

COASTAL CONSERVANCY

Staff Recommendation
May 24, 2018

BOLINAS LAGOON WYE PROJECT

Project No. 18-009-001
Project Manager: Su Corbaley

RECOMMENDED ACTION: Authorization to disburse up to \$285,000 to the Marin County Open Space District to prepare construction plans, permit applications and environmental documents for the Bolinas Lagoon Wye Project, located in Bolinas, Marin County.

LOCATION: Intersection of Highway 1 and Olema Bolinas Road, Marin County

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

- Exhibit 1: [Project Location and Setting](#)
- Exhibit 2: [Site Condition Photos](#)
- Exhibit 3: [Conceptual Design Alternatives, North End Project Area](#)
- Exhibit 4: [Conceptual Designs, Bolinas Lagoon Wye Project](#)
- Exhibit 5: [Project Letters](#)

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31113 and 31251-31270 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of up to two hundred eighty-five thousand dollars (\$285,000) to the Marin County Open Space District to prepare construction plans, permit applications and environmental documents for the Bolinas Lagoon Wye Project in Bolinas, Marin County. Prior to commencement of the project, the grantee shall submit for the review and written approval of the Executive Officer of the Conservancy a detailed work program, schedule, and budget, the names and qualifications of any contractors to be employed in carrying out the project, and a plan for acknowledgement of Conservancy funding and Proposition 1 as the source of that funding.”

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:

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1. The proposed authorization is consistent with Chapter 6 of Division 21 of the Public Resources Code, regarding resource enhancement.
 2. The proposed project is consistent with the current Conservancy Project Selection Criteria and Guidelines.”
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PROJECT SUMMARY:

Staff is recommending the Conservancy authorize disbursement of up to \$285,000 to the Marin County Open Space District (MCOSD) to prepare environmental documents, construction plans and permit applications for the Bolinas Lagoon Wye Project (the project) to realign roads at the north end of Bolinas Lagoon in Marin County (Exhibit 1) for the purposes of restoring habitat, adapting to projected sea level rise (SLR), and resolving localized flooding.

The project site is owned by the county and managed by MCOSD, and abuts protected lands that are owned by the National Park Service and Audubon Canyon Ranch, and located within the Greater Farallones National Marine Sanctuary (GFNMS). It is located in a low-lying and already flood-prone area at the north end of Bolinas lagoon where Highway 1, Olema Bolinas Road, and the Crossover Road form a triangle known as the “Wye” (Exhibit 1). More frequent flooding is predicted under both near-term (2050) and long-term (2100) SLR scenarios, with 3–5 feet of SLR predicted in this area over the next century. Low-lying lands (existing inter-tidal marsh) and roads will be inundated, and the water will need to spread into upland areas that are currently disconnected from the north end of the lagoon by roads and culverts. See Exhibit 2 for photos of site conditions. To accommodate SLR, the roads within the Wye must be reconfigured to allow for water and habitats to migrate and channels to self-form under SLR, and to reduce barriers to wildlife migration.

The project is the first phase of a larger restoration plan for Bolinas Lagoon’s north end, culminating from 20 years of restoration feasibility studies including the 2008 GFNMS report *Bolinas Lagoon Ecosystem Restoration Project: Recommendations for Restoration and Management*, which recommends developing a wetland enhancement and SLR adaptation plan for the north end of the lagoon. Thus, with a grant from the Conservancy in 2015, MCOSD developed the County’s *Conceptual Design Report for the North End Project* (2018), which presents three alternative designs for wetland enhancement and SLR adaptation at the north end of Bolinas Lagoon. See Exhibit 3 for conceptual representation of North End Project components. The larger North End Project, which includes the proposed Bolinas Lagoon Wye Project, is designed to reduce flooding, restore and reconnect the lagoon’s edge and upland habitats, improve terrestrial and aquatic habitat connectivity, reconnect anadromous fish habitat between the lagoon and upstream freshwater spawning sites, create ecological connectivity between these areas and allow the lagoon to move inland in response to sea level rise.

