CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

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W 13a

ADDENDUM

June 10, 2014

TO: Coastal Commissioners and Other Interested Persons

FROM: Mark Delaplaine, Manager, Energy, Ocean Resources and Federal Consistency Division
Larry Simon, Federal Consistency Coordinator

SUBJECT: **Addendum to Item W 13a**, Consistency Determination **CD-0204-13** (Natural Resources Conservation Service, Wetland Restoration of 24 Acres of Agricultural Lands to Seasonal Marsh Wetlands and Associated Riparian Communities at Confluence of Watsonville and Harkins Sloughs, Santa Cruz County)

Staff recommends the following modifications be made to the above-referenced staff report. Language to be added is underlined; language to be deleted is shown in ~~strikethrough~~.

On **Page 1**, line 6 of the SUMMARY OF STAFF RECOMMENDATION, modify as follows:

> . . . annually from December through ~~May~~ April (and in wet years into the summer months) . . .

On **Page 2**, in the last line of the first paragraph, modify as follows:

> NRCS anticipates construction will begin in ~~August 2014~~ summer 2015 and last three months.

On **Page 4**, line 8 of the first paragraph of the PROJECT DESCRIPTION, modify as follows:

> . . . December through ~~May~~ April (and in wet years into the summer months) . . .

On **Page 9**, line 1 of the second paragraph, modify as follows:

> The NRCS anticipates that construction will begin in ~~August 2014~~ summer 2015, and will last approximately three months.

On **Page 17**, line 3 of the fourth paragraph, modify as follows:

> The landowner chose not to plant a crop in the three subsequent years ~~due to flooding but was able to disc the property to control weed growth~~ and instead managed developing vegetation with a disc after the soil dried out.

On **Page 19**, line 5 of the last paragraph, modify as follows:

> (2) the NRCS reports that portions of the property ~~is~~ are typically inundated from December through ~~May~~ April, and ~~oftentimes~~ in wet years into the summer months;

On **Page 22**, line 4 of paragraph 3, modify as follows:

> . . . inundation (from December through ~~May~~ April, and ~~oftentimes~~ in wet years into the summer months) . . .

On **Page 23**, modify the U.S. Army Corps of Engineers and the Central Coast Regional Water Quality Control Board paragraphs as follows:

> **U.S. Army Corps of Engineers**
> The U.S. Army Corps of Engineers (Corps) has regulatory authority over the proposed project under Section 404 of the Clean Water Act (33 U.S.C.§1251 et seq.). Section 404 regulates the discharge of dredged or fill material into the waters of the United States. ~~The NRCS has conferred with the Corps regarding a Section 404 permit (Nationwide Permit No. 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities), will conclude this process prior to implementing any wetland restoration activities on the subject property, and will incorporate any required conditions or modifications into the proposed project.~~ The LMC Properties WRP Easement is located at the confluence of Harkins Slough and Watsonville Slough, in Santa Cruz County, CA. During normal circumstances the easement receives annual inundation from the adjacent sloughs. NRCS classifies the easement area and adjacent sloughs as waters of the United States. In March of 2014, the U.S. Environmental Protection Agency and the U.S. Department of the Army prepared an Interpretive Rule regarding applicability of the exemption from permitting under Section 404(f)(1)(A) of the Clean Water Act (CWA) to certain Agricultural practices. The purpose of the interpretive rule is to clarify the applicability of the exemption from permitting provided under Section 404(f)(1)(A) of the CWA to discharges of dredged or fill material associated with certain agricultural conservation practices based on the Natural Resources Conservation Service conservation practice standards that are designed and implemented to protect and enhance water quality. The planned conservation practices on the LMC WRP Easement include Wetland Restoration (657), Conservation Cover (327), Structure for Water Control (587), and Stream Crossing (578) and are exempt from permitting under Section 404(f)(1)(A) of the CWA.

In addition, the March 2014 Interpretive Rule states in Section VI.E (Other Roles and Responsibilities) that:

> CWA Responsibilities. Nothing in this Memorandum of Understanding affects the authorities of the EPA, Army, or authorized states, or federally recognized tribes to implement or enforce CWA provisions.

Central Coast Regional Water Quality Control Board

The Central Coast Regional Water Quality Control Board (RWQCB) has regulatory authority over ~~the~~ proposed project~~s~~ under Section 401 of the Clean Water Act (33 U.S.C.§1251 et seq.). Under Section 401 applicants for a federal permit or license for any activity which may result in a discharge to a water body must obtain State Water Quality Certification (Certification) that the proposed activity will comply with state water quality standards. Most Certifications are issued in connection with Corps CWA section 404 permits for dredge and fill discharges. ~~The NRCS will review Section 401 Certification with the RWQCB prior to implementing any wetland restoration activities on the subject property, and will incorporate any required conditions or modifications into the proposed project.~~ The Natural Resources Conservation Service (NRCS) confirmed with the Central Coast RWQCB on June 2, 2014, that since the proposed NRCS conservation practices on the LMC property are exempt from permitting under Section 404(f)(1)(A) of the CWA, there is no federal action triggering the need for a Section 401 State Water Quality Certification.

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FAX (415) 904- 5400
TDD (415) 597-5885

W 13a

Filed:	10/29/13
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75th Day:	1/12/14
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Staff:	L. Simon-SF
Staff Report:	5/28/14
Hearing Date:	6/11/14

STAFF REPORT: REGULAR CALENDAR

Consistency Determination No.: **CD-0204-13**

Federal Agency: **Natural Resources Conservation Service**

Location: Confluence of Watsonville and Harkins Sloughs, Santa Cruz County (**Exhibits 1 and 2**)

Project Description: Wetland restoration of 24 acres of agricultural lands to seasonal marsh wetlands and associated riparian communities.

Staff Recommendation: Concurrence

SUMMARY OF STAFF RECOMMENDATION

The Natural Resources Conservation Service (NRCS), an agency of the U.S. Department of Agriculture, has submitted a consistency determination for the restoration of eight acres of wetland habitat and 16 acres of associated riparian habitat on agricultural land located at the confluence of Watsonville Slough and Harkins Slough in Santa Cruz County. Due to the extent and duration of flooding of the property in recent years by uncontrolled floodwaters almost annually from December through May, historic agricultural operations are now significantly

restricted and the landowner has enrolled the 24-acre parcel into a perpetual conservation easement under the Wetlands Reserve Program administered by the NRCS. The project objectives are to facilitate the successful restoration of the property to seasonal marsh wetlands with associated riparian plant communities. The NRCS is responsible for project design, implementation, and management of all restoration and maintenance activities on the subject property, including the excavation of a wetland swale and benches, construction of three water crossings, construction of adjacent riparian habitat, installation of native plants throughout site, and establishment and management of native plants and weed control activities over the next three to five years. NRCS anticipates construction will begin in August 2014 and last three months.

