CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
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CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2024-051-R1

Project:	Cannibal Island Restoration Project
Location:	Humboldt County
Lead Agency:	California Department of Fish and Wildlife, Northern Region Lands Program
Lead Agency Contact:	Shawn Fresz; Shawn.Fresz@wildlife.ca.gov

Background

Project Location: The Cannibal Island Restoration Project (Project) is located three miles west of the town of Loleta within the Eel River estuary and one mile inland and northeast of the Eel River mouth in Humboldt County, at latitude 40.653 and longitude -124.289. The Project area is bounded by Cannibal Island Road to the south, the North Bay of the Eel River estuary and Mosley Slough to the west, and Sevenmile Slough to the north and northeast.

The total Project area is 795 acres. The northern and western portion of the Project area (approximately 462 acres) is owned by the California Department of Fish and Wildlife (CDFW) and managed as part of the Cannibal Island Unit of the Eel River Wildlife Area. The remaining 332 acres are privately owned and border the southeast portion of the Project area. Approximately 220 acres of the private property are held in Wetland Conservation Easements by the Natural Resources Conservation Service Wetlands Reserve Easement Program.

Project Description: CDFW, Northern Region Lands Program (Lead Agency) and California Trout (CalTrout) propose 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 restore and expand natural estuarine functions and processes that promote recovery of habitat for native fish, invertebrates, wildlife, and plant species.

Historically the Project area was mostly an estuarine tidal marsh and a network of tidal channels, which extended from the mouth of the Eel River to the base of Table Bluff. Beginning in the late 1800s the area was diked, isolated from tidal waters, and drained for agricultural purposes. The Project's purpose is to restore the habitat from a mostly diked agricultural landscape to a mosaic of natural habitats, including estuarine and tidal slough channels, brackish ponds, and native marsh by restoring the natural full tidal exchange and hydraulics and sediment transport processes. Increased tidal exchange and connectivity will promote recovery and maintenance of tidal marsh habitats that support a variety of native

fish, wildlife, and plant species, including Sensitive Natural Communities, rare plants, and listed fish, such as Coho Salmon (*Oncorhynchus kisutch*), Chinook Salmon (*Oncorhynchus. tshawytscha*), Steelhead Trout (*Oncorhynchus mykiss*), Longfin Smelt (*Spirinchus thaleichthys*), and Tidewater Goby (*Eucyclogobius newberryi*).

To accomplish restoration goals, the Project construction activities will consist of the removal of existing water control structures, including dikes, culverts, and flood gates. Construction activities will also include the excavation of historic slough channels and intertidal lagoons to accelerate the formation of high-quality aquatic habitat for listed fish species. Excavated fill will be placed in appropriate locations to mimic natural marsh topography, creating natural levees, hummocks, and tidal marsh ridges. The Project will also include the controlled treatment of invasive dense-flowered cordgrass (*Spartina densiflora*) to enhance wetland vegetation diversity. Another aspect of the Project is the placement of one quarter of a ton of rock along a small section of channel to provide inset channel grade control to manage the tidal prism until the site elevations increase through natural accretion and become representative of a system with full tidal amplitude. Through these activities the Project will enhance and reconnect full tidal exchange to approximately 500 acres of former tidal marsh habitat.

The Project also includes the construction of a new setback levee (6,000 linear feet in length) and the elevation of Cannibal Island Road to meet the setback levee. The levee is equipped with culverts to separate tidal wetlands from agricultural lands, which will contain the Project area and prevent water associated with the restored wetlands from impacting agricultural lands adjacent to the Project.

Tribal Engagement: The Lead Agency conducted outreach to 11 tribes, including the Wiyot Tribe, Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria, Big Lagoon Rancheria, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Hoopa Valley Tribe, Karuk Tribe, Round Valley Reservation/Covelo Indian Community, Shasta Indian Nation, Tsnungwe Council, and Yurok Tribe. Tribal consultation letters were sent on June 2, 2023, and included a 30-day consultation response period (with options for extensions) and the opportunity to receive in-person or virtual presentations and site visits on the Project. A cultural resource investigation was also prepared for the Project. On August 11, 2023, the Lead Agency participated in a teleconference with Wiyot Tribe representatives. A representative of the Bear River Band of the Rohnerville Rancheria provided email comments on August 15, 2023. The Lead Agency is committed to working closely with the tribes throughout Project implementation.

Interested Party Coordination: The Lead Agency implemented significant outreach to government agencies, NGO partners, landowners, and other interested parties regarding the Project. Frequent outreach has been conducted electronically and in person with numerous local, state, and federal agencies. On May 31, 2023, CDFW, CalTrout, GHD, and landowners hosted an agency meeting. This included County of Humboldt, California Coastal Commission, North Coast Regional Water Quality Control Board, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration (NOAA), and the Natural Resource Conservation Service. Other agency outreach included the Coastal Conservancy and Bureau of Land Management. The Lead

Agency and project proponent have also conducted extensive adjacent landowner outreach in the planning of the Project.

