



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region
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GAVIN NEWSOM, Governor
Charlton H. Bonham, Director



12/22/2023

Jack Larriviere
Westervelt Ecological Service
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Sacramento, CA 95864
jlarriviere@westervelt.com

SUBJECT: PROSPECTUS ACCEPTABLE FOR JOHNSON COSUMNES
MITIGATION BANK (TRACKING NO. 1798-2023-01-R2)

Dear Jack Larriviere:

The California Department of Fish and Wildlife (Department) has completed its review of your prospectus, dated September 2023, for Johnson Cosumnes Mitigation Bank (Bank).

Based on the information you provided, the Department has determined that the prospectus is acceptable; however, the following items will need to be addressed in the bank agreement package. If these items are not adequately addressed, your bank agreement package may be deemed unacceptable.

- The proposed Bank property habitat has been utilized for farming treated with fertilizer, pesticides, and/or herbicides. Wetland habitat would naturally filter out pollutants; however, the site would be inundated with flood waters and there may be residual effects to the proposed wetland rehabilitation and re-establishment due to excess nutrient load. Please investigate if there are any residual fertilizer, pesticides, and/or herbicides present at the proposed Bank property and if so, please describe to what level these components are present at the site and what actions would be taken to minimize the effect in the bank agreement package.
- The Prospectus is requesting fall run and late-fall run chinook salmon credits but did not include a service area rationale. Please include a service area rationale in the bank agreement package. Please note that these species are not listed under the California Endangered Species Act (CESA) and would be classified as California Environmental Quality Act (CEQA) credits. If these salmonid species are under the authority of the National Marine Fisheries Service as Essential Fish Habitat (EFH) credits, please classify them as EFH credits instead of CEQA credits.

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- The Bank proposed EFH/salmonid credits; however, the proposed performance standards do not include documentation of salmonid utilization of the Bank property. Please include performance standards for salmonid utilization of the Bank property with the bank agreement submission.
- The prospectus states that riparian vegetation along the restored side channels within the mosaic wetlands will be shaded riverine aquatic (SRA) credits. SRA habitat is nearshore habitat occurring at the interface of a river or stream. The adjacent woody habitat provides in-water habitat and/or overhanging vegetation. The return channels within the Bank property are ephemeral streams where flowing water is only present during a short time following a period of rainfall. The riparian habitat along the return channels would not be classified as SRA but the adjacent woody habitat occurring at the interface of Cosumnes River and Laguna Creek could be classified as SRA habitat if the attributes are present. The Bank may be able to provide preserved SRA habitat credits. If you would like to propose SRA credits along the Cosumnes River and Laguna Creek, please provide, within the biological assessment, the details of SRA habitat presence in the bank agreement package submission.
- The prospectus identified SRA credits as mosaic wetlands. SRA credits would be a distinct credit category and described in the actual acreage present instead of a conversion of acreage to equal one credit. Please identify SRA credits in the credit evaluation and credit ledger as SRA credits and describe them in acreage of habitat instead of a conversion of acreage to a credit amount.
- The prospectus proposed enhancement credits for existing riparian habitat. Areas where there are proposed enhancement activities to provide a transition zone between the field and existing riparian habitat along steep banks may be considered enhancement credits. The Development and Interim Management Plan must include detailed information on what activities will occur in order for the Department to determine if the riparian habitat will be considered enhancement or preservation credits. Existing riparian areas where no adjacent transition zone enhancement activities will be taking place are considered preservation credits. Please identify these riparian areas as preservation credits.
- The proposed performance standards for establishment of valley foothill riparian habitat are for a five-year period. The dominant overstory canopy species of valley foothill riparian is oak, sycamore, and cottonwood while the understory is comprised of a shrub layer such as willows, wild rose, and California blackberry. These understory plants establish fairly quickly while the overstory species can take decades to mature. As the overstory canopy species have a slow growth rate and susceptibility to herbivory and drought, areas of the Bank property that are proposed to have a species composition of the dominant overstory canopy will need to have performance standards applied over a ten-year period.

- The proposed vegetation performance standard metrics are too vague. Performance standards need to describe physical, measurable attributes that can measure changes in the habitat or species over time. Please provide measurable performance standards in the Development and Interim Management Plan with the bank agreement package submission.
- The prospectus proposes Swainson's hawk nest buffer credits. As there are no documented Swainson's hawk nests on the Bank property, the Department can not approve Swainson's hawk nest buffer credits without an active nest on the Bank property. If you would like to discuss this in more detail, please contact the Department to schedule a meeting.
- A service area for each credit type is required and was provided; however, the banking program's checklist was not clear that for mitigation banks that included species credits, the species service area would follow the requirements for a conservation bank. Please include a Swainson's hawk service area based on the biology of the species instead of based on a hydrologic unit code with the bank agreement package submission.

In addition to the above, please also ensure that:

- Acreage and credit amounts match throughout the documents. Areas within the Bank property that are not being credited are still within the Bank property and part of the total Bank property acreage. Areas excluded from the Conservation Easement (CE) are not part of the Bank property. Please ensure that the acreage is accurate to reflect the actual acreage within the Bank property (CE area) and total of the property.
- The prospectus states the Central Valley steelhead population is listed under CESA. Currently, the Central Valley steelhead population is not a species listed under CESA.
- The restoration concept figure (Figure 27) identifies most of the area as riparian floodplain and a specific area as wetlands while the proposed habitat and credits figure (Figure 22) identifies the same area as mosaic wetlands. Please use consistent terms when describing the habitat.
- Assessor Parcel Numbers (APNs) listed in the prospectus are not correctly identified per the preliminary report. Please ensure the APNs listed in the documents match the APNs in the preliminary report.

This acceptability of your prospectus is distinct from any determination about the bank agreement package and does not assure Bank approval. It is also distinct from any determination that may be made by another signatory agency.

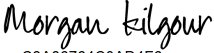
You may submit a bank agreement package with a [Bank Submittal Form](#) and the current bank agreement package [fee](#)¹ [Fish and Game Code § 1798.5(b)].

The bank agreement package must be consistent with the prospectus and contain a bank enabling instrument and all exhibits. The Department will have 30 days from the date your bank agreement package is received to determine if it is complete or not complete. The Department will then provide you written notification of its determination, which is distinct from any determination by another signatory agency.

Please visit the Department's website at <https://www.wildlife.ca.gov/Conservation/Planning/Banking> to obtain an Interagency Guidance document and current templates used in the bank agreement package. If you have questions regarding this letter or the bank review process, please contact Stephanie Buss, Senior Environmental Scientist (Specialist) at (916) 406-4311 or stephanie.buss@wildlife.ca.gov.

Sincerely,

DocuSigned by:


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Morgan Kilgour
Regional Manager

¹ Fees may be adjusted annually pursuant to FGC 1799.1(a). The current fee schedule at the time of submittal is the fee required for review of the bank document.

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