Currently there is no wetland vegetation or environmentally sensitive habitat on the parcel. However, due to its location at the confluence of Harkins and Watsonville sloughs, the soil type present, and the extent of inundation by floodwaters each year, the parcel is defined as a wetland under the Coastal Act. The project will restore wetland and riparian habitats on the agricultural parcel and is designed to enhance the functional capacity of the larger Watsonville Slough wetland complex. The staff recommends that the Commission find that the project is consistent with the water quality, wetlands, and environmentally sensitive habitat policies of the Coastal Act (Sections 30231, 30233, and 30240).

While inundation of the property by uncontrolled floodwaters have made it increasingly difficult to continue traditional row-crop agriculture on the property, the Commission cannot definitively establish at this time that the property cannot be put to some alternative and productive agricultural use. As a result, the staff recommends that the Commission find that the property remains at this time "prime agricultural land" under Sections 30113 and 30241 of the Coastal Act, and that the proposed conversion of prime agricultural land to wetland and riparian habitat is not consistent with the agricultural land protection policies of the Coastal Act (Section 30241). Therefore, the project can only be found consistent with the Coastal Act through the "conflict resolution" provision contained in Section 30007.5.

Cultural resource inventory and evaluation work previously undertaken within the project area and the commitment by the NRCS to protect unknown cultural resources that may be discovered during project implementation will ensure protection of cultural resources. The staff recommends that the Commission find that the proposed project is consistent with the cultural resource policy of the Coastal Act (Section 30244).

The proposed project creates a conflict between the prime agricultural land protection policy on one hand and the water quality, wetland, and ESHA policies of the Coastal Act on the other. To resolve this Coastal Act conflict, the staff recommends that the Commission find that the impacts on water quality, wetlands, and ESHA from not constructing the project would be more significant and adverse than the project's agricultural land conversion impacts, that concurring with this consistency determination would, on balance, be most protective of significant coastal resources, and that the project is consistent with Coastal Act Section 30007.5.

Commission staff recommends **concurrence** with CD-0204-13.

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I. FEDERAL AGENCY'S CONSISTENCY DETERMINATION

The Natural Resources Conservation Service has determined the project consistent to the maximum extent practicable with the California Coastal Management Program (CCMP).

II. MOTION AND RESOLUTION

MOTION:

I move that the Commission concur with consistency determination CD-0204-13 that the project described therein is fully consistent, and thus is consistent to the

maximum extent practicable, with the enforceable policies of the California Coastal Management Program.

Staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the determination and adoption of the following resolution and findings. An affirmative vote of the majority of the Commissioners present is required to pass the motion.

RESOLUTION:

*The Commission hereby **concurs** with consistency determination CD-0204-13 by the Natural Resources Conservation Service on the grounds that the project is fully consistent, and thus consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program.*

III. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The Natural Resources Conservation Service (NRCS, an agency within the U.S. Department of Agriculture) is proposing to restore and enhance eight acres of wetland habitat and 16 acres of riparian habitat on agricultural land previously used for irrigated row crop production located at the confluence of Watsonville Slough and Harkins Slough in Santa Cruz County (**Exhibits 1-3**). The project site is accessed by paved public roads and unpaved farm roads. The subject parcel is bordered by the unvegetated and channelized reaches of Watsonville Slough and Harkins Slough, falls within the floodplains of both sloughs, and becomes inundated annually from December through May by uncontrolled floodwaters (**Exhibit 4**). The extent and duration of flooding varies from partial to full coverage with depths ranging from one to twelve inches. As a result, continued agricultural operations on the property are significantly restricted.

The property owner, LMC Properties, LLC, has enrolled its 24-acre parcel into a perpetual conservation easement under the Wetlands Reserve Program (WRP), which is administered by the NRCS. The NRCS states that the purpose of the WRP is to:

. . . restore, protect, manage, maintain, and enhance the functional values of wetlands and other lands, and for the conservation of natural values including fish and wildlife and their habitat, water quality improvement, flood water retention, groundwater recharge, open space, aesthetic values, and environmental education.

The *Final Programmatic EIS (2009)* for the WRP states that:

The NRCS, with voluntary participation by landowners and cooperation of many partners, has restored and protected more than one million acres of wetlands and associated uplands through the WRP . . . The WRP is administered by NRCS which provides technical and financial assistance to eligible landowners to restore,

> *enhance, and protect wetlands through 30-year or perpetual easements or restoration cost-share agreements.*
>
> *Landowners participating in WRP continue to control access, have use of non-developed recreational activities such as hunting and fishing, and maintain the right to lease the recreational uses of their land for financial gain, provided this use does not otherwise impact or conflict with other uses prohibited by the warranty easement deed. At any time during the contract period, landowners may request NRCS' approval of other prohibited uses that may be compatible with wetland and wildlife conservation objectives of the program. WRP funds and subsequent lease revenue provide financial relief to landowners and reduce future disaster assistance needs.*

In addition to the *Final Programmatic EIS (2009)* for the WRP, the NRCS prepared a site-specific environmental evaluation for the proposed project (including a *Biological Assessment*) to ensure that no extenuating circumstances and/or adverse environmental impacts would occur at the LMC project site that were not contemplated in the programmatic analysis. The *Biological Assessment* is an element of the subject consistency determination.

The consistency determination for the proposed LMC Project states that the project objectives are to:

> *. . . facilitate the successful restoration of 23.93 acres of retired agricultural lands back to seasonal marsh wetlands with associated riparian plant communities. The plan emphasizes the re-establishment of those wetland functions and values normally associated with California's seasonal marsh wetlands and riparian habitats including such benefits as plant diversity, improved water quality, wildlife habitat, and the protection of sensitive, threatened, and endangered species. Consideration is provided for the feeding, breeding, and nesting requirements of migratory birds and wetland-dependent wildlife.*

The consistency determination further states that the NRCS is responsible for project design, implementation, and management of all restoration and maintenance activities on the LMC property, which consist of five activity groups: 1) excavation of a wetland swale and benches; 2) construction of three water crossings; 3) development of riparian habitat ; 4) installation of native plants throughout site; and 5) establishment and management of native plants including weed control activities over the next three to five years (**Exhibits 5-7**). The primary project goal is to create a seasonal wetland complex within the excavated swale and associated riparian plant communities on both sides of the swale. The consistency determination states that because the project is designed to create a seasonal wetland complex, the property will not serve as waterfowl habitat but rather habitat for songbirds and migratory birds, in addition to seasonal wetland-dependent terrestrial wildlife. Ungraded areas of the property will see active weed and vegetation management initially to ensure successful establishment of a native riparian plant community comprised of arroyo willow, red willow, and mule fat planted by the NRCS. In addition, mule fat, coyote bush, elderberry, and coffeeberry will be planted along the eastern side of the swale/bench complex to create a transition/high riparian plant community. Within this 3.5-acre area, excavated materials from the swale footprint will be distributed and reach approximately two feet above existing elevations along

the eastern edge of the property. The NRCS states that the species of wetland vegetation that will be planted on the property will survive through dry seasons as the soil will remain sufficiently moist at root depths.

