COASTAL CONSERVANCY

Staff Recommendation
November 6, 2008

SOUTH SAN FRANCISCO BAY SALT PONDS RESTORATION: PHASE I IMPLEMENTATION

File No. 02-070-02
Project Manager: Brenda Buxton

RECOMMENDED ACTION: Authorization to: (1) disburse up to $4,250,000 for implementation of Phase I of the South Bay Salt Ponds Restoration Project; and (2) disburse up to an additional $300,000 towards the South San Francisco Bay Shoreline Study.

LOCATION: San Francisco Bay, South of the San Mateo Bridge, in Alameda, San Mateo, and Santa Clara Counties (Exhibit 1).

PROGRAM CATEGORY: San Francisco Bay Area Conservancy

EXHIBITS

Exhibit 1: Project Location and Phase I Sites

Exhibit 2: Restoration Plan (attached to Conservancy member's copy of staff recommendation and otherwise available for review at www.southbayrestoration.org)

Exhibit 3: EIS/R (provided to Conservancy members as a separate CD and otherwise available for review at www.southbayrestoration.org), and EIS/R Table of Impacts, Table of Cumulative Impacts, and Mitigation Monitoring and Reporting Program

Exhibit 4: Ravenswood Pond Complex

Exhibit 5: Project Letters

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160-31165 of the Public Resources Code:

"The State Coastal Conservancy hereby authorizes:

1. The disbursement of up to $4,250,000 (four million two hundred fifty thousand dollars) for construction, adaptive management activities and applied scientific studies, engineering and environmental services, and project management and related

activities associated with implementation of Phase I of the South San Francisco Bay Salt Pond (SBSP) Restoration as follows:

a. Disbursement of up to two million dollars ($2,050,000) to the U.S. Fish and Wildlife Service (FWS) for construction of the Pond SF2 and Bayfront Park projects, subject to the following conditions:

   i. Prior to the disbursement of any Conservancy funds for any one of the projects, the FWS shall submit for the review and approval of the Conservancy's Executive Officer a work program for that project, including schedule and budget, and the names of any contractors it intends to use to complete the project.

   ii. In carrying out the project, FWS shall comply with all applicable mitigation and monitoring measures that are identified in the South Bay Salt Pond Restoration Project Environmental Impact Statement and Environmental Impact Report (EIS/R) that was certified with findings by the California Department of Fish and Game on March 11, 2008.

b. Disbursement of up to $1,500,000 (one million five hundred thousand dollars) to the Resources Legacy Fund (RLF) for adaptive management and applied studies, including, without limitation, applied studies of whether and how island density and shape, vegetation types, density, and distribution, and human activities significantly affect birds or other target species on short or long timescales, subject to the condition that prior to the disbursement of any Conservancy funds for any study, RLF shall submit for the review and approval of the Conservancy's Executive Officer a work program for that study, including schedule and budget, and the names of any contractors it intends to use to complete the study.

c. Disbursement of up to $700,000 (seven hundred thousand dollars) for engineering and environmental services and project management and related activities to support implementation of Phase 1 of the SBSP Restoration.

2. The disbursement of up to an additional $300,000 (three hundred thousand dollars), as in-kind services or cash as the Conservancy's share of increased costs under the Feasibility Cost Share Agreement with the U.S. Army Corps of Engineers and Santa Clara Valley Water District for the South San Francisco Bay Shoreline Study, authorized by the Conservancy on December 2, 2004."

Staff further recommends that the Conservancy adopt the following findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.

2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the Conservancy's mandate to address the resource and recreational goals of San Francisco Bay Area.

3. The Conservancy has independently reviewed and considered the information contained in the South Bay Salt Pond Restoration Project Environmental Impact Statement and Environmental Impact Report (EIS/R) that was certified with findings by the California Department of Fish and Game on March 11, 2008 in order to comply with the California Environmental Quality Act ("CEQA").
4. The EIS/R identifies potential significant effects from implementation of Phase I projects of the South Bay Salt Pond Restoration Project, including the projects proposed in this authorization. Based on the design and approach of the Phase I projects, no potential significant effects are identified with the implementation of the Bayfront Park overlook project in the Ravenswood Pond Complex. However, the EIS/R identifies potential significant effects from implementation of the Pond SF2 project in the areas of Water Quality, Air Quality, Traffic, Noise, Cultural Resources, Utilities and Cumulative Impacts. With regard to these impacts, the Conservancy finds that the Pond SF2 project, as modified by incorporation of the mitigation measures identified in the EIS/R, avoids, reduces or mitigates all of the possible significant environmental effects of the project except for the Cumulative Impacts identified in finding 5, below.
5. Construction of the Pond SF2 project may result in "significant and unavoidable" Cumulative Impacts in the areas of Hydrology (flooding risk) and Water Quality (potential for discharge of water with low dissolved oxygen). Specific environmental and other benefits of the project described in the accompanying staff recommendation and detailed in the EIS/R outweigh and render acceptable these unavoidable adverse environmental effects because the project will result in the long-term environmental benefits of restoring native habitat for the threatened snowy plover, migratory shorebirds, and for other plant and animal species that otherwise would be threatened by loss of critical habitat.
6. Alternatives to the Pond SF2 project analyzed in the EIS/R are infeasible in that they do not achieve the project objectives of habitat restoration, wildlife-oriented public access, and flood protection and will result in the same or greater environmental impact and will not produce the same environmental benefit as the proposed project.
7. The Resources Legacy Fund is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, whose purposes are consistent with Division 21 of the Public Resources Code."

PROJECT SUMMARY:

This authorization would enable the Conservancy to fund the first implementation phase of the restoration project for 15,100 acres of former Cargill salt production ponds in South San Francisco Bay. This is the first major implementation action of the South Bay Salt Ponds Restoration project (aside from the April 2008 Conservancy authorization of $63,250 for improvements to the Moffett Field Bay Trail) and includes $2.05 million in funding of habitat and public access construction as well as $1.5 million for applied studies required by the Adaptive Management Plan. In order to successfully implement

the construction projects and Adaptive Management Plan as well as plan for future project phases, this authorization also includes $700,000 in funding for engineering and environmental services and project management.

The authorization would also allow the Conservancy to provide additional funding for the South Bay Shoreline Study (the "Shoreline Study"), a feasibility study that is being jointly funded by the Santa Clara Valley Water District, the Conservancy, and the U.S. Army Corps of Engineers under a federal Feasibility Cost Share Agreement for the South San Francisco Bay Shoreline Study between the parties ("Cost Share Agreement"). On completion, the Shoreline Study will identify specific flood control, habitat restoration and public access improvements projects in the South Bay. The Shoreline Study encompasses a much larger area of the South Bay than the Salt Pond Restoration Project, including areas adjacent to the salt ponds in Santa Clara Counties. The Shoreline Study will facilitate the restoration of the South Bay Salt Ponds because it will complete the required analysis that will enable the U.S. Army Corps of Engineers to cost-share significant portions of future environmental restoration, public access and tidal and creek flood protection projects likely to be similar to those identified in the South Bay Salt Pond Restoration Plan.

