

COASTAL CONSERVANCY

Staff Recommendation
November 30, 2023

**EXPEDITED PERMITTING FOR AQUATIC HABITAT RESTORATION:
AUGMENTATION**

Project No. 18-022-01
Project Manager: Joel Gerwein

RECOMMENDED ACTION: Authorization to disburse up to \$270,300 to augment the Conservancy’s existing grant of \$620,000 to Sustainable Conservation to advance adoption of, and conduct outreach to facilitate the use of, programmatic permits for aquatic habitat restoration and water quality improvement projects.

LOCATION: Statewide

EXHIBITS

- Exhibit 1: [Project Location Map](#)
- Exhibit 2: [Expedited Permitting for Aquatic Habitat Restoration staff recommendation dated September 6, 2018](#)
- Exhibit 3: [Expedited Permitting for Aquatic Habitat Restoration staff recommendation dated December 6, 2018](#)
- Exhibit 4: [Expedited Permitting for Aquatic Habitat Restoration staff recommendation dated December 1, 2022](#)
- Exhibit 5: [Project Letters](#)

RESOLUTION AND FINDINGS

Staff recommends that the State Coastal Conservancy adopt the following resolution and findings.

Resolution:

The State Coastal Conservancy hereby authorizes a grant of an amount not to exceed two hundred seventy thousand three hundred dollars (\$270,300) to augment the Conservancy’s existing grant of \$620,000 to Sustainable Conservation (“the grantee”) to advance adoption of,

and conduct outreach to facilitate the use of, programmatic permits for aquatic habitat restoration and water quality improvement projects.

Prior to commencement of the project, the grantee shall submit for the review and written approval of the Executive Officer of the Conservancy (Executive Officer) the following:

1. A detailed work program, schedule, and budget.
2. Names and qualifications of any contractors to be retained in carrying out the project.

Findings:

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

1. The proposed project is consistent with Chapter 5.5 of Division 21 of the Public Resources Code, regarding integrated coastal and marine resources protection projects.
2. The proposed project is consistent with the current Conservancy Project Selection Criteria.
3. Sustainable Conservation is a nonprofit organization organized under section 501(c)(3) of the U.S. Internal Revenue Code.

STAFF RECOMMENDATION

PROJECT SUMMARY:

Staff recommends the Conservancy augment its grant to Sustainable Conservation with an additional \$270,300 to enable additional outreach efforts related to programmatic permits for aquatic habitat restoration and water quality improvement projects. On September 6, 2018, the Conservancy authorized a grant of \$320,000 to Sustainable Conservation to advance the adoption of programmatic permits by the US Army Corps of Engineers (Corps), the State Water Resources Control Board (SWRCB), and the US Fish and Wildlife Service (USFWS) for aquatic habitat restoration and water quality improvement projects (Exhibit 2). The Conservancy authorized an additional \$200,000 for the project on December 6, 2018 (Exhibit 3). The Executive Officer of the Conservancy, under her delegated authority, authorized a further \$78,000 augmentation of the grant on September 7, 2022. The Conservancy authorized an additional \$22,000 augmentation for the project on December 1, 2022. The initial authorization of \$320,000 consisted of funds received by the Conservancy from the Delta Stewardship Council, California Natural Resources Agency, and California Department of Parks and Recreation (State Parks) for the project. Subsequent past augmentations consisted of funds received by the Conservancy from the California Department of Water Resources (DWR). The current recommendation consists of Conservancy funds. After augmentation, the total amount of the grant would be \$890,300.

Sustainable Conservation has completed the project as described in the September 6, 2018 Staff Recommendation (Exhibit 2), including their work with the Corps, the SWRCB, and USFWS. The SWRCB adopted a Statewide Restoration Permit (Order) and certified the associated Programmatic Environmental Impact Report by a unanimous vote on August 16, 2022. The

USFWS signed a programmatic biological opinion (PBO) to facilitate consultations with the Corps for aquatic habitat restoration and water quality improvement projects under Section 7 of the Endangered Species Act on August 31, 2022.