The proposed actions that would occur within each activity group at the project site are as follows:

Swale and Bench Excavation

Approximately 7,100 cubic yards of fill material would be excavated from a 2.4-acre area in the former agricultural field by constructing 2,000 feet of water conveyance swale with a bottom width of 28 feet and 10:1 side slopes (average 2.0 foot cut below natural ground). An additional 13,800 cubic yards of fill material would be excavated from 5.6 acres adjacent to the swale alignment to create benched wetland areas, described as wetland benches "A" and "B" in Figure 4. The leading design criterion for swale, bench, and water crossing construction was to not create a permanent water feature on the landscape. Historical water elevation data was used to determine the swale bottom elevations ensuring that water was seasonal in most years, excluding successful reproduction and viability of predatory fish and amphibians. Earth-work would occur during the late summer to reduce the impact to wildlife and reduce the possibility of erosion impacts.

Water Crossings

Three water crossings would be constructed within the project area; one crossing at the upper end connecting to Watsonville Slough, and two crossings at the lower end connecting to Harkin[s] Slough. Each structure would have a bottom width of 14 feet and 5:1 side slopes (average 2.0 foot cut below natural ground) with course aggregate and non-woven geotextile fabric used for stabilization and erosion control. The top of the water crossings would be constructed to a specific height and would not be adjustable to manage water flows in or out of the project area. Water levels within the project area would be determined by the water elevation in Watsonville and Harkin[s] Sloughs cumulatively (Figures 4 and 5).

As mentioned above, the water crossings will be designed to allow water to enter the swale system from Watsonville Slough and then outfall from the system (at two points) into Harkins Slough, just upslope of its confluence with Watsonville Slough. The NRCS designed the project to retain water during California red-legged frog breeding season but not to become a permanent pond feature on landscape, drying out in most years to discouraging the establishment of non-native fish and amphibians in newly formed wetlands.

Riparian Habitat Restoration

3.5 acres of riparian habitat would be constructed southeast of the wetland areas by placing approximately 20,900 cubic yards of spoil material from the swale and bench excavations on the southern edge of the project site. The riparian habitat area would be moderately compacted by earth moving equipment and would extend 1.5 to 2.0 feet above natural ground elevation (Figures 4 and 5) and vegetated with native species. The remaining 12.5 acres of retired farmland that was not impacted by earth moving activities within the 24-acre project area would be restored to native grass and riparian

habitats and managed for native species. All riparian habitat restoration activities would include native grass and forb planting and follow-up weed control efforts such as mowing, weed whacking and herbicide treatments as described below in the "Management Activities to Promote Native Plant Recruitment and Establishment" section.

Installation and Establishment of Native Plants throughout Project Area
All areas above the median low water line (constructed seasonal wetlands and all adjacent riparian areas) would have some level of native plant restoration. Lower elevations would consist of native wetland dependent and wetland tolerant sedges, rushes, and grasses while riparian areas would be seeded to native grasses and riparian forbs and shrubs. Installation of native plants would be accomplished in two phases: 1) grass establishment phase and 2) forb and shrub establishment phase. Phase one (years 1 and 2) would entail the planting and establishment of native grasses, sedges and rushes while excluding non-native invasive broadleaf plants (with herbicide treatments). Phase two (years 3 through 5) would focus on reintroducing native forbs and shrubs while maintaining the grass establishment areas.

Installation would consist of typical methods such as seeding or hand planting but could also consist of commercial methods used in agricultural settings such as semi-automated mechanical planting involving the use of tractor and specialized attachment. Use of automated planting equipment would be limited to when conditions of the riparian and seasonal wetlands are dry within the project area (to avoid potential impacts to dispersing amphibians). The specific plant pallet and numbers will be determined based on seed and plant stock availability and with prior approval from USFWS staff on final plant species list to be used on project.

Management Activities to Promote Native Plant Recruitment and Establishment
Establishment of native plants is anticipated to require several years of follow-up plantings and treatments extending through 2017. Follow-up plantings would include the methods outlined above in the "Installation and Establishment of Native Plants" narrative. To establish and promote grassland habitats, weed control measures would require 1 to 3 treatments per year and would employ a combination of herbicide applications, mechanical (mowing, weed whacking), and manual labor methods (hand-pulling and removal with hand tools) to facilitate the establishment of native vegetation and control of invasive species.

The first phase of native plant restoration would establish a viable stand of native grass prior to introducing a broadleaf component. Exclusion of non-native broadleaf plants is most easily accomplished with annual applications of a broadleaf-specific herbicide for the first two years of grass establishment. Broadleaf-specific herbicides used at the site would include selective post-emergent herbicides that control broadleaf weeds at a variety of plant growth stages and are approved for use near or over water bodies (though herbicide applications would not occur over water at any time during project). These herbicides are used to control woody and herbaceous broadleaf plants but are ineffective on grasses. One treatment per year for the first two years would be accomplished using boom spray equipment attached to an ATV or wheeled tractor. Spot-

treatments with a hand-wand attached to an ATV or backpack sprayer would be applied in lieu of broadcast treatments if broadleaf plants are not overly competitive or ubiquitous. All spot-treatments would utilize a marker dye to reduce the likelihood of repeat applications. To reduce any potential impacts of spraying operations on California red-legged frog, no herbicide applications would occur on the project site within 30 days of the last standing water within the swale system (estimated to be no sooner than mid-June).

The second phase of native plant establishment would introduce native broadleaf and shrub components onto the landscape. This phase would also require subsequent herbicide spot-treatment applications in years 2 through 5 in areas with non-native invasive broadleaf plants using a hand-wand attached to an ATV or backpack sprayer. For all chemical applications, precedence would be given to spot treatments over full coverage applications; minimizing the potential harmful effects to wildlife and the environment. A non-specific post emergent systemic herbicide approved for over-water use may be applied as a spot-treatment in areas where broadleaf-specific herbicides are not effective and would not impact newly established or naturally recruited native plants.