At its meeting of December 2, 2004, the Conservancy authorized the Executive Officer to enter the Cost Share Agreement on behalf of the Conservancy. At its meeting of September 8, 2005, the Conservancy authorized the disbursement of up to $1,000,000 as the Conservancy share of costs under the Cost Share Agreement.

Due to unanticipated data gaps and the need for additional technical analyses, as well as delays caused by less-than-requested federal funding, the Shoreline Study's costs have increased. To partially cover these increased costs, pursuant to the authority delegated to him by the Conservancy, the Executive Officer in October 2007 approved the disbursement of $150,000, a 15% augmentation of the original $1 million previously authorized by the Conservancy for disbursement under the Cost Share Agreement. In November 2007, the Santa Clara Valley Water District also provided additional funding making its total cash contribution $4,570,345. However, these funds are not sufficient to cover the cost increases.

In order to provide needed additional funding and prevent further delays, this authorization proposes to increase the Conservancy's contribution of in-kind services or cash under the Cost Share Agreement by $300,000, to a total of $1,450,000 (which includes the Conservancy's original authorization, the Executive Officer's augmentation of $150,000 and the proposed additional authorization of $300,000). Since the costs for the study are shared 50-50 between the federal and non-federal parties, the U.S. Army Corps of Engineers will match funds provided by the Conservancy and the Santa Clara Valley Water District.

South Bay Salt Ponds Restoration Plan

From 2003 to 2007, the Conservancy worked in cooperation with the US Fish and Wildlife Service (FWS) and the California Department of Fish and Game (DFG) and numerous project stakeholders to complete a plan that restores and enhances wetland

habitats while providing for flood management and wildlife-oriented public access and recreation in the 15,100 acres of salt manufacturing ponds acquired from Cargill Inc. in 2003. A summary of the plan is described in a brochure outlining the restoration project (Exhibit 2) and the Executive Summary of the EIS/R (Exhibit 3).

In terms of wetland habitat creation, the project plan proposes creating a mix of *managed ponds* (open water and seasonal ponds contained by levees and managed for a variety of water depths and salinities) and *tidal wetlands*. Managed ponds would provide habitat for waterfowl, small shorebirds (including the threatened snowy plover) and high salinity specialists, such as phalaropes and grebes. Tidal wetland creation would restore hydrologic and ecological conditions closer to the past conditions in South San Francisco Bay by increasing tidal scour, muting storm energy, improving water quality, and creating habitat for the California clapper rail, salt marsh harvest mouse, and steelhead trout.

During project planning, participants acknowledged that there was significant uncertainty about the long-term impacts of large landscape-scale restoration proposed by the project. Because of this uncertainty, the plan does not specify an exact amount of managed ponds or tidal wetlands to be restored. Rather, the plan proposes a progression of habitat creation over the next 50 years with two different possible end-states. One end-state, identified as Alternative B in the EIS/R, emphasizes creating a balance of managed ponds and tidal wetlands (approximately 7,500 acres of each). The other end-state, Alternative C in the EIS/R, emphasizes the creation of tidal wetlands and proposes to keep approximately 10% (1,600 acres) of managed ponds. As required by the National Environmental Policy Act, the EIS/R identifies a preferred alternative, Alternative C, tidal wetland emphasis, which was selected since this alternative would create conditions closer to the historic landscape of San Francisco Bay and would require less infrastructure and operations in the long-term. However, the EIS/R also states that the final mix of managed ponds and tidal wetlands will be guided by the Adaptive Management Plan (Appendix D of the EIS/R) and it is possible that tidal wetland restoration activities will stop before reaching the tidal wetland acreage called for in Alternative C.

The Plan proposes a variety of public access improvements as well, including trails, viewing platforms, cultural and environmental resource interpretive stations, waterfowl hunting, non-motorized boat launches, and associated staging and parking areas. At the 50-year end point for the project, the ultimate number and variety of public access features will be determined by the Adaptive Management Plan which describes a process (similar to the process for habitat creation described above) to determine how to satisfy public demand for access and recreation improvements in the project while avoiding possible impacts to wildlife.

To manage flood risks, the Plan proposes actions that could maintain and enhance flood protection for the South Bay. In addition to the flood control benefits that result from wetland restoration (e.g. slough scour and storm buffer), the project proposes construction of engineered levees on the landward edge of the former salt ponds. Creation of additional tidal wetlands or managed ponds, beyond those identified in Phase

I, depends on the eventual construction of these engineered structures. In order to facilitate the construction of flood control structures, the Conservancy is partnering with the U.S. Army Corps of Engineers and the Santa Clara Valley Water District on a separate planning effort, the South San Francisco Bay Shoreline Study, described above, to address south bay flood protection and habitat restoration needs.

Due to the costs and large scale, the South Bay Salt Pond Restoration Project will be implemented in phases. Five public access and six wetland construction projects at five sites are proposed as Phase I (and analyzed at a project level in the EIS/R). The Phase I project-level actions and their anticipated primary funders are:

Moffett Field Bay Trail	Approved by the Conservancy in April 2008
Pond SF2 managed pond and public access facilities	Proposed in this authorization
Bayfront Park overlook	
Ponds E12, 13, and 9 public access facilities	Proposed for Conservancy and other project partners approval in Spring 2009
Pond A6 tidal restoration	
Pond A16 managed pond and public access improvements	
Ponds E12 and 13 managed ponds	Proposed for funding by other project partners including Wildlife Conservation Board, Alameda County Public Work Agency, or Santa Clara Valley Water District in late 2008 or early 2009
Ponds E9, 8, 8x tidal restoration	
Pond A8 muted tidal action	

The projects proposed for funding in this authorization include construction and the applied studies required by the Adaptive Management Plan as well as activities such as engineering and environmental services and project management that will be critical for successful implementation.

Construction Projects

Construction activities proposed in this authorization are 1) the Pond SF2 project and 2) the Bayfront Park overlook project in the Ravenswood Pond Complex (see map in Exhibit 4).

