

U.S. Department of the Interior
U. S. Fish and Wildlife Service (USFWS)
Interior Region 10, California-Great Basin Region
Wildlife & Sport Fish Restoration (WSFR) Program

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE)
[WSFR Grant # F10AP00825 / C-31-L-1]

Background

The California State Coastal Conservancy (SCC / applicant), applied to the USFWS's WSFR Program (Service) for National Coastal Wetland Conservation (NCWC) grant funds on June 23, 2009, to help plan and implement the CRFREE project, formerly known as Odello East Floodplain Restoration Project. The project is located near the mouth of the lower Carmel River, just to the south of the City of Carmel, in Monterey County, California.

Under the NCWC Program, the Service awarded a specially-conditioned grant to the SCC on August 27, 2010, for a federal share of \$925,000. Over the last decade, the Service has approved three grant amendments at SCC request, which included modifications to the objectives, budget, match, and time to complete the project. The Service has obligated \$425,000 of that grant award for project design/planning, permitting, and land acquisition activities, but the award was specially-conditioned for completion of environmental compliance prior to the obligation of the remaining \$500,000 balance for construction and implementation activities. On March 19, 2020, the Service issued its most recent specially-conditioned grant amendment to SCC, extending the grant until December 31, 2020, with a condition that SCC would provide an updated project description and schedule.

At the request of project proponents, the Service agreed to be the lead federal agency for the completion of the Environmental Assessment (EA) of the project in accordance with the National Environmental Policy Act (NEPA). On May 7, 2015, the Service requested that the California Department of Transportation (Cal-Trans), acting as a delegated authority for the Federal Highways Administration (FHWA), be a cooperating agency in the NEPA process, and outlined various responsibilities of each agency. On May 20, 2015, Cal-Trans agreed to be a cooperating agency and assume their assigned (or respective) responsibilities. Among the responsibilities, that agreement states, "Both Parties will issue their own respective NEPA Finding of No Significant Impact (FONSI) for the Carmel River Floodplain Restoration and Environmental Enhancement Project. The Service will address the Floodplain Restoration portion of the project. Caltrans will issue a FONSI just for the Causeway portion of the project." Consistent with this agreement, this NEPA determination is limited to the floodplain restoration portion of the project.

The County of Monterey, Resource Management Agency (County), accepted the lead state agency role in fulfilling the State of California's California Environmental Quality Act (CEQA). The County and their consultants, in coordination with the Big Sur Land Trust (BSLT), prepared an Environmental Impact Report (EIR) while cooperating with the Service and Cal-Trans to jointly incorporate Environmental Assessment (EA) information to help fulfill each of their agencies respective NEPA requirements. The County certified the [*Carmel River Floodplain Restoration and Environmental Enhancement Project, Final Environmental Impact Report and Environmental Assessment*](#) (EIR/EA) on January 28, 2020. This document and the Draft EIR/EA, along with other referenced reports and documents can be found on the County's [web-site](#).

Proposed Action

The Service believes that the referenced EIR/EA is the most recent project description and schedule to complete the project, and is incorporating this EIR/EA by reference. Currently, a summary of SCC's amended grant objectives are to: (1) re-establish a hydrologic flood-plain connection between the Carmel River and the Carmel River Lagoon, (2) restore 90 acres of coastal wetland habitat, (3) protect 79 acres of former coastal wetland habitat, and (4) establish a 23-acre agricultural preserve. We acknowledge that SCC has completed objective 3 by establishing a deed notice on 79-acres (owned by BSLT), but objectives 1, 2, and 4 are yet to be completed. The Service's proposed action is the obligation and release of those remaining grant funds (\$500,000) for completing the objectives of the project by December 31, 2020.

NEPA Procedures

The Council on Environmental Quality (CEQ) recently established new NEPA procedurals, as described in their [*July 16, 2020, Final Rule, Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act \(Federal Register / Vol. 85, No. 137, 43304\)*](#), effective September 14, 2020. The Department of Interior's, Office of Environmental Compliance has provided a *September 14, 2020, Frequently Asked Questions (FAQs) Frequently Asked Questions on Revised Council on Environmental (CEQ) National Environmental Policy Act (NEPA) Implementing Regulations* document. This FAQ document states, "...a bureau may decide, or a project proponent may request bureaus apply the revised CEQ NEPA regulations to NEPA documents started prior to September 14, 2020. A bureau may only apply the revised regulations to ongoing environmental documents if doing so would not delay the overall proposed action timeline, and if the bureau has obtained concurrence from the Office of the Solicitor." The project proponents have not requested the application of these revised regulations and it is currently unclear if application of these regulations would delay or accelerate the timeline of this project. The Service has not obtained the concurrence of the Office of Solicitor to apply these regulations. As such, this NEPA determination is not being considered subject to these new procedural regulations.

Alternatives considered

Detailed descriptions of the alternatives considered are provided in the EIR/EA. The EIR/EA evaluated alternatives include a No-Build and three Build Alternatives that may meet the purpose and objectives of the project. The No Build Alternative is consistent with the Services action of not obligating remaining grant funds. The Build Alternatives are; Alternative 1 (Preferred project) or the proposed action of obligating grant funds and the other two potential alternatives for comparison being Alternative 2 (Reduced Project) and Alternative 3 (Secondary Channel).

Impacts of Implementation

The EIR/EA describes the expected environmental consequences and impacts (potential effects) of each alternative. Table S-2 summaries those impacts and mitigation expected to be needed to reduce any impacts to less than significant.

As described in the EIR/EA, implementing Alternative 1 (Preferred Project) with mitigation is not expected to have significant impacts on the environment in the context of NEPA. Mitigation needed to ensure impacts are less than significant have been incorporated into the project. The Service is in compliance with other laws, regulations and policy, such as the Endangered Species Act, and will be

incorporated as enforceable special conditions into the Service's grant award obligating the remaining grant funds.

Public Review

The Service and grant recipients have encouraged public involvement in review of the proposed action for this project. Extensive scoping and public meetings have been held throughout the review process, a chronology of which is listed in Section 4.4 of the EIR/EA. The Service provided the public notices to all known persons or organizations who may be interested or affected, including local, State and Federal agencies, Tribes, and private citizens. The public notice circulated the Draft EIR/EA with an opportunity for comment from March 8, 2019 to April 22, 2019. The EIR/EA, Section 4.3.3 describes the Public Comments and Response to Comments to date, with Appendix M providing responses to comments received during the public review period of the Draft EIR/EA. All public comments received have been addressed and resolved and there are no known outstanding or controversial public issues with the proposed project.

Conclusion

Based on review and evaluation of the information contained in the EIR/EA, it is the Service's finding that the proposed action, Alternative 1 (Preferred Project), does not constitute a major federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, preparation of an Environmental Impact Statement on the proposed action is not required. Copies of the EIR/EA and this FONSI are in our administrative record.

Lawrence M. Riley, Regional Manager Date
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