Surfactants are used to improve the effectiveness of an herbicide by reducing surface tension and increasing chemical penetration into the plant tissue. Some surfactants have been shown to be toxic to fish and aquatic species. The surfactant polyehtoxylated tallowamine (POEA) found in Roundup has been linked with higher amphibian mortality rates than with glyphosate alone Perkins et al. (2000). Only non-ionic surfactants (e.g. Agri-dex) or surfactants that are not toxic to fish and wildlife would be used on the project site.

Mowing and weed whacking would be used to improve the establishment of native grasses and forbs by removing non-desirable weed competition and thatch built up from the herbicide treatments. To reduce any potential impacts to the California red-legged frog, no mowing or weed whacking would occur on the project site within 30 days of the last standing water within the swale system. It is anticipated that the swale system will hold water through mid-May so mowing would not occur before mid-June. This measure would allow ample time for California red-legged frogs to migrate from the area to more suitable habitat in the sloughs and adjacent wetlands. The mowing and weed whacking height would be set 6 to 8 inches above the ground and limited to no more than two mowing/whacking treatments per year. Weed whacking would be used in lieu of mowing when treatment areas are small in size or inaccessible by mowing equipment.

If standing water remains on the project site after June 15th during any year of the project and if it becomes absolutely necessary to prevent seed set of non-native plants, the NRCS will contact the USFWS at least 2 weeks in advance of such necessary mowing/whacking activities to get approval to mow/whack with [a] few added conservation measures. The added measures would include establishing a clearly marked buffer of at least 50 feet around any remaining standing water. Within the buffer area only weed whacking and hand-pulling would occur after a Service-approved biologist conducts a pre-activity survey and finds no California red-legged frogs, and

the biologist remains present during all buffer area activities. The NRCS also agrees that activities will stop if any California red-legged frogs are found at any time anywhere on the project site, and that the whacked vegetation height would be 18 inches or higher. Once the entire project site has no standing water for at least 30 days, mowing/whacking would continue as originally proposed. If mowing/whacking is not approved by Service when standing water present, then no mowing will occur until standing water is gone for at least 30 days as originally proposed.

The NRCS anticipates that construction will begin in August 2014, and will last approximately three months. This schedule restricts construction activities to the non-rainy season in order to avoid potential adverse effects on water quality and sensitive species in areas adjacent to the subject property.

B. WATER QUALITY/WETLANDS/ESHA

Coastal Act Section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30233 states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

. . .

(6) Restoration purposes.

. . .

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary.

Coastal Act Section 30240 states:

> *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
> *(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The NRCS reports that the 24-acre property at the intersection of Harkins and Watsonville sloughs was under irrigated row crop agriculture for over 100 years. The parcel is bordered on the east and southwest by channelized reaches of Watsonville Slough and Harkins Slough, respectively, and on the north by agricultural land. The parcel to the east/southeast is in strawberry cultivation, sits at a slightly higher elevation than the subject parcel, and only occasionally floods. The parcel to the north frequently floods due to runoff from the subject parcel through an existing culvert between the two parcels. Increased urbanization within the watershed has increased the frequency and duration of flooding on the subject property such that agricultural operations are significantly restricted. Before the introduction of agricultural operations, the property was a wetland given its location at the confluence of Harkins and Watsonville sloughs, the soil type present, and the native vegetation that exists along remnant un-channelized reaches of both sloughs near the subject property. Currently, there is no wetland vegetation or environmentally sensitive habitat on the property as it is disked routinely when the soils dry out. However, the NRCS states that if the property were not disked, and given its location and flood regime, wetland vegetation would over several years reappear on the property in combination with non-native vegetation. The NRCS acknowledged in its consistency determination that the entire property is a Coastal Act wetland and thus saw no need to undertake a formal wetland delineation.

As the proposed restoration project includes excavation and fill of retired agricultural land that is a wetland (as defined in the Coastal Act), the project must pass the three-part test of Coastal Act Section 30233(a): it must be an allowable use, it must be the least environmentally damaging feasible alternative, and it must include mitigation measures to minimize environmental effects. The purpose of the project is to restore wetland and riparian habitats and functions on a 24-acre parcel of land at the confluence of Harkens and Watsonville sloughs. The consistency determination states that the project includes:

> *. . . a combination of structural practices, management guidelines, and an implementation schedule to facilitate the successful restoration of 23.93 acres of retired agricultural lands back to seasonal marsh wetlands with associated riparian plant communities …The plan emphasizes the re-establishment of those wetland functions and values normally associated with California's seasonal marsh wetlands, riparian habitats, and floodplains including such benefits as native plant diversity, improved water quality, wildlife habitat, and the protection of sensitive, threatened, and endangered species. Consideration is provided for the feeding,*

breeding, and nesting requirements of migratory birds and wetland-dependent wildlife, including California red-legged frogs.

Therefore, the Commission finds that the project is an allowable use under Section 30233(a)(6).

Regarding the alternatives test, the consistency determination includes an analysis of alternative wetland restoration plans considered for the subject property:

No Action Alternative (Fallowing): With the closing of the easement the parcel will be retired from agricultural production. If the site is allowed to transition to a fallow state, it is expected the vegetative composition will be comprised primarily of non-native herbaceous vegetation (e.g., curly dock, bristly ox-tongue, and annual grasses). A ruderal habitat would provide minimal wetland and riparian habitat complexity for migratory birds; therefore restoration is needed to restore the desired wetland and riparian plant communities.

Alternative I (Revegetation-only): To increase native plant species richness, coverage, and habitat complexity for migratory birds, native seeding, planting, and standard weed control measures could be implemented to facilitate the establishment of native perennial grasses and riparian shrubs within the easement. Revegetation-only would primarily facilitate the establishment of native riparian and grassland vegetation thereby reducing detrimental impacts of non-native invasive plants, but without topographic modifications (grading) there will be minimal presence of emergent wetland vegetation. Restoration of wetland hydrology is needed to restore the desired wetland plant community.

Alternative II (Perennial Wetland Restoration): Deep grading, excavations of a swale and benches to elevations deep enough to retain natural floodwaters on site for a long duration, could be implemented to restore a perennial wetland habitat. However, perennial water along Watsonville Slough has been found to support successful breeding populations of predatory fish (carp) and American bullfrogs which are voracious predators to the federally threatened California red-legged frog. To avoid creating additional predatory fish and bullfrog breeding habitat within the Watsonville Slough watershed, perennial wetlands should not be restored within the easement.