In the South Bay Salt Pond ("SBSP") Restoration project planning process, the 240-acre Pond SF2 was identified as the appropriate site for creation of a managed pond because it

is possible to create shallow water habitat and nesting islands for shorebirds and dry, salt panne-like conditions for snowy plovers. In addition, a managed pond at this site also would provide better flood protection. To construct this project, the bay front levee will be resurfaced and raised to improve a 0.7 mile public access trail that will allow views of the pond at two interpretive platforms at different locations on the east side of the pond. Restrooms will also be constructed at the trailhead. The pond interior will be graded to create three distinct areas or "cells" divided by low berms. Islands will be formed out of on-site material and water control structures installed. The shallow water and nesting islands in the eastern and central areas would provide habitat for shorebirds and the drier, salt panne-like conditions in the western area would be habitat for snowy plovers. Finally, the northwest perimeter of the pond will be revegetated with high marsh plant species.

Construction of the Pond SF2 improvements will be undertaken by the FWS and is expected to cost a total of $11,000,000. The Conservancy will provide $2,000,000 to FWS for construction which will be matched by: $7,300,000 from the FWS; $1,195,000 from CalTrans that is being provided to mitigate closure of the Dumbarton Bridge Fishing Pier and directed to Pond SF2 public access improvements in fulfillment of a BCDC permit condition; and $488,000 from a mitigation fund established by the City of Menlo Park in 1982 as a BCDC mitigation requirement for the expansion of the Marsh Road Landfill. Associated with this construction effort are applied studies that will test how island density and shape, vegetation types, density, and distribution, and human activities effect bird nesting use and reproductive success.

The other Phase I construction proposed by this authorization is construction of an on-grade viewing platform at Bayfront Park, in the City of Menlo Park (see Exhibit 4). The overlook would be at a high spot that provides dramatic views of the former salt ponds and existing salt marsh areas. This overlook would provide views and interpretation of marsh ecology and the restoration project. FWS will work cooperatively with the City of Menlo Park to construct this overlook which is expected to cost approximately $50,000. There is no applied study associated with this project since this will be minor construction in an already heavily-used public park. Although the site provides views of wetlands, there are no sensitive resource areas adjacent to the overlook.

As outlined in the table above, Conservancy staff anticipates bringing a proposal for funding the remaining Phase I projects in the spring of 2009 once final design and cost estimates for the remaining projects are complete. The remaining Phase I projects will be funded by other project partners.

Adaptive Management Approach

The South Bay Salt Ponds Restoration Project is one of the largest restoration efforts in the United States. Although much is known about the project area (such as salt marsh ecology, public access and wildlife interactions, public outdoor recreation demands, and flooding potential) significant uncertainties remain with a project of this geographic and temporal scale. In fact, project managers have concluded that the best way to tackle these uncertainties is to carefully implement the project in phases and learn from the results. How this will be done is described in the Adaptive Management Plan. The Adaptive

Management Plan describes a comprehensive program to generate information (applied studies, monitoring, and research) that will be used by project managers to make decisions about both current management of the project area and future restoration actions in order to meet project objectives and avoid harmful impacts to the environment.

Not only is adaptive management essential to keeping the project on track towards its objectives, it is the primary tool identified in the EIS/R for avoiding significant impacts to the environment. Without adaptive management (and its associated information collection), the project managers would not understand the restored system nor would they be able to explain their management actions the public. Furthermore, responses to unanticipated changes would be based on guess work and could exacerbate problems. For these reasons, adaptive management is integral to the project and construction cannot proceed without funding for the applied studies and science support required by the Adaptive Management Plan.

Applied Studies

As outlined in the Adaptive Management Plan, several applied studies are linked to restoration and management actions in Phase I projects so that project managers can learn from project implementation. The uncertainties these studies seek to address were identified in the planning process by members of the science team in addition to project managers, stakeholder forum members, regulatory agencies, and public participants.

Applied Studies that are part of Phase I actions are expected to total $3-4 million.

Conservancy staff recommends authorization of $1,500,000 towards funding of all of the highest priority Phase I applied studies at this time so the proposal solicitation process can be completed by the time construction is completed, or earlier if required. These Phase I studies are largely focused on wildlife use of changing habitats, mercury issues, and public access-wildlife interactions. The results of these studies will enable project managers to answer critical questions about future project implementation including but not limited to:

- Will sediment accretion in restored tidal areas be adequate?
- Will pond and panne habitats in restored tidal habitats provide habitat shorebirds and waterfowl?
- Will tidal habitat restoration increase methylmercury levels in sentinel species?
- Will creating islands in reconfigured ponds maintain nesting birds populations in the South Bay?
- Will landside public access significantly affect birds or other target species on short or long timescales?

The Resources Legacy Fund, a 501(c)(3) non profit organization, whose purposes include conservation of the environment and natural resources, will provide a match of $800,000 for these efforts and will administer these studies as directed by the South Bay Salt Pond Restoration Project Management Team and the South Bay Salt Pond Restoration Project Lead Scientist. The Resources Legacy Fund is a grant-making organization with

extensive experience administering grants for environmental restoration and protection purposes.

Most of the studies associated with Phase I are expected to be conducted over a 5 year period. The list of Phase I actions and the associated applied studies are described further in the Phase I Applied Studies table in the Adaptive Management Plan (pp. 39- 41 of Appendix D in Exhibit 3).

Engineering and Environmental Services and Project Management

The implementation project construction phases and the Adaptive Management Plan will be overseen by a governing structure similar to that used for project planning. This structure will be memorialized in a multi-agency Memorandum of Understanding that is close to completion. Under this structure, the Project Management Team, composed of landowners (FWS, DFG), local flood control agencies, funding partners and the Conservancy, will make decisions about on-the-ground management and future project phases. In addition, a Science Program, under the direction of the Lead Scientist, will manage the applied studies and make recommendations to the Project Management Team based on results of applied studies, monitoring, and research. Public outreach will also continue as part of the overall project management to include the interactive GIS map, website, Science Symposium, stakeholder forums, and local working groups.

Conservancy staff recommends that $700,000 be provided for the needed engineering and environmental services and project management and associated public outreach activities. The majority of the positions on the Project Management Team will be public agency staff and will not require funding. Additional project management services, specifically an executive project manager that will oversee and coordinate all the agencies involved in the project, will need to be contracted for. The lead scientist position will be cost shared by the Conservancy, U.S. Geological Survey, and U.S. Fish and Wildlife Service. In addition, the Conservancy may need to contract for services to complete technical analysis by engineers, planners, or landscape architects.

Finally, these funds also would be used by the Conservancy to continue the public outreach program which includes conducting public outreach, convening public meetings, identifying key stakeholders, and providing public information. These activities are required under the EIS/R as part of effective project management. It is anticipated that as the project moves into the implementation phase, project management and public outreach costs will decrease but that they will not altogether cease. Successful project implementation depends on a sound management structure and active public participation.