Due to long-term costs and construction constraints for each of the alternatives, a preferred alternative for the whole project has not yet been selected by the County. However, MCOSD designed each of the alternatives for phased construction. The proposed project constitutes Phase 1 and is a consistent element in all three alternatives. It was selected as the first phase for construction because it is a key first step in the restoration of Bolinas Lagoon, and habitat and flooding benefits will be realized sooner than if the project were held until the County selects a

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preferred alternative for the larger North End Project. The Bolinas Lagoon Wye Project addresses the priority conditions (flooding, sea-level rise, habitat disconnection) that were identified in the North End Project report.

Implementing the Bolinas Lagoon Wye Project as a stand-alone project will not affect construction of possible future phases or the selection of alternatives. Conservancy funding will be used for the development of construction plans and permit applications and the grantee will be the lead-agency in developing the environmental documentation and finalizing the design for the project.

The main objectives for the Bolinas Lagoon Wye Project are to:

- Restore hydrological, geomorphic, and ecological processes by allowing for an unimpeded flow of surface and groundwater in the Wye.
- Enhance the extent of frequently exposed marsh vegetation and enhance freshwater wetland communities.
- Reconnect Lewis Gulch Creek with its historic floodplain.
- Improve habitat for anadromous fish and prevent further stream bank erosion by using bioengineering methods along Lewis Gulch Creek.
- Help prevent colonization by invasive, non-native species by re-vegetating with native riparian wetland species.
- Accommodate SLR and climate change by providing areas for the lagoon's habitats to migrate, and by restoring natural geomorphic and floodplain processes.
- Remove anadromous fish and amphibian migration barriers such as the Crossover Road and culverts.

The proposed construction plans for the Bolinas Lagoon Wye Project (Exhibit 4, Conceptual Design) are anticipated to include the following elements:

- Remove the Crossover Road, which connects Olema Bolinas Road with SR 1.
- Reconfigure the Highway 1-Olema Bolinas Road intersection.
- Upgrade the existing Lewis Gulch Creek/SR 1 culvert to a larger culvert or small bridge.
- Install a bridge crossing just south of the reconfigured intersection along Olema Bolinas Road, raise the adjacent roadway to accommodate the new design grade and redirect Lewis Gulch Creek onto the relict alluvial fan.
- Stabilize the Lewis Gulch Creek streambank adjacent to SR 1, north of the Olema Bolinas Road intersection.
- Install a new culvert near the intersection of the existing crossover road and Olema Bolinas Road.

The design will provide for a project with multiple benefits. It will restore natural processes and reconnect Lewis Creek with its floodplain; increase wetland size and restore function; provide habitat for terrestrial and avian species; expand and enhance habitat for salmonid species of concern; and provide resilience against climate change. County Measure A funds will be used for highway reconfiguration designs.

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Site Description: Bolinas Lagoon is one of Marin County's most significant natural resources, is part of a larger protected natural habitat complex including Greater Farallones National Marine Sanctuary, Point Reyes National Seashore, and the Golden Gate National Recreation Area. It is one of four Ramsar-designated Wetlands of International Importance on the West Coast. The open water, mudflats, and marsh provide productive and diverse habitats for marine fishes, marine mammals, and serve as a major waterbird wintering area and stopover for migrants along the Pacific Flyway. The project area includes riverine, palustrine and estuarine intertidal emergent wetlands, and USFWS-designated habitat for endangered tidewater gobies and freshwater shrimp.

The project will focus on the north end of the lagoon, where tidal influence has been hampered by the Crossover Road and Olema Bolinas Road. The existing roads (Exhibit 1) have disconnected the lagoon from its alluvial fan, floodplain, and riparian and upland habitats, and the culverts are barriers to endangered coho salmon and threatened steelhead trout passage. The culverts and degraded channel have constrained Lewis Gulch, to the west side of Olema Bolinas Road, and block natural processes that provide the water, sediment, and nutrient exchange needed to support wetland habitat transitions. Crossover Road acts as a dam that inhibits surface flows resulting in flooding, segregates important wetland habitats (Exhibit 2, Photos) used for waterbird high tide refugia and feeding, and disrupts the movement and migration of upland wildlife such as the state threatened California black rail. Beneath the roads, Lewis Gulch Creek flows into the estuary through undersized culverts that are unable to accommodate varying flows from upstream freshwater sources, storm surges, and high tides. Lewis Gulch Creek has been channelized and straightened in reaches, resulting in aggradation and erosion, which results in overbanking during high-flow events. Creek realignment, dredging, and channelization have resulted in the construction and accretion of artificial berms that separate Lewis Gulch Creek from its floodplain. The proposed project would enable MCOSD to alleviate flooding and reconnect important riparian and wetland habitats at the northern end of Bolinas Lagoon.