Alternative III (Seasonal Wetland Restoration & Revegetation): Shallow grading, excavations of swales and benches to elevations to allow a longer duration of retention of natural floodwaters but at designed elevations to allow floodwater to recede off-site, thereby enhancing floodplain connectivity, could be implemented to restore a seasonal wetland habitat feature to the landscape. Restoration of seasonal wetland hydrology would facilitate the natural recruitment of emergent wetland vegetation and provide emergent wetland habitat for migratory birds. Native seeding, planting, and standard weed control measures could be implemented within the non-cut areas to facilitate the establishment of native perennial grasses and riparian shrubs to increase riparian and grassland habitat complexity (native species richness and structural diversity of vegetation) for migratory birds.

The NRCS selected Alternative III as the preferred alternative as it:

> *. . . proposes the restoration of the closest and best achieved approximation of historical hydrologic processes and habitat conditions. The re-establishment of seasonal wetland hydrology, associated recruitment of desirable emergent wetland vegetation community on swales and benches, and the enhancement of floodplain connectivity will prevent the establishment of either a ruderal annual grassland or perennial waters on the site. Alternative III can support the establishment of native wetland and riparian vegetation, maximize wetland habitat features suitable for migratory birds and native amphibians, while discouraging presence of non-native predators and invasive plants.*

The consistency determination includes an analysis of the proposed project grading plan that upon implementation would create the wetland swale, benches, and riparian transition areas on the subject property:

> *The site is presently leveled farmland recently retired from row crop agriculture. Historically a feature of the Harkins and Watsonville sloughs floodplain, the site was isolated from normal hydrologic processes following a series of upstream and downstream controls on the sloughs and associated waterways. The LMC site was drained and leveled, allowing for many years of agricultural production, usually a two crop system. More recently, again* [sic] *off site conditions, including increased development, channelization, and loss of floodplain habitat, have increased the frequency of uncontrolled flood events across portions the LMC field. The landowner's ability to crop the site has been significantly reduced, often to one cropping event a year or none (landowner and farmer interviews). The current restoration objectives are to restore floodplain connectivity and wetland and riparian habitat topographic and vegetative features. The no action alternative will primarily facilitate the establishment of a ruderal annual grassland habitat, comprised primarily of non-native herbaceous vegetation (e.g., curly dock, bristly ox-tongue, and annual grasses). This conclusion was reached following observations of hydrology and plant composition on Parcel 052-211-22 which is located immediately north of the easement and from interviews with Jonathan Pilch (Watsonville Wetlands Watch) and Shawn Milar (USFWS).*
>
> *To establish and support desired emergent wetland vegetation (e.g., tules, rushes, sedges) for passerines, grading a network of swales and wetland benches is needed to restore an approximation of historic frequency and, specifically, duration, of inundation within the easement area. The proposed wetland restoration grading plan considered site appropriate swale bottom elevations, configuration,* [and] *location of cut swales and benches. The water levels will be self-managed by the constructed height of the infield constructed swales to Watsonville and Harkins sloughs. Focus on restoring floodplain connectivity and appropriate hydroperiods will benefit both ESA-listed species and minimize the presence of non-native species. The leading design criterion for the wetland swale and bench construction was to not create permanent water features on the landscape. To avoid the establishment of perennial water and ensure* [that the] *presence of onsite water was seasonal in most years,*

> *NRCS planners completed a topographic survey, reviewed water elevation data within Harkins and Watsonville Sloughs, and coordinated with the local resource management agencies and groups, including the Pajaro Valley Water Management Agency. It is predicted in normal to below normal rainfall years that Harkins Slough and Watsonville Slough will drop below the planned swale elevation by the end of May; therefore flowage through the easement is predicted to cease by the end of May. Annual seasonal flowage through the constructed swale and benches will facilitate the establishment of emergent wetland vegetation and provide wetland habitat for passerines and native amphibians, while minimizing detrimental impacts of non-native predators and invasive plants.*

The proposed wetland and riparian habitat restoration alternative is also designed to enhance the functional capacity of the larger Watsonville Slough Wetland Complex (**Exhibit 8**). This benefit is noted in a February 1, 2013, letter from the U.S. Fish and Wildlife Service to the Coastal Commission supporting the project (**Exhibit 9**):

> *One of the larger wetland complexes in the Monterey Bay region, the Watsonville Slough Wetland Complex specifically provides important wetland and upland habitats for numerous Service trust resources including the federally threatened California red-legged frog (Rana draytonii) and Santa Cruz tarplant (Holocarpha macradenia), as well as many species of migratory birds, and an array of native plants and animals. We strongly support the project and consider it an integral step in the collaborative landscape-level conservation efforts in the slough system, as it will extend and enhance the benefits of the Service's NWR and also the efforts of other local groups and State agencies working to restore and conserve the Watsonville Slough Wetland Complex. These protected and restored habitats will ultimately help to enhance habitat connectivity among regions of the slough system and will increase the amount of available habitats for species dependent on this valuable resource of the Central Coast.*

The Resource Conservation District of Santa Cruz County, in its January 15, 2013, letter to the Coastal Commission (**Exhibit 10**) similarly endorsed the proposed project, stating that, "the Watsonville Sloughs are a critical wetland habitat on the Central Coast of California. This project meets the restoration priorities identified in the Watsonville Sloughs Assessment and Enhancement Plan."

In September 2010, the Commission's Executive Director concurred with a negative determination from the U.S. Fish and Wildlife Service for a comprehensive conservation plan (CCP) for the Ellicott Slough National Wildlife Refuge, located approximately two miles north and upstream of the subject LMC Project property. One of the goals of the CCP is to restore, sustain, support, and acquire vital wetland and upland components to provide habitat within the Watsonville Slough System of the Pajaro Valley watershed. The proposed NRCS wetland restoration project will complement the ongoing wetland habitat protection and restoration efforts of the U.S. Fish and Wildlife Service in the Watsonville Slough Wetland Complex. Therefore, based on the alternatives analysis and supporting information included in the

consistency determination, the Commission agrees with the NRCS that the proposed restoration plan is the least environmentally damaging alternative to restore wetland and riparian habitat on the subject 24-acre parcel.