Site Description: Salt ponds surround nearly the entire Bay south of the San Mateo Bridge (Exhibit 1), on lands that were formerly tidal marsh. An estimated 85 percent of the historic tidal marshes in the San Francisco Bay-Delta Estuary have been filled or significantly altered over the past two centuries for urban development, agriculture, and salt production. Although dramatically different than 150 years ago, the South Bay's wetland habitats, including the salt ponds, tidal marshes, sloughs, mudflats, and open bay, are used by large populations of waterfowl and shorebirds, by harbor seals, and by a

number of threatened and endangered species, including the California clapper rail, California black rail, California brown pelican, California least tern, western snowy plover, salt marsh harvest mouse, and steelhead trout.

Pond SF2 is 240 acres of former salt pond immediately south of the Dumbarton Bridge in the City of Menlo Park. At the present time there is no tidal connection and the pond fills with water during the rainy season and becomes a dry, white, salt flat in the dry season.

Bayfront Park is a former landfill on the edge of the Bay that has been converted into a park. The overlook would be located at the park's high point, approximately a quarter mile walk from the parking area. Dramatic views of the surrounding open bay, salt ponds, and remaining marshes and sloughs provide an excellent back drop for interpretation of the South Bay Salt Pond Restoration project.

Project History: In March 2003, 15,100 acres of South Bay salt ponds, along with 1,400 acres of crystallizer ponds along the Napa River were acquired with $72 million from the Wildlife Conservation Board, $8 million from the FWS, and $20 million from the Goldman Fund, Hewlett Foundation, Moore Foundation, and Packard Foundation.

FWS and DFG have taken ownership of the properties and are actively managing the ponds according to the management goals set forth in the Initial Stewardship Plan. Cargill continues to manage a small number of ponds while phasing out its salt-making operations.

While the ponds were being managed under the Initial Stewardship Plan, the Conservancy, FWS, and DFG undertook a long-term restoration plan. To date the Conservancy has provide $12,700,000 in funding for technical analyses, science support, data management, project management, and public participation and outreach between 2002 and 2006 to complete the planning process. On August 2002, the Conservancy approved $500,000; January 2003, $2 million; October 2003, $200,000; September 2005, $3 million (which included $1 million for the Shoreline Study), and finally, on November 2006, $2 million. In addition, the Conservancy Board authorized the acceptance and expenditure of $3 million in March 2004 and $2 million in December 2004 from WCB for the SBSP Restoration project planning process.

The results of the planning process are discussed in the project description section of this staff recommendation.

PROJECT FINANCING:

Pond SF2

Coastal Conservancy	$ 2,000,000
US Fish and Wildlife Service	$ 7,300,000
CalTrans	$ 1,950,000
Menlo Park Bay Account	$ 488,000
Total Project Cost	**$11,738,000**

Bayfront Park Overlook	
Coastal Conservancy	$ 50,000
Total Project Cost	**$ 50,000**
Adaptive Management Applied Studies	
Coastal Conservancy	$ 1,500,000
Resources Legacy Fund	$ 800,000
FWS, USGS, and others	$ 1,700,000
Total Costs	**$ 4,000,000**
Engineering and Environmental Services and Project Management	
Coastal Conservancy	$ 700,000
Total Cost	**$ 700,000**
South San Francisco Bay Shoreline Study	
Coastal Conservancy	$300,000
Total Cost (this authorization)	**$ 300,000**
Total Conservancy Costs	**$ 4,550,000**

There are two expected sources of funds for this authorization. One source will be the fiscal year 2006-07 appropriation of the "Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002" (Proposition 50). Proposition 50 authorizes the use of these funds for the purpose of protecting coastal watersheds through projects that restore land and water resources. Funds may be used for planning and permitting associated with restoration, as well as the restoration activities. (Water Code Section 79570). The proposed project will accomplish these purposes by constructing tidal wetland and shallow water habitats as part of Phase I well as developing the design plans, permits, and public input for the next phase of South Bay Salt Pond Restoration projects.

In addition, under Proposition 50, any watershed protection activities financed with Proposition 50 funds must be "consistent with the applicable adopted local watershed management plan and the applicable regional water quality control plan adopted by the regional water quality control board" (Water Code Section 79507). The proposed project is consistent with such plans, as described in detail in the "Consistency with Local Watershed Management Plan/State Water Quality Control Plan" section, below.

Funding of the interpretive features (the overlook platforms and interpretive signs that are part of the Pond SF2 and Bayfront Park projects) is also consistent with Proposition 50 which authorizes the use of funds for development of facilities to promote public access and participation in the conservation of land, water and wildlife. Eligible projects under

Proposition 50 include interpretive facilities that are in or adjacent to watersheds and wetlands and provide wildlife viewing, outdoor experiences, and conservation education programs (California Water Code, Section 79571).

The other expected source of Conservancy funds for this project is the fiscal year 2007-08 appropriation from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). This funding source may be used for the protection bays and coastal waters, including projects to prevent contamination and degradation of coastal waters and watersheds, projects to protect and restore the natural habitat values of coastal waters and lands, and projects and expenditures to promote access to and enjoyment of the coastal resources of the state pursuant to the Conservancy's enabling legislation, Division 21 of the Public Resources Code. The proposed project protects coastal waters and restores natural habitat values by constructing tidal wetlands and shallow water ponds that will provide habitat for numerous species as well as improve water quality. In addition, the projects feature trails, interpretive signs, viewing platforms and other amenities that will promote access to and enjoyment of the restored natural resources. Finally, as discussed below, the project is consistent with Chapter 4.5 of Division 21.

Consistent with Proposition 84 requirements, the proposed project also includes funding for monitoring and reporting necessary to ensure successful implementation of the project objectives.

Another requirement of Proposition 84 is that for projects that restore natural resources, the Conservancy give priority to projects that meet one or more of the criteria specified in Section 75071. The proposed restoration project satisfies the following specified criteria: (a) Landscape/Habitat Linkages – one of the largest wetland restoration projects on the west coast of North America, the project will facilitate wildlife movement, botanical transfer, and sustain large acreage of habitat over time, (b) Watershed Protection – the project will contribute to long-term protection of and improvement to the water and biological quality of the San Francisco Bay; and (e) Non-State Matching Funds –as discussed in the Project Description Section the U.S. Fish and Wildlife and private foundations will provide matching funds from several non-state sources.

Matching funding for the Phase I South Bay Salt Ponds implementation projects are derived form a variety of sources. The CalTrans funding is mitigation under a BCDC permit for closure of the Dumbarton Bridge Fishing Pier. The Menlo Park Bay Account funds are mitigation for the 1982 expansion of the Marsh Road Landfill. The FWS funding will come from 2007, 2008, and 2009 federal appropriations.