The December 1, 2022 augmentation expanded the scope of the project to include outreach activities to inform the restoration community about the new programmatic permits and how to utilize them. The outreach funded by that augmentation has been completed. The recommended augmentation would expand outreach to additional groups. The additional outreach will be targeted to restoration project proponents and regulatory agencies. Outreach will include presentations tailored to specific audiences offered at trainings, through webinars, and/or at conferences to restoration project proponents, restoration project funders, regulatory agency staff or other interested parties in SCC jurisdiction (including, but not limited to the Southern California Wetlands Recovery Project and Bay Restoration Regulatory Integration Team) to explain how efficient permitting pathways work in coordination with each other and how to use them to get restoration projects implemented more efficiently. The grantee will also develop new and updated outreach materials, such as Frequently Asked Questions documents, the Essential Permitting Guide, blog posts, guidance documents, or other materials, to provide permitting guidance and information about efficient permitting pathways for restoration and how to use them. These materials will be provided on the Accelerating Restoration website and may also be distributed via the Accelerating Restoration email newsletter. The grantee will continue to coordinate and engage with the SWRCB and the Regional Water Quality Control Boards on rollout and to promote usage of the Statewide Restoration General Order; and the USFWS Region Office and Field Offices on rollout and to promote usage of the USFWS Statewide Restoration PBO. Feedback gathered from project proponents who use these permitting processes will be shared with agency staff to improve implementation and guide development of outreach materials.

The grantee will also track implementation of efficient permitting pathways (e.g., Statewide Restoration General Order, USFWS PBO, California Department of Fish and Wildlife Habitat Restoration and Enhancement Act, National Marine Fisheries Service PBOs) in Conservancy jurisdiction and/or that received Conservancy funding, and as information is available, will compile information about project proponents, project types, habitats restored, and species and communities benefited by these projects.

The project is fully described in the September 6, 2018 staff recommendation, including a description of the initial outreach activity (Exhibit 2). Apart from the increased outreach activity described above, no significant changes have been made to the project.

Grant Applicant Qualifications: Sustainable Conservation has the capacity to manage, and does manage, both federal and state grants. Sustainable Conservation's accounting staff comprises a full-time Chief Financial Officer and Accounting Manager as well as a full-time Grants and Contracts Administrator who specializes in the administration of government funded grants and contracts. Sustainable Conservation currently has a grant with the Conservancy for Expedited Permitting for Aquatic Habitat Restoration and has completed the deliverables associated with that grant, including statewide restoration authorizations and outreach to various organizations.

CONSISTENCY WITH CONSERVANCY’S PROJECT SELECTION CRITERIA:

The proposed project remains consistent with the Conservancy’s Project Selection Criteria, last updated on September 23, 2021, as described in the December 1, 2022, staff recommendation (Exhibit 4).

PROJECT FINANCING

Proposed Grant Augmentation	
Coastal Conservancy	\$270,300
Previous Authorizations	
December 1, 2022 Grant Augmentation	
Coastal Conservancy (California Department of Water Resources funds)	\$22,000
September 7, 2022 Grant Augmentation	
Coastal Conservancy (California Department of Water Resources funds)	\$78,000
December 6, 2018 Grant Augmentation	
Coastal Conservancy (California Department of Water Resources funds)	\$200,000
September 6, 2018 Authorization	
Coastal Conservancy (Delta Stewardship Council funds)	\$250,000
Coastal Conservancy (California Natural Resources Agency funds)	\$50,000
Coastal Conservancy (California Department of Parks and Recreation funds)	\$20,000
Subtotal September 6, 2018 Authorization	\$320,000
Conservancy Authorizations Total	\$890,300

Conservancy funding is anticipated to come from a Fiscal Year 2023/24 appropriation from the General Fund to the Conservancy to address "urgent sea-level rise adaptation and coastal resilience needs using nature-based solutions or other strategies" (The Budget Act of 2023, Chapter 38, Statutes of 2023 (AB 102)). The Conservancy’s allocation of these funds must be

informed by the Conservancy's Strategic Plan and the State Agency Sea Level Rise Action Plan and must consider:

- a. Geographic areas of vulnerability,
- b. Disadvantaged communities as defined in Water Code section 79702(j), and
- c. Opportunities for federal financial support.