Regarding the mitigation test, the NRCS reports that while California red-legged frogs have not been detected on the project site, they have been observed on the northeastern edge of the property and breeding has been observed within 500 feet of the property. As a result, the proposed project includes minimization and avoidance measures that will be implemented by the NRCS and the landowner to protect California red-legged frogs during project construction and throughout the subsequent management of the restored wetland complex. The project also includes provisions for a U.S. Fish and Wildlife Service-approved biologist to survey for Santa Cruz tarplant, once suitable habitat for the tarplant is present on the property. As an element of the project, the NRCS will also conduct annual post-project monitoring for easement compliance, project implementation, presence of threatened or endangered species, presence of acceptable hydrology and vegetation, and post project management (**Exhibit 11**). The project also includes commitments to implement best management practices during and after construction to ensure that project-related activities, including post-construction habitat management actions, will avoid and/or minimize adverse impacts to biological resources and water quality on and adjacent to the subject parcel. The Commission therefore concludes that no additional mitigation measures are required in order to ensure that the project minimizes adverse environmental effects.

The consistency determination also addresses the anticipated project benefits to avian species due to the establishment of wetland and other environmentally sensitive habitat on the subject property:

> *The LMC Properties WRP Conservation Easement has the potential, after restoration, to support a variety of habitat types for passerines which include emergent seasonal wetlands, perennial grasslands, willow scrub, and riparian shrub habitats. Emergent seasonal wetlands will support nesting and foraging opportunities for Song Sparrows, Marsh Wrens, Red-winged blackbirds and Common Yellow Throats. Perennial grasslands will provide foraging and nesting opportunities for Red-winged Blackbirds, Horned Larks, Meadow Larks, and Savannah Sparrows. Willow scrub will provide nesting and foraging habitat for Song Sparrows, Red-winged blackbirds and possibly Yellow Warblers. Riparian shrub habitat will provide nesting and foraging opportunities for Song Sparrows, Red-winged black birds, Spotted Towhees, and possibly Yellow Warblers. White-crowned sparrows (winter migrant) will utilize riparian shrub and grassland habitats October through February. Yellow-rumped Warblers (winter migrant) will utilize emergent marsh, willow scrub, and riparian shrub habitat October through February.*

In conclusion, the location of the subject 24-acre parcel at the confluence of Harkins and Watsonville Sloughs, its history of winter and spring flooding, and the construction of swales, wetland benches, and riparian areas will contribute to restoring the biological productivity and quality of coastal waters and wetlands in the larger Watsonville Slough Wetland Complex. The project will establish native vegetation to provide habitat for migratory birds and wetland-

dependent wildlife. Impact avoidance and minimization measures and a post-construction monitoring program will ensure that the wetland complex will function in perpetuity as designed and will provide biologically valuable sensitive habitat, water quality, and listed species benefits. The Commission therefore concludes that the proposed project is consistent with the biological productivity and water quality policy (Section 30231), the wetland policy (Section 30233), and the environmentally sensitive habitat policy (Section 30240) of the Coastal Act.

C. AGRICULTURE

Coastal Act Section 30241 states:

> *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*
>
> *(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
> *(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
> *(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*
> *(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*
> *(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*
> *(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Coastal Act Section 30242 states:

> *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

Coastal Act Section 30113 defines "prime agricultural land" as those lands defined in paragraphs (1) through (4) of subdivision (c) of Section 51201 of the Government Code:

(c) "Prime agricultural land" means any of the following:

(1) All land that qualifies for rating as class I or class II in the Natural Resources Conservation Service land use capability classifications.
(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.
(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
(4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

The NRCS concluded that the frequent and persistent overflow of floodwaters onto the property, the inundation of the property lasting at times into the summer, and the resulting diminished ability of the property to support profitable agricultural operations make the property unsuitable for agricultural operations. As a result, the NRCS proposes to restore and enhance eight acres of wetland habitat and 16 acres of riparian habitat on agricultural land previously used for row crop production; the land has sat fallow for three consecutive growing seasons (2012-2014) and the owner enrolled the property into the federal Wetlands Reserve Program. The NRCS states in its consistency determination that:

The property has a history of cropping and the soils are designated as prime farmland if irrigated and drained but increased urbanization within the watershed has increased the frequency and duration of flooding on the property making continued or renewed agricultural use not feasible for the landowner. The Wetlands Reserve Program is a volunteering conservation program and with the closing of the easement the property will be retired from production. Restoration will convert the easement from retired farmland to wetland wildlife habitat. At the national level "there are no anticipated significant effects to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas," (WRP FONSI, Page 3). The property located to the north of the easement is currently fallow and is frequently inundated by Harkins Slough (no anticipated effects from restoration). Lower portions of the Struve Ranch (farmland located south of the easement) are designated as prime farmland and are occasionally flooded by Watsonville Slough (no anticipated effects from restoration).

In its analysis of the proposed project's consistency with the aforementioned agricultural protection policies of the Coastal Act, the Commission must first determine whether the subject 24-acre property is "prime agricultural land" as defined by Coastal Act Section 30113. The Natural Resources Conservation Service (NRCS) states that the soil on the property is mapped as "119-Clear Lake Clay, moderately wet." The NRCS further states that this soil type has a Land Use Capability Classification designation of "Class IIW with wetness limitation" when irrigated

and if irrigation water is available; if not irrigated, it is designated as "Class IIIW with wetness limitation." In addition, the NRCS states that this soil type only meets the prime farmland definition if it is not inundated for more than 2 weeks a year and there is a developed and reliable supply of irrigation water. The property was irrigated during the time period when under row crop cultivation (no permanent drainage system was installed). However, and as will be discussed in more detail below, in recent years the subject property has been inundated for up to six months each year at water depths up to twelve inches. Due to this inundation, this property is not classified as either Class I or Class II and is therefore not "prime agricultural land" under Section 51201(c)(1).

The Storie Index Rating System ranks soil characteristics according to their suitability for agriculture. Ratings range from Grade 1 soils (80 to 100 rating), which have few or no limitations for agricultural production, to Grade 6 soils (less than 10 rating), which are not suitable for agriculture. The NRCS reports that the soil on the property has a Storie Index Rating of 43, which is within the Class 3 grade (40 to 59 rating) and signifies fair soils with limitations due to poor drainage, moderate flood hazards, or other factors. As such, the property does not meet the definition of "prime agricultural land" under Section 51201(c)(2).

Until recently, the property was under row crop cultivation for approximately 100 years. During that time period, the property did not support livestock production and therefore there is no information available to document the potential annual carrying capacity of the parcel to support livestock production. As such, the property does not meet the definition of "prime agricultural land" under Section 51201(c)(3).