The matching cost-share funding for the South San Francisco Bay Shoreline Study is summarized in the Project Description Section.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

This project would be undertaken pursuant to Chapter 4.5 of the Conservancy's enabling legislation, Public Resources Code Sections 31160-31165, to address resource goals in the San Francisco Bay Area.

The South Bay salt ponds are within the nine-county Bay Area as required under Section 31162 of the Public Resources Code.

Under Section 31162(a), the Conservancy may undertake projects to improve public access to and around the Bay, without having a significant adverse impact on environmentally sensitive areas and wildlife, such as wetlands, through completion of regional trails, local trails connecting to population centers and public facilities and which are part of a regional trail system, and through the provision of related facilities. The proposed projects will include public access improvements and recreational components.

Under Section 31162(b), the Conservancy may act to protect, restore, and enhance natural habitats and connecting corridors, watersheds, scenic areas, and other open-space resources of regional significance. The restoration of the South Bay salt ponds would restore and enhance nearly 16,000 acres of wetlands, and would be a habitat restoration project of regional and national significance. This authorization specifically would provide for creation of 240 acres of shorebird and waterfowl habitat.

Consistent with Section 31163(c), the South Bay salt pond restoration project would implement the policies and programs of the *San Francisco Bay Plan*, as described in the "Consistency with the San Francisco Bay Plan" section of this staff recommendation.

Under Section 31162(d), the Conservancy may act to promote, assist, and enhance projects that provide open space and natural areas that are accessible to urban populations for recreational and educational purposes. The South Bay salt ponds will provide an important open space resource for recreational purposes. This authorization will create a scenic overlook of the project site.

Consistent with Section 31163(c), restoration of the South Bay salt ponds meets the following criteria: (1) is supported by adopted regional plans (*San Francisco Bay Plan*, *San Francisco Baylands Ecosystem Habitat Goals Report*, and the *Water Quality Control Plan* for the San Francisco Bay Basin), (2) is multijurisdictional

(spanning three counties) and serves a regional constituency (the restoration project is of national significance and will provide a regional recreational resource), (3) can be implemented in a timely way (restoration planning is expected to take five years, at which point restoration will begin and will be implemented in a phased manner), (4) provides opportunities for benefits that could be lost if the project is not quickly implemented (the private foundations providing funds has specified that planning needs to be completed and implementation start within five years – by the end of 2008) and (5) includes matching funds (described under Project Financing).

The project is also consistent with Sections 31163(a) and (c), directing the Conservancy to participate in and support interagency actions and public/private partnerships in the San Francisco Bay Area to implement long-term resources and outdoor recreational goals.

CONSISTENCY WITH CONSERVANCY'S 2007 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 10, Objective C** of the Conservancy's 2007 Strategic Plan, the proposed project will restore 240 acres of managed wetland habitat.

Consistent with **Goal 11, Objective B**, the proposed project will feature a scenic overlook and interpretive signs.

Consistent with **Goal 11, Objective L**, the public access trails and interpretive facilities at SF2 will be ADA-compliant.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on September 20, 2007, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** This project is supported by Senator Dianne Feinstein, the Richard and Rhoda Goldman Fund, the William and Flora Hewlett Foundation, the Gordon E. and Betty I. Moore Foundation, the David and Lucile Packard Foundation, Resources Legacy Fund, the California Resources Agency, California Department of Fish and Game, U.S. Fish and Wildlife Service, Santa Clara Valley Water District, Alameda County Flood Control District, the San Francisco Bay Joint Venture, Save The Bay, The Bay Institute, National Audubon Society, Citizen's Committee to

Complete the Refuge, Cargill, and many other agencies, organizations, and individuals.

4. **Location:** The South Bay salt ponds are in the nine-county San Francisco Bay Area consistent with Section 31162 of the Public Resources Code.

5. **Need:** Approximately 85 percent of the tidal marsh in San Francisco Bay has been lost since the Gold Rush, leading to dramatic losses of fish and wildlife, decreased water quality and increased turbidity in the Bay, and changes to physical processes as the size of the Estuary shrank, increasing the need for dredging and the local hazards of flooding. The need for restoration of tidal marsh in San Francisco Bay in order to aid in the recovery of at-risk species, and improve water quality and the physical health of the Bay, is well recognized among scientists and resource managers. Without the addition of Conservancy funding, these important objectives, which underlie the South Bay Salt Pond implementation projects and the Shoreline Study, would not be met.

6. **Greater-than-local interest:** Restoration of this area is of national significance and will result in the largest tidal wetland restoration project on the west coast of the United States. When combined with other restoration projects underway in San Francisco Bay, including Napa-Sonoma Marsh, Hamilton/Bel Marin Keys, Bair Island, Eden Landing, and Sonoma Baylands, the project is on scale with other national restoration efforts, such as the Everglades and Chesapeake Bay. Restoration of the South Bay salt ponds to a mix of tidal marsh and managed ponds will provide benefits to a large number of species, including migratory waterfowl and shorebirds, and aid in the recovery of several threatened or endangered species, including the California clapper rail and salt marsh harvest mouse.

Additional Criteria

7. **Urgency:** There is a strong desire among the foundations, agencies, and by Senator Feinstein for restoration planning to be completed and project implementation to begin within five years of the date of acquisition March 2003. This authorization will enable the Conservancy to make this deadline.

8. **Resolution of more than one issue:** The restoration of the South Bay salt ponds will provide for habitat restoration for fish and wildlife, improved water quality and flood control, and enhanced recreational opportunities.

9. **Leverage:** See the "Project Financing" section above.

10. **Innovation:** Restoration of the South Bay salt ponds will be a national model for how to coordinate a scientifically sound, publicly-supported, multi-objective, multi-agency project, on scale with the Everglades and Chesapeake Bay. The Conservancy is drawing upon its experience with Napa Marsh, Hamilton/Bel Marin Keys, and other restoration projects in San Francisco Bay and along the California Coast, as well as learning from other efforts around the nation.

11. **Realization of prior Conservancy goals:** This project builds on the Conservancy's participation in the development of the *San Francisco Baylands Habitat Goals*

Report, which has goals, objectives, and recommendations for restoration in San Francisco Bay, and the Conservancy's participation in wetland acquisition and restoration projects in San Francisco Bay, including Napa Marsh, Bair Island, and Hamilton/Bel Marin Keys. This authorization builds upon previous authorizations by the Conservancy on August 2002, January and October 2003, and March and December 2004, September 2005, and November 2006 to disburse a total of up to $12,700,000 of Conservancy and WCB funds towards the South Bay Salt Pond Restoration Project.