Grantee Qualifications: MCOSD has worked with partner agencies for more than 20 years to address resource conservation in the lagoon, analyze restoration opportunities, and engage public participation to prioritize opportunities that will result in greatest public benefit. MCOSD has recently successfully completed the conceptual design phase of the project, completing it in approximately 3 years. Further, The MCOSD manages the Bolinas Lagoon Preserve on behalf of Marin County.

Project History: There has been a long history of restoration planning in Bolinas Lagoon. In the late 1990's/early 2000s, the Conservancy received specific legislative appropriations to assist the County with restoration planning through an Army Corps of Engineers planning process. Those plans were not implemented due to controversies over the significant proposed dredging and associated costs, and community concerns over project impacts. In the mid-2000s, MCOSD took the lead to reformulate the feasibility study, conduct additional research, and determine feasibility of up to three alternative plans of more limited scope. The study sought more limited dredging and fill-removal, more watershed-based sediment reduction activities, and planning for sea level rise adaptation. In 2015, the Conservancy authorized a \$165,000 Climate Ready grant to MCOSD to develop conceptual designs and a long-term restoration vision for the Bolinas Lagoon North End Project, a project to alleviate infrastructure flooding and enhance wetland and stream function at their interface with the lagoon. On February 26, 2018, the Marin County

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Board of Supervisors approved the North End Project report and directed MCOSD staff to proceed with Phase 1, the Bolinas Lagoon Wye Project.

PROJECT FINANCING

Coastal Conservancy	\$285,000
Marin County (Measure A)	\$275,000
Project Total	\$560,000

The anticipated source of funding for this project is an appropriation from the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1, Water Code § 79700 et seq.). Funds appropriated to the Conservancy derive from Chapter 6 (commencing with § 79730) and may be used “for multi-benefit water quality, water supply, and watershed protection and restoration projects for the watersheds of the state” (Section 79731). Section 79732 identifies specific purposes of Chapter 6. The proposed project will achieve several of those purposes, including the following: (1) protect and increase the economic benefits arising from healthy watersheds, fishery resources and in-stream flow; (2) implement watershed adaptation projects to reduce the impacts of climate change on California’s communities and ecosystems; (4) protect and restore aquatic, wetland and migratory bird ecosystems including fish and wildlife corridors; (6) remove barriers to fish passage; (9) protect and restore rural watershed health to improve watershed storage capacity, protection of life and property, storm water resource management; (10) protect and restore coastal watersheds, including, bays, marine estuaries, and nearshore; (11) protect or restore natural system functions that contribute to water supply, water quality, or flood management; and (12) assist in the recovery of endangered, threatened, or migratory species by improving watershed health, in-stream flows, fish passage, coastal or inland wetland restoration, or other means, such as natural community conservation plan and habitat conservation plan implementation.

Consistent with these provisions, the project will help make the north end of Bolinas Lagoon more resilient to climate change through planning activities that, when implemented, will lead to removal of a structural impediment that will reduce flooding impacts to the human community, and expand the tidal zone of Bolinas Lagoon to enhance resilience to SLR.

Consistent with Section 79732(a)(12), the project will develop plans toward the restoration of wetland and riparian ecosystems serving as fish and wildlife corridors for native Californian endangered steelhead. Furthermore, the project will result in improved water quality draining in Bolinas which is utilized by aquatic endangered species and protected migratory waterfowl.

As required by Proposition 1, the proposed project provides multiple benefits. It will lead to reduced flooding, improved stream function for fisheries and enhanced wetland function to provide resilience to climate change.