The NRCS stated that while the subject property once supported two or three crop harvests per year, only one harvest occurred in the year 2011 (most likely lettuce) due to increased inundation from floodwaters. The landowner chose not to plant a crop in the three subsequent years due to flooding but was able to disc the property to control weed growth after the soil dried out. The NRCS reports that the while property was historically capable of growing a wide variety of fruit and vegetable crops (e.g., lettuce, strawberries, broccoli, Brussels sprouts, artichokes, cauliflower), the crops that could be grown with any degree of confidence today due to the annual flooding would be short-term crops like lettuce and possibly cull crops from transplants (e.g., radishes). NRCS states that due to the increased annual flooding it is only realistic to expect to harvest at best one crop per year on this property, unlike other nearby prime agricultural lands that support two or three crops per year of more highly-valued fruits or vegetables (e.g., strawberries). The 2012 Crop Report for Santa Cruz County provides production rates and prices per ton of fruit and vegetable crops grown in the County. The strawberry production rate was 27.19 tons/acre and the price per ton was $1,836, which equates to $49,921 per acre. By contrast, the lettuce production rate was 19.13 tons/acre with a price per ton of $212, which equates to $4,055 per acre. So while the subject property can no longer support production of high-value crops and multiple crop harvests each year, the cultivation of one crop of a lower-value vegetable such as lettuce would likely produce an expected return of more than $200 per acre, and therefore qualifies the property as "prime agricultural land" under Section 51201(c)(4).

While it is well-documented by the NRCS that inundation of the property by uncontrolled floodwaters have made it increasingly difficult in recent years to continue traditional row-crop agriculture on the property, and that due to the level of inundation the landowner has chosen not to cultivate the property since 2012, the Commission cannot definitively establish at this time that the property cannot be put to some alternative and productive agricultural use, one that would generate at least the $200 crop value/acre cited in Section 51201(c)(4) and which could be cultivated and harvested during the months when the property was not flooded. As a result, the Commission determines that: (1) the subject property remains at this time "prime agricultural land" under Sections 30113 and 30241 of the Coastal Act; (2) the property is subject to the limitations on conversion of such lands to non-agricultural uses; and (3) the proposed conversion of prime agricultural land to wetland and riparian habitat is not consistent with Section 30241.

Therefore, the only way the Commission could concur with this consistency determination would be if it finds the project consistent with the Coastal Act through the "conflict resolution" provision contained in Section 30007.5. As discussed in Section III.B of this report, not approving the project would be inconsistent with the water quality, wetland, and ESHA policies of the Coastal Act because it would eliminate the benefits to coastal resources that are inherent in the project and mandated by the policies of the Coastal Act. Those benefits include the restoration of wetland and riparian habitats on the subject property and the resulting improvements to biological productivity and water quality in the coastal waters and wetlands in the larger Watsonville Slough wetland complex. Thus, the project creates a conflict between the prime agricultural land protection policy of the Coastal Act (Section 30241) on the one hand, and the water quality, wetland, and ESHA policies of the Coastal Act (Sections 30231, 30233, and 30240) on the other. In the concluding section of this report (**Section III.E.**) the Commission will resolve these conflicts and determine that concurrence with this consistency determination would, on balance, be most protective of coastal resources.

While the Commission finds that the subject property is currently prime agricultural land and that the proposed project is not consistent with Section 30241 of the Coastal Act, it also acknowledges that continued and increasing flooding and inundation of the property could potentially render the property unsuitable and infeasible for agricultural operations. At that time, the property would then no longer be classified as prime agricultural land due to its inability to produce an expected crop return of more than $200 per acre.[1] There are existing environmental factors beyond the control of the property owner that are cumulatively restricting the ability of the property to support agricultural land uses. The property is located at the confluence of Watsonville and Harkins sloughs and is thus subject to hydrological conditions that have significantly changed over the last two decades to the detriment of row crop agricultural on the property. The *Watsonville Sloughs Hydrology Study*, a report published in February 2014 for the Santa Cruz Resource Conservation District examined (in part) the existing conditions at and adjacent to the subject property (referred to in the *Study* as the Knox property):

[1] If the subject property was not prime agricultural land and not subject to the provisions of Section 30241, the Commission would evaluate the project for consistency with Section 30242. Given the findings in this staff report, the Commission would find that the property is no longer suitable for agricultural use and that such use is not feasible given the hydrologic conditions on and adjacent to the property.

- Significant changes in hydrology have occurred over the last several decades resulting in higher water surface elevations, inundation of extensive areas in the Watsonville Slough bottomlands due to higher water levels, and sediment accumulations within and adjacent to slough channels.

- Hundreds of acres of bottomlands in the Watsonville Sloughs study area are now flooded even at the end of the summer season following relatively dry years (e.g. Water Year 2012) due likely to increased runoff, channel blockages, and land subsidence.

- There is frequent and persistent overflow from the Watsonville Slough channel across the Knox property and into Harkins Slough.

- Water regularly breaks out of the Watsonville Slough channel over the right bank just downstream of the railroad crossing (near the northeast corner of the Knox property) due to restrictions and blockages in the channel downstream of the crossing. After water escapes from the channel it flows across the northern end of the Knox property and then either: (1) passes through an 18" culvert onto the adjacent property and then into Harkins Slough; or (2) continues as overland flow southwest across the Knox property into Harkins Slough. This overbank flow out of the Watsonville Slough channel can persist for up to four months, even in the dry conditions that existed in Water Year 2012.

- The proposed restoration work on the Knox property (including grading of swales) would increase the connectivity between the Watsonville Slough channel and the Harkins Slough channel downstream of the farm road bridge across Harkins Slough. Overflows via this route are important characteristics of the lower slough system at present (though not intentional). The proposed restoration work would essentially formalize and enhance flow routes for this interconnectivity.

These conditions are crucial to the Commission's conflict resolution analysis provided later in **Section III.E** of this report. There the Commission must select a course of action which is most protective of coastal resources. The Commission acknowledges that: (1) the subject property could eventually not be able to support agricultural operations due to increasingly adverse hydrological conditions in the lower reaches of the Watsonville Slough complex; (2) the NRCS reports that the property is typically inundated from December through May, and oftentimes into the summer months; (3) there is agreement among the landowner and state and federal natural resource agencies that restoring the property to wetland and riparian habitat would provide significant natural resource benefits to the region; and (4) wetland restoration on the subject property could protect existing agricultural operations on adjacent prime agricultural lands by allowing for a more natural and efficient flow of floodwaters between the lower reaches of Watsonville and Harkins sloughs, and thereby potentially reducing the extent of flooding of adjacent prime agricultural lands. The Commission will include these factors in its consideration in **Section III.E** of the significance of project impacts on prime agricultural land arising from project construction versus the expected impacts on coastal water quality, wetlands, and ESHA if the project were not to be implemented.

