

COASTAL CONSERVANCY

Staff Recommendation
December 1, 2022

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

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

RECOMMENDED ACTION: Authorization to disburse up to \$22,000 received from the California Department of Water Resources to augment the Conservancy’s previously authorized grant of \$598,000 to Sustainable Conservation for advancing the adoption of programmatic permits to expand the project to include increased outreach to facilitate the use of recently adopted programmatic permits for aquatic habitat restoration and water quality improvement projects throughout California.

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 Augmentation staff recommendation dated December 6, 2018](#)
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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 twenty-two thousand dollars (\$22,000) to Sustainable Conservation (“the grantee”) to augment the Conservancy’s previously authorized grant of \$598,000 for advancing the adoption of programmatic permits, to expand the project to include increased outreach to facilitate the use of statewide programmatic permits for aquatic habitat restoration and water quality improvement projects.

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 \$22,000 received from the California Department of Water Resources (DWR) to enable expansion of the project to include 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 that grant on September 7, 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 augmentations, including the recommended augmentation, consist of funds received by the Conservancy from the California Department of Water Resources (DWR). After augmentation, the total amount of the grant would be \$620,000.

Sustainable Conservation has completed much of 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 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.

This augmentation would slightly expand the scope of the project by adding increased outreach activity to inform the restoration community about the new programmatic permits and how to utilize them. The additional outreach includes: 1) development of technical assistance materials summarizing key information about each of the new permits and how they work in conjunction with existing permitting pathways; 2) providing trainings, webinars, and informational meetings for restoration project proponents, restoration project funders, regulatory agency staff and other interested parties to explain how the new permits work in

coordination with each other and how to take advantage of them to get restoration projects implemented more efficiently 3) conducting outreach via electronic newsletter and email; 4) providing individualized technical assistance to answer questions about utilizing the new programmatic permits for specific projects and 5) contacting groups including, but not limited to, the California Coastal Resilience Network, the Bay Restoration Regulatory Integration Team, the Southern California Wetlands Recovery Project, and USFWS Coastal Program offices.

DWR is willing to fund this expanded outreach activity. DWR determined that it would be preferable to enter into an agreement with the Conservancy whereby the Conservancy, pursuant to this authorization, grants the funds to Sustainable Conservation and administers the grant.

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

Site Description: The permit program provides statewide coverage for projects in wetlands, streams, floodplains, and riparian corridors, benefiting both coastal and interior watersheds.

Grant Applicant Qualifications: The grantee is fully qualified to carry out the project, as discussed in the September 6, 2018 staff recommendation (Exhibit 2).

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA:

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on September 23, 2021, in the following respects:

Selection Criteria

1. Extent to which the project helps the Conservancy accomplish the objectives in the Strategic Plan.

See the "Consistency with Conservancy's Strategic Plan" section below.

2. Project is a good investment of state resources.

The project will accelerate aquatic habitat restoration and enhancement projects statewide, which will provide improved fish and wildlife habitat, flood storage and conveyance, and open space benefits to the public. The project involves a relatively small expenditure of funds.

3. Project includes a serious effort to engage tribes.

In 2018, the Conservancy reached out to all 160 tribes on the Native American Heritage Commission list regarding the project. Two interested tribes requested more information about the project. Conservancy staff met with tribal representatives to explain the nature of the project and to clarify that there would still be opportunities for tribal involvement with specific ground-disturbing projects that could potentially fall under the expedited permitting framework. Tribal representatives indicated that they were satisfied with this response and did not seek further information or involvement.

4. Project benefits will be sustainable or resilient over the project lifespan.

The expedited permits will be in place for a significant amount of time. The SWRCB's Statewide Restoration Permit has no expiration date and the USFWS's programmatic biological opinion has a ten-year term, which could be extended. The Conservancy anticipates that the permits will be in place for a significant amount of time and will expedite the implementation of many habitat restoration projects.