In accordance with Section 79707(b) that requires agencies to prioritize “projects that leverage private, federal, or local funding or produce the greatest public benefit”, this project leverages local funds in the form of \$275,000 of Marin County Measure A tax measure funds.

Furthermore, Marin County Open Space District staff will provide in-kind staff services valued at \$30,500.

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The project was reviewed and subsequently recommended for funding through a competitive grant process under the Conservancy's *Proposition 1 Grant Program Guidelines* adopted in June 2015 (Prop 1 Guidelines) (See § 79706(a)). The proposed project meets several of the evaluation criteria in the Prop 1 Guidelines as described in further detail in this "Project Financing" section, the "Project Summary" section and in the "Consistency with Conservancy's Project Selection Criteria & Guidelines" section of this staff recommendation.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project would be undertaken pursuant to Chapter 6 of the Conservancy's enabling legislation, Public Resource Code Sections 31251-31270 and 31113 as follows:

Pursuant to § 31251, the Conservancy may award grants to local agencies for the purpose of enhancement of coastal resources, which, because of human-induced events, or incompatible land uses, have suffered loss of natural and scenic values. This project will produce construction designs to relocate a roadway to restore the function of the Lewis Creek floodplain, which has been altered by past construction of the cross-over road at the Bolinas Wye site, thereby enhancing habitat for coastal and marine resources.

As provided in § 31252, the proposed project is located within an area identified in the Marin County Local Coastal Plan as requiring public action to resolve existing or potential resource protection problems, as described in the Consistency with Local Coastal Program Policies section below.

Pursuant to § 31253, the Conservancy may provide up to the total of the cost of any coastal resource enhancement project taking into consideration the total cost of the project, the fiscal resources of the grantee, the urgency of the project and other factors as determined by the Conservancy. Consistent with this section, the proposed Conservancy contribution, together with the 2015 Conservancy authorization for conceptual plan development, represents less than 50 percent total planning project costs.

Pursuant to section 31113(a), the Conservancy address the impacts of climate change, including projects that address projected sea level rise, and consistent with Section 31113(b) may award grants to public agencies to implement projects for this purpose.

CONSISTENCY WITH CONSERVANCY'S 2018-2022 STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

The Conservancy's 2018 Strategic Plan includes as a major 5-year effort for the north coast to enhance biological diversity, improve water quality, habitat, and other natural resources within coastal watersheds, including the restoration of basic river processes such as barrier removal, floodplain connectivity and function.

Consistent with **Goal 6, Objective 6A** of the Conservancy's 2018-2022 Strategic Plan, the proposed project will develop construction-ready plans (1) for the Bolinas Wye Project that will enhance wetlands and the riparian areas of Lewis and Wilkins Gulch Creek.

Consistent with **Goal 6, Objective 6C** of the Conservancy's 2018-2022 Strategic Plan, the proposed project will develop a plan to reconnect Lewis Gulch Creek to its floodplain.

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Consistent with **Goal 8, Objective 8A** of the Conservancy's 2018-2022 Strategic Plan, the proposed project will develop construction plans that incorporate sea level rise adaptation into the design.

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 October 2, 2014, 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. **Promotion and implementation of state plans and policies:** The proposed project will implement two priorities in the *2014 California Water Action Plan*. It will "Protect and Restore Important Ecosystems" by restoring coastal wetlands by reconnecting Lewis Gulch Creek to its floodplain, thus eliminating barriers to fish passage. The project will also "Increase Flood Protection" by developing construction designs that reduce roadway flooding and enable the area to respond to climate change and sea level advances by reconnecting riparian and tidal wetlands.