The Conservancy's 2023-2027 Strategic Plan identifies the urgent need to implement nature-based sea level rise adaptation and habitat restoration and enhancement projects to increase resilience and to act before the window of opportunity for these projects closes. Consistent with the Strategic Plan, this project will expedite the implementation of aquatic habitat restoration and enhancement projects in coastal watersheds, including nature-based sea level rise adaptation projects. The project will specifically address Strategic Plan Goal 3.4, as discussed below.

The project furthers the goals of the State Agency Sea Level Rise Action Plan. The Plan states that on-the-ground sea level rise adaptation projects need to be implemented within this decade, and that these projects should prioritize the conservation of coastal habitats and maintaining biodiversity and associated functions. The project is consistent with Principle 5.8: Pursue statewide and regional strategies and actions to address SLR impacts, including those through planning, regulations, permitting, compliance, and/or funding, potentially through a statewide resolution. Consistent with this principle, the project will facilitate the use of statewide expedited permitting pathways to reduce delays to implementing aquatic habitat restoration and enhancement projects, including nature-based sea level rise adaptation projects.

The project is statewide and will facilitate habitat restoration and enhancement in areas vulnerable to sea level rise, as well as in disadvantaged communities. Federal financial support for this project is not available. However, the project leverages in-kind staff time from federal agencies such as the USFWS.

The Delta Stewardship Council, California Natural Resources Agency, and State Parks funds are discussed in the September 6, 2018 staff recommendation (Exhibit 2). The DWR funds for the December 6, 2018 augmentation are discussed in the December 6, 2018 staff recommendation (Exhibit 3). The DWR funds for the September 7, 2022 and December 1, 2022 augmentation are discussed in the December 1, 2022 staff recommendation (Exhibit 4).

The overall project cost and additional funding secured to implement it are described in the September 6, 2018 staff recommendation.

Unless specifically identified as "Required Match," the other sources of funding and in-kind contributions described above are estimates. The Conservancy does not typically require matching funds or in-kind services, nor does it require documentation of expenditures from other funders or of in-kind services. Typical grant conditions require grantees to provide any funds needed to complete a project.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed project is undertaken pursuant to Chapter 5.5 of Division 21 of the Public Resources Code (Section 31220) as described in Exhibit 2 and remains consistent with the purposes of this Chapter.

CONSISTENCY WITH CONSERVANCY'S [2023-2027 STRATEGIC PLAN](#):

Consistent with **Goal 3.4 Cut Green Tape**, the proposed project will conduct outreach to increase the use of expedited permitting pathways for aquatic habitat restoration and enhancement projects within the Conservancy's jurisdiction.

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

The project remains consistent with the State Water Quality Control Board's *Inland Surface Waters, Enclosed Bays, and Estuaries (ISWEBE) Plan*, as amended on May 28, 2020, as discussed in the December 1, 2022 staff recommendation (Exhibit 4).

CEQA COMPLIANCE:

The California Environmental Quality Act (CEQA) requires that public entities conduct environmental review prior to approving or funding a project. Under the CEQA Guidelines at 14 Cal. Code Regs. section 15378, an activity funded by the Conservancy is a project if it has the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Section 15378(b)(5) provides that the term "project" excludes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. The development of programmatic permits is an administrative activity of governments that does not directly affect the environment. Conducting outreach activities to facilitate the use of programmatic permits does not have the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect change in the environment. Therefore, the project, as expanded to include outreach regarding the programmatic permits is not a "project" within the meaning of CEQA and funding the project does not trigger the requirement for environmental review under CEQA.

Aquatic habitat restoration projects that may be covered in the future under the programmatic permits will undergo review under CEQA before they are funded or approved.