12. **Cooperation:** The Conservancy is facilitating the long-term restoration planning, working closely with DFG and FWS. The Conservancy, WCB, and private foundations are cooperatively funding the restoration planning. In addition, over 50 entities have been identified as stakeholders in this restoration project, including local, state, and federal agencies, nongovernmental organizations, special districts, utilities, and the general public.

CONSISTENCY WITH SAN FRANCISCO BAY PLAN:

The South Bay salt ponds are within the permit jurisdiction of the San Francisco Bay Conservation and Development Commission ("BCDC").

The project is consistent with the following policies of BCDC's San Francisco Bay Plan:

Part III: The Bay as a Resource

Water Quality

- To the greatest extent feasible, the Bay marshes, mudflats, and water surface area and volume should be maintained and, whenever possible, increased.

Water Surface Area and Volume

- Water circulation in the Bay should be maintained, and improved as much as possible.

Marshes and Mudflats

- To offset possible additional losses of marshes due to necessary filling and to augment the present marshes: (a) former marshes should be restored when possible through removal of existing dikes; (b) in areas selected on the basis of competent ecological study, some new marshes should be created through carefully placed lifts of dredged spoils; and (c) the quality of existing marshes should be improved by appropriate measures whenever possible.

Part IV: Development of the Bay and Shoreline

Public Access

- In addition to the public access to the Bay provided by waterfront parks, beaches, marinas, and fishing piers, maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in

the Bay or on the shoreline, whether it be for housing, industry, port, airport, public facility, wildlife area, or other use, except in cases where public access would be clearly inconsistent with the project because of public safety considerations or significant use conflicts, including unavoidable, significant adverse effects on Bay natural resources. In these cases, in lieu access at another location preferably near the project should be provided.

- Public access to some natural areas should be provided to permit study and enjoyment of these areas. However, some wildlife is sensitive to human intrusion. For this reason, projects in such areas should be carefully evaluated in consultation with appropriate agencies to determine the appropriate location and type of access to be provided.

Salt Ponds and Other Managed Wetlands Around the Bay

- As long as is economically feasible, the salt ponds should be maintained in salt production and the wetlands should be maintained in their present use. Property tax policy should assure that rising property taxes do not force conversion of the ponds and other wetlands to urban development. In addition, the integrity of the salt production system should be respected (i.e., public agencies should not take for other projects any pond or portion of a pond that is a vital part of the production system).
- If, despite these provisions, the owner of the salt ponds or the owner of any managed wetland desires to withdraw any of the ponds or marshes from their present uses, the public should make every effort to buy these lands, breach the existing dikes, and reopen these areas to the Bay. This type of purchase should have a high priority for any public funds available, because opening ponds and managed wetlands to the Bay represents man's last substantial opportunity to enlarge the Bay rather than shrink it. (In some cases, if salt ponds are opened to the Bay, new dikes will have to be built on the landward side of the ponds to provide the flood protection now being provided by the salt pond dikes.)

CONSISTENCY WITH LOCAL WATERSHED MANAGEMENT PLAN/ STATE WATER QUALITY CONTROL PLAN:

As required by Proposition 50, the proposed project is consistent with local and regional plans (Water Code Section 79507) The *Baylands Ecosystem Habitat Goals Report* (*Report*) is a multi-jurisdictional local planning document providing guidance for watershed protection activities for the San Francisco Bay. Proposition 50 recognizes the *Report* as appropriate to guide the selection of restoration projects within the Bay region. Water Code Section 79572. The *Report* concludes that "the overall goal in the South Bay subregion is to restore large areas of tidal marsh connected by wide corridors of similar habitat along the perimeter of the Bay. Several large complexes of salt ponds, managed to optimize shorebird and waterfowl habitat functions, should be interspersed through the subregion...". (*Report*, p. S-5). Implementation of the Phase I of the South Bay Salt Pond Restoration Project will meet these goals.

The project is also consistent with the San Francisco Bay Regional Water Quality Control Board's goal to protect beneficial uses of waters of the State, as described in the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin (1995). The Water Board made the following finding in its regulatory approval of the project:

> "Restoring tidal wetland functions to former salt ponds will improve water quality in the South San Francisco Bay Estuary on a spatially significant scale with large contiguous habitat to maximize ecotonal or edge habitat, and minimize non-native vegetation (if appropriate management efforts are taken to control non-native species). Marsh systems that are tidally connected to the estuary improve water quality by filtering and fixing pollutants, in addition to protecting beneficial uses by providing the following: nursery habitat and protection from predation for native fish species, significant biological productivity to the estuarine system, and habitat for rare and endangered species such as the salt marsh harvest mouse (*Reithrodontomys raviventris*) and the California clapper rail (*Rallus longirostris obsoletus*)."

COMPLIANCE WITH CEQA:

In order to comply with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), FWS and DFG, in consultation with the Conservancy, the Santa Clara Valley Water District, and the Alameda County Flood Control and Water Conservation District, prepared a joint Environmental Impact Statement/Environmental Impact Report (EIS/R) for Phase I of the South Bay Salt Pond Restoration Project to evaluate the potential environmental impacts of the proposed project. The EIS/R (Exhibit 3) was certified by the DFG on March 11, 2008 pursuant to CEQA.

This environmental document is both a programmatic environmental impact assessment covering the 50-year long-term South Bay Salt Pond Restoration Plan as well as a project-level environmental impact assessment addressing the specific components and implementation of Phase I. The EIS/R evaluates three program-level, long-term restoration alternatives as well as project-level Phase I actions. The three long-term restoration scenarios include the following: 1) Alternative A, the No Action Alternative; 2) Alternative B, the Managed Pond Emphasis Alternative (50:50 tidal habitat: managed ponds); and 3) Alternative C, the Tidal Emphasis Alternative (90:10 tidal habitat: managed ponds). These long-term restoration alternatives include habitat, flood management and recreation and public access components, and represent potential "end states" at Year 50 of the SBSP Restoration Project.

The applied studies conducted pursuant to the Adaptive Management Plan, technical services, data and project management, and public outreach proposed in this authorization are intended to provide information needed to avoid, reduce or mitigate the effects of the implementation projects and do not constitute a project as defined by CEQA (14 Cal Code of Regulations Sections 15061(b)(3) and 15378) and were not analyzed for environmental impacts in the EIS/R.

The EIS/R identified numerous significant and potentially significant environmental impacts both for the Alternatives A, B, and C as well as projects proposed in Phase I. The EIS/R also noted potentially significant cumulative impacts for Alternatives A, B, and C and the Phase I projects. The project's significant effects and mitigation measures are set forth in the EIS/R and summarized in the tables, "Table of Impacts, Mitigation Measures, and CEQA Findings of Fact for Alternatives B and C Including Phase I Actions" and "Table of Cumulative Impacts, Mitigation measures, and CEQA Findings of Fact (Cumulative Impact Findings Table)" which are included in the attached Exhibit 3.