Anticipated Project Implementation Timeframes: Start date: June 2025
Completion date: October 2027

Lead Agency Request for CDFW Concurrence: On February 7, 2024, 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 7, 2024, 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 restore and provide habitat for California native fish and wildlife by restoring approximately 500 acres of full tidal influence on the Project site and promoting the creation and enhancement of a variety of native habitat types by restoring natural hydrological exchange and sediment supply processes. The Project will do this by creating coastal salt marsh and brackish marsh which provides high-value habitat for avifauna, invertebrates, and diverse plant species and 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 Lead Agency has determined the Project may have incidental public benefits, which include improvements to public access and recreation, public safety, and public education. One staging area and one access route will be left in place after Project implementation to be utilized for ongoing management, maintenance, and monitoring. The access route and staging area will also be used for public access and recreation purposes, including a public hiking trail, wildlife viewing area, parking, and interpretive educational signage. The repurposed staging areas/routes will also maintain the restoration benefits of the Project by focusing public foot-traffic away from the most sensitive habitat.

   To contain the restoration Project within the Project area, a set-back-levee will be constructed and a portion of an existing county road will be raised, essentially acting as an extension of the set-back-levee. The levee is necessary to contain the tidal influence that the Project will reintroduce to the Project area. It will also provide improved flood protection for agricultural lands adjacent to the Project area. Raising the county road will also provide improved public safety and emergency transportation access.

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>:

   The Project will result in long-term net benefits to climate resiliency by promoting natural sedimentation and marsh accretion that will allow marsh development to keep pace with sea level rise and protecting the coast from storm surges, flooding events, and erosion. Currently, the muted tidal regime at Cannibal Island results in significantly reduced sediment deposition within much of the Project area, which makes it

vulnerable to sea level rise. Project design includes creating marsh habitat areas from which additional native marsh can begin to build and designing flow circulation to maximize sediment deposition in key locations to enhance marsh accretion. Increased tidal exchange and connectivity will promote natural sedimentation and marsh accretion that will allow marsh development to keep pace with sea level rise, thereby increasing the long-term climate resiliency of this important habitat and its myriad of benefits. This is of particular importance due to the Eel River Delta having the highest rate of relative sea level rise on the coast of California, threatening to impact both natural and cultural resources as well as infrastructure.

Furthermore, marsh restoration projects have been shown to protect against storm surges, coastal erosion, and flooding events. Restored salt marshes have been shown to absorb and slow energy waves which may protect nearby properties and infrastructure. Finally, re-establishing estuary habitats through restoration increases habitat diversity, which will promote and support life-history diversity in salmonid populations that can support resilience to those populations under changing environmental conditions.

Long-term Net Benefits to Biodiversity:

The Project will have long-term net benefits to biodiversity by restoring estuary and coastal marsh habitat. Native salt and brackish marshes are important habitats for biodiversity and productivity and provide significant ecosystem services. The Project will enhance native plant biodiversity through restoring natural tidal marsh ecological processes and functions that native plant communities are adapted to. Biodiversity will benefit from the removal and control of non-native cordgrass, which displaces native plant communities and decreases biodiversity. The Project will also promote the expansion of plants classified as rare under the California Rare Plant Ranking (CRPR), including Lyngbye's sedge (*Carex lyngbyei*), Humboldt Bay owl's clover (*Castilleja ambigua humboldtiensis*), and Point Reyes bird's beak (*Chloropyron maritimum*).

Restoration and enhancement of estuary and tidal marsh habitats also increases biodiversity by restoring degraded ecosystems that provide essential nursery and foraging grounds for a variety of fish and wildlife species. Currently, the Project area has degraded physical aquatic habitat, poor fish passage, and water quality issues. All these issues constrain the fish assemblage in the Project area. Increased tidal connectivity and design features will improve fish passage, physical habitat, and water quality making the site suitable for a broader range of species throughout the year, including for salmonids and marine species using the estuary as nursery habitat, thereby promoting increased biodiversity of the fish assemblage.

Establishment of fully functioning mudflat and tidal marsh habitats will also promote the colonization of invertebrate communities that support fish populations, waterfowl, and shorebirds. Estuary habitat in Humboldt Bay and the Eel River Delta is critically important for overwintering and seasonally migrating shorebirds on the Pacific Flyway.

Long-term Net Benefits to Sensitive Species Recovery:

The Project will have long-term net benefits to sensitive species recovery by restoring habitat used by sensitive species. Estuaries and salt marshes provide critically important habitat for several listed fish species, such as the Southern Oregon/Northern California Coast Coho Salmon, listed as threatened under the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA), California Coastal Chinook Salmon, listed as threated under the federal ESA, Northern California Steelhead Trout winter-run, listed as threated under the federal ESA, Northern California Steelhead summer-run, listed as threated under the federal ESA and listed as endangered in the CESA, Longfin Smelt, listed as threatened in the CESA, and Tidewater Goby, listed as threated under the federal ESA.