The project is consistent with strategic actions identified in the *CA Climate Adaptation Strategy/Safeguarding California: Reducing Climate Risk Plan*. The project has been developed through collaboration between state, federal, and local governmental agencies with the goal of creating a more resilient wetland ecosystem that would protect sensitive habitat for special-status species, including intertidal wetlands and riparian areas within Lewis Gulch Creek's watershed. Further, when implemented, the project will assist with reducing the risk of road flooding associated with sea level rise and enhance wetland habitats. Thus, it is consistent with the following goals and strategies identified in the Plan: Cross Sector Collaboration, Strategy 2-Integrate Land Use Planning and Climate Adaptation Planning; Biodiversity and Habitat Adaptation, Strategy 2-Management of Watersheds, Habitat, and Vulnerable Species; Coastal Flooding and Permanent Inundation, Strategy 4-Support Regional and Local Planning for Addressing Sea-Level Rise Impacts; and Water Management Adaptation Strategies, Strategy 5-Enhance and Sustain Ecosystems.

The proposed project is consistent with the goal of the *California @ 50 Million: The Environmental Goals and Policy Report* to Steward and Protect Natural and Working Landscapes by supporting landscape-scale approaches to conservation and mitigation that account for multiple benefits and Incorporate Climate Change Adaptation into all Planning and Investment. The project is designed to address SLR and climate change. Specifically, it is an adaptation plan to address the future loss of wetlands and to restore connectivity to riparian areas to increase resiliency to climate change in that the project addresses the future loss of wetlands and is designed to restore and connect habitat.

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The project will help implement the priority in the *2014 California Water Action Plan*, to “Protect and Restore Important Ecosystems” (Action 4) by improving habitat conditions for steelhead trout, California red-legged frogs, California black rails, among other focal species for the North Coast Region.

Consistent with the *California Essential Habitat Connectivity Strategy for Conserving a Connected California*, the project will improve habitat connectivity within a Natural Landscape Block.

The project will help implement the *USFWS Recovery Plan for Tidal Marsh Ecosystems of Northern and Central California* (2013) which identifies Bolinas Lagoon as major tidal marsh area of the Marin-Sonoma coast and as part of the Central Coast Recovery Unit. Bolinas Lagoon is also USFWS-designated Critical Habitat for endangered coho salmon (NMFS 2012) and tidewater gobies (USFWS 2005 and 2011), and Wilkins Gulch Creek is designated as Critical Habitat for threatened steelhead trout (NMFS 2016). The Project area is located within Core Area 13 for California red-legged frogs as defined in the USFWS 2002 Recovery Plan for the species and is identified as hosting a likely source population that should be protected and enhanced.

This project furthers Strategy RP-12 of the *Gulf of the Farallones National Marine Sanctuary Management Plan* (GFNMS 2014) to “Work in collaboration with federal, state and local agencies, and the local community, to restore the natural ecological processes of Bolinas Lagoon.” Bolinas Lagoon is part of the marine sanctuary and is a priority restoration site due to its ecological values, and fisheries, bird, and marine mammal habitats. GFNMS is a major partner in the North End Project as well as in the overall efforts to restore the lagoon.

The *Water Quality Control Plan for the San Francisco Bay Basin* (2017) designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. Bolinas Lagoon is included in the plan for its marine, migratory, spawning, rare species, and overall wildlife habitat benefits, which will be restored and enhanced by project implementation.

4. **Support of the public:** The proposed project has wide regional support from the public, local agencies, conservation organizations and elected officials (Exhibit 5). Additionally, USFWS recently awarded funds from its National Coastal Wetlands Conservational Grant program for the next project phase, implementation.
5. **Location:** The proposed project is located within the coastal zone of Bolinas, Marin County and will thus benefit coastal resources.
6. **Need:** Conservancy funds are critical to completing construction designs. Without Conservancy funding, the County Measure A funds would be insufficient to complete the design phase and would result in a delay to the start of construction, and the potential loss of implementation funds already awarded.
7. **Greater-than-local interest:** Bolinas Lagoon is one of four areas on the West Coast that have been designated as Wetlands of International Importance by the Ramsar Convention. It is part of a larger protected natural habitat complex that includes Gulf of the Farallones National Marine Sanctuary, Point Reyes National Seashore, and the Golden Gate National Recreation Area, and provides critical wildlife benefits for the thousands of wintering and migrating birds. Hence, it has regional, state and national significance.