This discussion, however, addresses only those significant and potentially significant project impacts and cumulative impacts for the projects proposed for funding in this staff recommendation: Pond SF2 and Bayfront Park overlook.

Adaptive Management's role in preventing significant impacts

While many of the impacts indentified in the EIS/R are beneficial, (e.g. increased tidal scour of sloughs to increase flood conveyance), to achieve those benefits some negative impacts to environment could occur (e.g. mobilization of contaminated sediments due to increased tidal scour). By incorporating the Adaptive Management process into the design of the project, the project will be able to avoid what could be potentially significant impacts if there was no such program in place. In the Project Description section above, there is a discussion of how Adaptive Management is central to project design and implementation. This CEQA section discusses how incorporation of Adaptive Management into the specific projects proposed for Conservancy funding avoids what could otherwise be significant impacts. Several critical monitoring results ("management triggers") have been identified in the Adaptive Management Plan as indications of where undesired environmental impacts may be starting to occur (see Adaptive Management Summary Table, pp. 2-15 to 2-26 of EIS/R). Using information from monitoring and applied studies, Project Managers will periodically assess progress towards project objectives and restoration targets and if results indicate problems are developing, management action will be "triggered". The EIS/R lists potential actions managers could take to correct current operations and avoid undesired impacts. Furthermore, project managers will be able to revise the conceptual models and restoration plans based on what has been learned, and use this new knowledge for designing future implementation phases.

Adaptive Management differs from mitigation in that it is not a series of remedial actions that make up for negative impacts. Rather Adaptive Management tries to detect potential problems early on and take actions to avoid or reverse the impacts while also informing future project decisions.

How the project manages potential mercury impacts is an example of how the incorporation of Adaptive Management into the project prevents a potentially significant impact from occurring. The project is designed to be adaptively managed to ensure that mercury levels due to project activities remain at a less-

than-significant level (mercury related impacts are discussed in pp. 3.4-71 to 3.4-82 of the EIS/R). The EIS/R identifies sentinel species that will be monitored and has identified monitoring results ("triggers") that would indicate methylation of mercury has increased in response to project activities. If this occurs, project managers will need to consider the appropriate course of action which could include possibly capping sediments, changing habitat restoration designs, or, at a minimum, holding off on future projects until better solutions can be found in order to avoid significant and cumulative impacts.

For the Pond SF 2 Reconfiguration, the Adaptive Management Plan identifies two applied studies associated with Pond SF2 that would test 1) bird use of different island configurations and vegetation, and 2) effects of human activities on island use and nesting success. (Applied Study Nos. 5 and 17 in the Adaptive Management Plan, pp. 72- 98 of Appendix D of the EIS/R, Exhibit 3).

Significant Effects Reduced To Less Than Significant Levels By Mitigation

Reconfiguration of Pond SF2

Conversion of Pond SF2 to shallow water habitat is expected to have many beneficial impacts, particularly to shorebird species. However, this project also could have numerous significant impacts but these potential impacts are reduced to a less-than-significant level with the mitigation measures described below and summarized in the Mitigation Monitoring and Reporting Program (MMRP), attached as Exhibit 3.

Water Quality. Two potentially significant impacts from reconfiguration of Pond SF2 were identified in the EIS/R: 1) impacts to water quality from contaminants other than mercury (Impact 3.4-5 in Table A1) and 2) seawater intrusion of regional groundwater sources (Impact 3.4-6 in Table A1). The potential contamination impacts are reduced to a less-than-significant level by the construction contractors' adherence to Best Management Practices, a Stormwater Pollution Prevention Plan, and RWQCB Waste Discharge Requirements (Mitigation Measures 3.4-5 a,b,c,d,e,f in the MMRP). In addition, the landowner actions to minimize illegal dumping and litter and inform the public if there are any threats to public health due to bacterial growth will serve to also reduce or avoid these potential impacts. In regards to seawater intrusion, the potential impacts are reduced to a less-than-significant level by properly destroying any abandoned wells in consultation with the local groundwater management agency. (Mitigation Measure 3.4-6 in the MMRP.)

Cultural Resources. Two potentially significant impacts to cultural resources were identified in the EIS/R: 1) disturbance of known or unknown cultural resources (Impact 3.8-1 in Table A1), and 2) disturbance of historic salt ponds which may be considered a significant cultural landscape (Impact 3.8 -2). The potential impact of disturbing cultural resources is reduced to a less-than-significant level by pre-construction surveys and records search and

appropriate protocols established for contractors if any resources are found (Mitigation Measures 3.8-1 in the MMRP). To reduce disturbance of historic resources to a less-than-significant level, if the site is evaluated and found to be a significant cultural landscape, then appropriate documentation and public outreach and interpretation will be incorporated into the project. (Mitigation Measure 3.8-2 in MMRP.)

Traffic. Several potentially significant impacts related to traffic are identified in the EIS/R. Short-term impacts from construction traffic would be reduced to a less-than-significant level by scheduling truck trips outside of am and pm peak commute hours (Mitigation Measures 3.12-1 in the MMRP). Potential increased wear and tear on local roads from construction will be reduced to a less-than-significant level by before and after documentation of road conditions and a pre-construction agreement between the project landowners and the local public works entity that details repair requirements. (Mitigation Measures 3.12-4 in the MMRP)

Noise. The EIS/R identified three potentially significant impacts from construction. Short-term construction noise (Impact 3.13-1) will be reduced to a less-than-significant level by restrictions on the selection, placement and operation of construction equipment (Mitigation Measures 3.13-1 in the MMRP). Traffic-related noise impacts (Impact 3.13-2) will be reduced to a less-than-significant level by restrictions on hauling (Mitigation Measures 3.13-2 in the MMRP). Pump operation noise impacts (Impact 3.13-4) will be reduced to a less-than-significant level by enclosing pump that exceeds noise standards. (Mitigation Measures 3.13-4 in the MMRP.)

Air Quality. Several potentially significant impacts to air quality were identified in the EIS/R. Short-term construction-generated air pollutant emissions (Impact 3.14-1) would be reduced to a less-than-significant level by implementation of Basic Control Measures (Mitigation Measures 3.14-1 in the MMRP). Exposure of sensitive receptors to toxic air contaminant emissions (Impact 3.14-3) would be reduced to a less-than-significant level by restrictions on size and use of construction equipment and creation of a Health and Safety Plan. (Mitigation Measures 3.14-3a and b in MMRP).

Utilities. The one potentially significant impact to the railroad line from construction activities only applies to Pond A16, not proposed for funding in this authorization.