Estuaries are important habitat for salmon, particularly as rearing habitat for juveniles. They provide osmoregulation transition areas for migrating smolts that are rich in food resources, resulting in significant growth for juvenile salmonids and promoting life history diversity within salmonid populations. Numerous salmonid recovery plans call for the restoration of estuaries, identifying the importance of increasing estuary area, complexity, and connectivity to adjacent native habitats through the removal of tide gates and levees, and reconnecting full tidal exchange. The objectives of the Project are directly aligned with the restoration recommendations of the planning and policy documents and will provide significant long-term benefits to the recovery of salmonids.

Principal threats to the Tidewater Goby include loss and modification of habitat, water diversions, predatory and competitive introduced fish species, habitat channelization, and degraded water quality. The U.S. Fish and Wildlife Service 2005 Tidewater Goby Recovery Plan calls for restoration activities that mitigate these threats. The Project will provide long-term benefits for Tidewater Goby by directly addressing loss and modification of habitat, habitat channelization, and degraded water quality through reintroducing natural tidal hydrology, creating marsh habitat, and restoring historic channel sinuosity.

Estuaries also function as critical rearing habitat for a variety of pelagic fish species, including the state threatened Longfin Smelt. In a 2022 survey of 16 north coast estuaries, more larval Longfin Smelt were found in the Eel River estuary in 2020 than any other estuary sampled. Restoration of tidal wetlands with connectivity to freshwater sources that can buffer early larval life stages from high salinities is essential for the persistence of this species. This Project will benefit Longfin Smelt by restoring the Project area to a tidal marsh.

The Project will also benefit numerous sensitive plant species. Specifically, this Project will result in an increase of coastal salt and brackish marsh habitat, which will promote the expansion of plants classified as rare under the CRPR, including Lyngbye’s sedge, Humboldt Bay owl’s clover, and Point Reyes bird’s beak.

Procedures for the Protection of the Environment:

Avoidance and minimization measures include but are not limited to the following:

The general construction season will be from June 15 to October 31. All restoration, construction, fish relocation, and dewatering activities within any wetted and/or flowing channel shall only occur within this period.

Specific BMPs will be employed, including the following: all materials placed in or over sloughs or other waters shall be nontoxic; water containing mud or silt from construction activities shall be treated by filtration or retained in a settling pond to avoid draining sediment-laden water back to the channel; and screens shall be installed on all water pump intakes and other water withdrawal structures in compliance with NMFS and USFWS fish-screening specifications.

Dewatering and fish relocation will follow requirements established by NMFS and USFWS, as outlined in Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson–Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the NOAA Restoration Center and U.S. Army Corps of Engineers' Restoration Program for Northern California (NMFS Consultation No: WCRO-2021-02830) (PBO) Programmatic Biological and Conference Opinion on the California Statewide Programmatic Restoration Effort (Service file No. 2022-0005149-S7) (PBO), on the Statewide Programmatic Biological Assessment for Restoration: Multi-Agency Implementation of Aquatic, Riparian, Floodplain and Wetland Restoration Projects to Benefit Fish and Wildlife in California (PBA).

Native vegetation disturbance will be avoided and minimized to the extent practicable. For construction that occurs within the nesting bird season March 15 – August 1, pre-construction nesting bird surveys will be conducted, and nesting birds will be avoided. Disturbed areas will be revegetated with plant species appropriate to the site and erosion control implemented where necessary. Disturbance to existing grades and native vegetation shall be limited to the actual site of the project, necessary access routes, and staging areas.

<u>Ongoing Management for the Protection of the Environment:</u>

After restoration activities have been completed, CDFW will follow the Project's Operations and Maintenance Plan, which outlines maintenance and monitoring actions identified for the Project. The plan includes invasive plant species management, maintenance of tidal channels and flood conveyance gates, and levee maintenance. To facilitate adaptive management and to ensure goals and objectives are met, monitoring of Project components will include tidal marsh topography, surface water hydrology, fish monitoring, water quality, and photographic monitoring of vegetation communities and other key Project features.

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 Lead Agency has determined that the Project does not include any construction activities other than those activities solely necessary to facilitate the completion of the restoration work. The restoration work will require access routes and staging areas for heavy equipment. Primary access routes will be developed on an existing road and along the tops of already existing levees to reduce project impacts. A staging area will be installed on the existing access road and pull-out. Following implementation of restoration activities, the main staging area and one access route will be left in place to be utilized on a long-term basis for CDFW's ongoing management, maintenance, and monitoring of the Project and Wildlife Area. These features will also be retained for public access and recreation purposes.

To contain the tidal influence the Project will reintroduce to the Project area, a set-back-levee will be constructed, and a portion of the existing county road will be relocated to the top of the levee. These containment features are being constructed solely to enable the Project to restore the full tidal prism at this location and promote the critical ecological processes associated with full tidal exchange.

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: 4/29/24

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