented by the Project will benefit biodiversity by stabilizing the existing perennial wetland habitat. Snake Marsh is one of several sites within Cosumnes River Preserve that represents a fragment of the perennial wetland habitat that used to extend across the Central Valley prior to land conversion. These wetlands support many native invertebrate, amphibian, reptile, and fish species, as well as over 250 local and migratory bird species for foraging, roosting, and/or nesting. By increasing the reliability of water, the persistence of wetland species in Snake Marsh will be supported. Primrose removal will improve water quality and open functional habitat for native animal species such as giant garter snake and great blue heron (*Ardea herodias*). Management of primrose will also

benefit native plant species that struggle to compete with the vigorous, spreading, and noxious plant.

Long-term Net Benefits to Sensitive Species Recovery: The Project is primarily designed to benefit giant garter snake, which is listed as threatened pursuant to both the federal Endangered Species Act and California Endangered Species Act. The Snake Marsh population, one of nine statewide, is at risk of local extinction due to loss of foraging habitat from low and unreliable water levels and primrose invasion. Several sensitive bird species that stand to benefit from a resilient Snake Marsh are greater sandhill crane (*Antigone canadensis tabida*), Swainson's hawk (*Buteo swainsoni*), and tricolored blackbird (*Agelaius tricolor*).

Procedures for the Protection of the Environment: The Project includes procedures to ensure protection of the environment during implementation that cover several categories: construction impact minimization, water quality and erosion protection, species-specific avoidance and minimization, and herbicide handling and use minimization. The Project will implement measures from programmatic permits, such as the US Fish and Wildlife Service Restoration Programmatic Biological Opinion (Programmatic Biological and Conference Opinion for the Statewide Programmatic Restoration Effort; USFWS # 2022-0005149-S7) and the State Water Resources Control Board's Statewide Restoration General Order (Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide; SWRCB# WQ 2022-0048-DWQ). Additional measures may also be implemented if required by federal and state permits issued for Project work. Additionally, the Project is designed to limit impacts by using an existing access road and deploying grazing goats as an alternative to heavy equipment or intensive herbicide use.

Ongoing Management for the Protection of the Environment: Management will be ongoing for at least 10 years to ensure that the water infrastructure is operating as designed and primrose population is controlled. Maintenance and monitoring include continued treatment of primrose, monitoring of hydrologic conditions (water delivery and storage), annual giant garter snake surveys, and maintenance of berms and pipes as necessary. Giant garter snake survey methodology completed in 2021 established a pre-project baseline and clear monitoring framework. An Adaptive Management and Monitoring Plan is being developed that will detail other monitoring methods and decision making for primrose control and strategies for reestablishing culturally important plant species onsite. Furthermore, the Project site is protected and managed under the Cosumnes River Preserve Management Plan.

- 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's construction activities are limited to building two berms for the purpose of retaining more water and installation of two pipelines from an existing well to facilitate the efficient delivery of water. All Project activities are solely related to habitat restoration and management.

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: 12/20/23