Although public access impacts to wildlife is an area of some concern to many of the project stakeholders, the EIS/R identified potential recreation-oriented impacts to sensitive species and their habitats as less-than-significant for all Phase I projects including Pond SF2. The reasons the public access trail and viewing platforms proposed as part of the Pond SF2 improvements are considered less-than-significant are due to design of the trails and habitat features, e.g. the nesting islands are sited at least 600 feet away from the trail, and management actions, e.g. ability to seasonally close a trail if impacts to nesting species occur.

However, there is uncertainty as to the amount of use of this trail, the degree to which wildlife would habituate to recreation use, and the behavior of trail users. To address this uncertainty the potential effects of human disturbance will be monitored through an applied study, and if impacts that are approaching a significant level are found, then the various management actions discussed in the Adaptive Management Plan would be implemented to prevent impacts from reaching a significant level. The applied study that will monitor public access impacts at Pond SF2, as well as other Phase I sites, would be funded by this authorization.

Bayfront Park Overlook

An at-grade viewing platform and interpretive station would provide historical and ecological information about the surrounding landscape and the South Bay Salt Pond Restoration project at a high point in an existing park in the City of Menlo Park.

None of the potentially significant impacts identified in the EIS/R are applicable to the construction of an at-grade viewing area and installation of interpretive signs at Bayfront Park. The potentially significant impact from an increase in parking demand due to the construction of recreational facilities does not apply to the Bayfront Park project since it is in an existing park and not likely to noticeably increase use of the facility. Impacts to wildlife are unlikely since this viewing area is not close enough to wetland areas to create potential wildlife-human conflicts.

Cumulative Impacts

Finally, the EIS/R also identifies cumulative impacts for all of the project alternatives (including no action) and Phase I projects that have unavoidable potentially significant impacts to the environment. The impacts of the Phase I projects are not considerable, but become potentially significant when combined with those from numerous other wetland, flood control, recreational, residential, commercial, and industrial projects completed or planned for in South San Francisco Bay in the near term (see Section 4.2.2 in EIS/R for a discussion of other projects).

However, for the two projects in this staff recommendation, cumulative impacts apply only to the proposed Pond SF2 project. Furthermore, only two of the cumulative impacts identified in the EIS/R apply to the Pond SF2 project. These impacts are an increased potential for coastal flood risk landward of the SBSP Restoration Project Area (Cumulative Impact 3.3-1) and an increased potential to cause localized, seasonally low dissolved oxygen ("DO") levels as a result of algal blooms, increased microbial activity, or increased residence time of water (Cumulative Impact 3.4-2).

In the case of **Cumulative Impact 3.3-1 Coastal Flood Risk**, all alternatives, including no action, are potentially significant due to impacts from sea level rise and climate change. However, Alternatives B and C include construction of a flood

protection levee or other measures to reduce the impacts of coastal flooding to a less-than-significant level. However, no Phase I projects, including the Pond SF2 project, include construction of flood protection measures. If the project stops at Phase I, and does not include a future phase with flood protection measures, the combination of Phase I projects, sea level rise, and other projects could be potentially significant with no feasible mitigation.

In order to address this potential for flood risks in the project area, the Conservancy, the Santa Clara Valley Water District and the U.S. Corps of Engineers have undertaken the South San Francisco Shoreline Study in order to assess flood risks and analyze potential solutions in the Santa Clara County portion of the project. It is anticipated that this Study will eventually lead to implementation of flood protection measures in the future. However, since the Shoreline Study is not complete and implementation funding is not secured, this Study cannot be considered mitigation for potentially significant cumulative impacts.

In regards to **Cumulative Impact 3.4-2 Water Quality**, the managed ponds have the potential to increase oxygen demand and can lead to discharges of water with low dissolved oxygen into the Bay. Under Alternative B, the SBSP Restoration project's Adaptive Management Plan would establish triggers and management actions to avoid significant impacts from discharges into the Bay and under Alternative C more tidal restoration would decrease the causes of low DO levels resulting in less-than-significant impacts. However if the project stops after implementing the Phase I projects, the combination of Phase I projects and other projects without adaptive management measures to manage low DO, could have potentially significant impacts with no feasible mitigation.

Project Benefits

As DFG concluded in their CEQA findings, there are significant project benefits to the South Bay Salt Pond Restoration project in general as well as for Phase I projects. Conservancy staff has independently reviewed the EIS/R and its accompanying appendices, and the MMRP and concurs with this assessment. Among the numerous benefits provided by the South Bay Salt Pond Restoration Project, those that specifically apply to the projects in this authorization, Pond SF2 Reconfiguration and the Bayfront Park overlook, include:

- Provide levee maintenance to ensure flood protection and reduce the potential effects on people and property from liquefaction, lateral spreading, settlement and subsequent flooding.
- Provide habitat for resident and migrating shorebirds and waterfowl by providing more extensive shallow water habitats and nesting islands than would occur in marshes that develop in ponds breached unintentionally.
- Provide suitable habitat for special-status plant species by revegetating upland transition zones.
- Increase public access and recreation opportunities within the Project Area.

- Increase viewing opportunities in the Project Area.

Statement Of Overriding Considerations

In the event a project has unavoidable significant potential effect, the CEQA Guidelines require the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project (14 Cal. Code of Regulations, Section 15093). If the specific project benefits outweigh the unavoidable adverse environmental effects of the project, a Statement of Overriding Consideration may be adopted and the project approved, despite its adverse environmental effects. DFG adopted a Statement of Overriding Consideration as part of its Finding of Facts on March 11, 2008.

The overall environmental benefits of the proposed projects as detailed in the EIS/R, warrant the Conservancy's decision to approve the project even though not all of the environmental effects of the project are fully mitigated. As discussed above, the unavoidable cumulative significant impacts to coastal flooding and water quality are only when considering the Reconfiguration of Pond SF2 in combination with all Phase I projects and with all other near term projects in the South San Francisco Bay. In the absence of the proposed project, these impacts could still happen but without the habitat and other benefits (described in detail above) generated by reconfiguring Pond SF2.

For these reasons, the Conservancy staff recommends that Conservancy find that the project, as mitigated, avoids or reduces to less than significant all potentially significant environmental effects, except for cumulative effects related to Flooding and Water Quality. With respect to these potential unavoidable effects, Conservancy staff likewise recommends that the Conservancy find that the specific environmental, resource, flood protection and public access enhancement benefits of the South Bay Salt Restoration Project Phase I projects proposed in this authorization, reconfiguration of Pond SF 2 and construction of the Bayfront Park overlook, outweigh the unmitigated or unavoidable environmental effects of the project, thereby warranting its approval.

Upon Conservancy approval of the proposed projects, Conservancy staff will prepare and file a Notice of Determination.