5. Project delivers multiple benefits and significant positive impact.

As stated above, the project will accelerate aquatic habitat restoration and enhancement projects statewide, which will provide improved fish and wildlife habitat, flood storage and conveyance, and open space benefits to the public.

6. Project planned with meaningful community engagement and broad community support.

Sustainable Conservation worked extensively with the broader restoration community in the preparation of the expedited permitting framework to solicit input on project types to be covered by the permits and acceptable permit conditions. Sustainable Conservation worked with a large number and variety of entities, including Restore America's Estuaries, the California Association of Resource Conservation Districts, the Yurok Tribe, Western Rivers Conservancy, the Wood for Salmon Working Group, Cal Trout, Big Sur Land Trust, the Nature Conservancy, American Rivers, Sierra Meadows Partnership, Ducks Unlimited, Trout Unlimited, the California Water Action Collaborative, the Salmonid Restoration Federation, environmental consultants through the California Association of Environmental Professionals, groups of landowners, and funding agencies including DWR EcoRestore, California Department of Fish and Wildlife, and the Conservancy.

PROJECT FINANCING

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 \$620,000

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). Similar to the December 6, 2018 augmentation and the September 7, 2022 augmentation, the funds for this augmentation are derived entirely from funds provided to the Conservancy specifically for this project by DWR through an interagency agreement.

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 [2018-2022 STRATEGIC PLAN](#) GOAL(S) & OBJECTIVE(S):

The project is consistent with the Conservancy’s 2018-2022 Strategic Plan Goals and Objectives, as discussed in the September 6, 2018 staff recommendation.

CONSISTENCY WITH STATE WATER QUALITY CONTROL PLAN:

The project is consistent with the State Water Quality Control Board’s *Inland Surface Waters, Enclosed Bays, and Estuaries (ISWEBE) Plan*, as amended on May 28, 2020. The Plan establishes provisions for water quality and sediment quality standards intended to protect and enhance multiple beneficial uses of California’s waters, including Preservation of Biological Habitats of Special Significance; Cold Freshwater Habitat; Commercial and Sport Fishing; Estuarine Habitat; Freshwater Replenishment; Ground Water Recharge; Migration of Aquatic Organisms; Preservation of Rare, Threatened & Endangered Species; Water Contact Recreation; Non-Contact Water Recreation; Spawning, Reproduction, & Early Development; Warm Freshwater Habitat, and Wildlife Habitat. Projects facilitated by the expedited permitting framework will protect and enhance these beneficial uses.

Projects that qualify for inclusion under the expedited permitting framework include:

- Improvements to Stream Crossings and Fish Passage;
- Removal of Small Dams, Tide Gates, Flood Gates, and Legacy Structures;
- Bioengineered Bank Stabilization Restoration and Enhancement of Off-Channel and Side-Channel Habitat Water Conservation Projects;

- Floodplain Restoration;
- Removal of Pilings and Other In-Water Structures;
- Removal of Nonnative Terrestrial and Aquatic Invasive Species and Revegetation with Native Plants;
- Establishment, Restoration, and Enhancement of Tidal, Subtidal, and Freshwater Wetlands; and
- Establishment, Restoration, and Enhancement of Stream and Riparian Habitat and Upslope Watershed Sites.

These project types result in the protection and enhancement of beneficial uses. For example, fish passage improvement projects will enhance Migration of Aquatic Organisms, while tidal wetland restoration projects will enhance Estuarine Habitat. In order to qualify for the expedited permitting framework, projects must incorporate avoidance and minimization measures to reduce any potential impacts to beneficial uses. For example, projects that involve ground disturbance are required to reduce the risk of erosion and hazardous materials discharges by following best management practices for Material Disposal, Fugitive Dust Reduction, Staging Areas and Stockpiling of Materials and Equipment, and, for projects over a certain size, to prepare a Storm Water Pollution Prevention Plan. Projects must also be reviewed by the Regional Water Quality Control Board with jurisdiction over the project area. The project is consistent with the ISWEBE Plan because it will facilitate implementation of projects that protect and enhance beneficial uses defined by the Plan.

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.