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8. **Sea level rise vulnerability:** The Bolinas Wye is highly vulnerable to sea-level rise (SLR) by the end of the century. In addition, with climate change storm frequency, duration, and intensity are also expected to change. This area is already frequently inundated by surface flows that cause flooding on local roads. This project was designed to alleviate these SRL-related issues and has only considered project components that improve hydrologic connectivity and ecosystem function to improve the site's resilience to these changes. The project site is in an area that is protected in perpetuity and the project will provide new areas for water and species to migrate, but it will become essential to tie it into the greater North End Project by the end of the century to provide greater access areas for species migration.

Additional Criteria

9. **Urgency:** MCOSED and the Conservancy have begun applying for outside, non-state funds to implement the Bolinas Wye Project, and the Conservancy recently was awarded approximately \$800,000 toward construction costs from the US Fish and Wildlife Service National Coastal Wetlands Conservation Grant Program. If construction plans are delayed, those funds could be at risk and other funding opportunities pushed out.
10. **Resolution of more than one issue:** The construction designs will address habitat enhancement and connectivity for endangered species, immediately alleviate local flooding, and accommodate resilience to future sea level rise.
11. **Leverage:** See the "Project Financing" section above.
12. **Readiness:** MCOSED will begin the project July 1, 2018 and anticipates completing construction plans by May 2020.
13. **Realization of prior Conservancy goals:** See "Project History" above.
14. **Cooperation:** For several years, MCOSED has worked in partnership with the local community, Gulf of Farallones National Marine Sanctuary, Golden Gate National Recreation Area, and Point Reyes National Seashore to plan a wetland restoration and sea level rise adaptation project for the north end of Bolinas Lagoon, which has resulted in the proposed project. Going forward, USFWS will also be engaged in designs completion and implementation.
15. **Vulnerability from climate change impacts other than sea level rise:** The greatest threat to this project area is SLR, but climate change also poses risks to special-status species in the project area that will be impacted by changes in precipitation, specifically drought. The area is home to California red-legged frogs, steelhead trout, and California giant salamanders. These three species require perennial pools for refuge and/or breeding. The proposed project is part of the larger North End Project vision, which would create pools for these species and improve groundwater infiltration, which would allow streams to be recharged and increase the potential for ponding during droughts and dry periods.
16. **Minimization of greenhouse gas emissions:** The proposed project does not involve construction and will have a minimal impact on GHG emissions chiefly related to any necessary consultant site visits. When implemented, the project would have some emissions due to vehicle miles traveled and construction. However, GHG emissions will be considered as part of the planning and design process funded by this grant.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

Wetlands, such as Bolinas Lagoon, are categorized as Endangered Species Habitat Area (ESHA), are thus afforded certain protections from loss of habitat. The Marin County Local Coastal Plan (LCP) identifies the Lagoon as an area of high natural resources and scenic values requiring public action to resolve existing resource project problems. And the Land Use Plan of the Marin County LCP (2016) discusses recommendations to protect ESHA.

Specifically, policies **C-BIO-5 Ecological Restoration**, encourages the restoration and enhancement of degraded ESHAs and **C-BIO-14 Wetlands** recommends the County preserve and maintain wetlands in the Coastal Zone as productive wildlife habitats and water filtering and storage areas, and protect wetlands against significant disruption of habitat values. The proposed project will create construction designs that, when implemented, will restore approximately 20 acres of degraded ESHA wetlands that will be self-sustaining following removal of roadway that disrupts habitat values.

CEQA COMPLIANCE:

The proposed project consists of data gathering, topographic mapping, engineered construction design preparation and permit applications for possible future actions, which the Conservancy has not approved, adopted, or funded. As such, the proposed project is exempt from review under CEQA pursuant to 14 California Code of Regulations Section 15262, Feasibility and Planning Studies. As required by section 15262, the proposed authorization will involve review and consideration of environmental factors associated with the restoration project.

The proposed project is also categorically exempt from review pursuant to Guidelines Section 15306, since it will include basic data collection, research, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource and which will be undertaken as part of a study leading to an action which the Conservancy has not yet approved, adopted, or funded.

Upon approval, staff will file a Notice of Exemption.