D. ARCHAEOLOGICAL RESOURCES

Coastal Act Section 30244 states:

> *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

To protect cultural resources under the Wetlands Reserve Program, the NRCS states that it:

> *. . . follows the procedures developed in accordance with a nationwide programmatic agreement between NRCS, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers, which called for NRCS to develop consultation agreements with State Historic Preservation Officers and federally recognized tribes (or their designated Tribal Historic Preservation Officers). These consultation agreements focus historic preservation reviews on resources and locations that are of special regional concern to these parties.*

The NRCS undertook consultation regarding the proposed wetland restoration project with the state Office of Historic Preservation. The *Cultural Resources Survey Report* (February 2012) prepared for the LMC project site determined that a cultural resource site (a previously recorded prehistoric midden deposit) is located adjacent to the northern boundary of and partially within the project site (**Exhibit 12**). The NRCS states that the planned restoration work is not new disturbance as the property has been under cultivation (including disking and plowing) for at least 100 years. The proposed excavation for the restoration project will not exceed the standard 18-24 inch-depth of historic cultivation on the site and no new disturbance below that depth will occur. In addition, none of the earthwork (cut or fill) associated with the wetland restoration project will occur within 300 feet of the identified cultural resource site along the northern project boundary. The NRCS also states that should any cultural resources be discovered during project implementation, all project work will stop. The *Cultural Resources Survey Report* also documents the record search at the Northwest Information Center and the Native American Heritage Commission (NAHC), and consultation with NAHC-identified contacts.

In a March 2013 letter to the NRCS (**Exhibit 13**), the State Office of Historic Preservation (SOHP) concluded that the proposed project would have no adverse effects on cultural resources given: (1) the avoidance measures incorporated and with conditions proposed by the SOHP to physically delineate the cultural site during project implementation; (2) monitor the site during project work with a qualified archaeologist and (if requested) a Native American representative; (3) consult with the SOHP should prehistoric remains outside the cultural site be discovered on the property during project implementation; and (4) include results of archaeological monitoring in the project's annual report. The NRCS subsequently concurred with all of the conditions proposed by the SOHP and has incorporated them into the proposed project.

The Commission agrees with the NRCS that the proposed wetland restoration project will not adversely affect cultural resources. The resource inventory and evaluation work previously undertaken within the project area and the commitment by the NRCS to protect unknown cultural resources that may be discovered during project implementation will ensure protection of cultural resources. The Commission therefore determines that the proposed project is consistent with the cultural resource policy of the Coastal Act (Section 30244).

E. CONFLICT BETWEEN COASTAL ACT POLICIES.
Section 30007.5 of the Coastal Act provides the Commission with the ability to resolve conflicts between Coastal Act policies when they arise:

> *The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner that on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.*

1. Conflict. In order for the Commission to consider balancing Coastal Act policies, it must first establish that there is a conflict between these policies. The fact that a project is consistent with one policy of the Coastal Act and inconsistent with another policy does not necessarily result in a conflict. Rather, to identify a conflict, the Commission must find that to object to the project based on the policy inconsistency would result in coastal zone effects that are inconsistent with some other policy or policies of the Coastal Act.

As discussed previously in **Section III.C**, above, because the proposed wetland restoration project would convert 24 acres of prime agricultural land (albeit land that has seen declining productivity over the last decade due to persistent flooding, inundation, and reduced crop harvests) to a non-agricultural use, in this case to seasonal wetlands and riparian habitat, the project is not consistent with Coastal Act Section 30241 which states in part that the "maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy. Therefore, the only way the Commission could find the project consistent with the Coastal Act would be through the "conflict resolution" provision (Section 30007.5).

As described in the Water Quality/Wetlands/ESHA section above (**Section III.B**), the primary project purpose is to restore wetland and riparian habitat on the subject property. The Commission finds that the proposed project emphasizes the re-establishment of those wetland functions and values normally associated with California's seasonal marsh wetlands, riparian habitats, and floodplains, including such benefits as native plant diversity, improved water quality, wildlife habitat, and the protection of listed species. Objecting to this consistency determination would not maintain and restore the biological productivity of coastal waters and

wetlands on and adjacent to the subject property, would not restore wetland and riparian habitat on land that prior to agriculture operations was wetland habitat, and would not protect environmentally sensitive habitat adjacent to the subject property. The Commission therefore finds that the proposed project creates a conflict between the prime agricultural land protection policy (Section 30241) on the one hand, and the water quality, wetlands, and ESHA policies (Sections 30231, 30233, and 30240) on the other.

2. Conflict Resolution. Having established a conflict among Coastal Act policies, Section 30007.5 requires the Commission to resolve the conflict in a manner that is on balance most protective of significant coastal resources.

In this case, the proposed project will result in the permanent loss of 24 acres of prime agricultural land. However, in evaluating the significance of this potential loss, the Commission finds that the subject property has seen declining productivity over the last decade due to persistent flooding, inundation (from December through May, and oftentimes into the summer months), and reduced crop harvests due to its location at the confluence of Watsonville and Harkins sloughs. The Commission also finds that the subject property could eventually not be able to support agricultural operations due to increasingly adverse hydrological conditions in the lower reaches of the Watsonville Slough complex. In addition, wetland restoration on the subject property could protect adjacent prime agricultural lands by allowing for a more natural and efficient flow of floodwaters between the lower reaches of Watsonville and Harkins sloughs, thereby potentially reducing the extent of flooding on the adjacent properties.

On the other hand, as stated above, objecting to this consistency determination would: (1) result in conditions that would be inconsistent with the water quality, wetlands, and ESHA policies of the Coastal Act; (2) would not lead to restoration of the subject property to wetland and riparian habitat representative of historic, pre-agricultural conditions once present in the Watsonville Slough area; and (3) would not provide the significant natural resource benefits to the larger Watsonville Slough wetland complex that would arise from the proposed restoration project.

In resolving the Coastal Act conflict raised, the Commission finds that the impacts on water quality, wetlands, and ESHA from not constructing the project would be more significant and adverse than the project's agricultural land conversion impacts. The Commission therefore concludes that concurring with this consistency determination would, on balance, be most protective of significant coastal resources, and that the project is consistent with Coastal Act Section 30007.5.

F. Other Agency Approvals and Consultations.

U.S. Fish and Wildlife Service

The U.S. Fish and Wildlife Service (USFWS) has responsibilities over the proposed project under the Endangered Species Act and the Fish and Wildlife Coordination Act. NRCS requested consultation with the USFWS regarding potential project impacts on the federally threatened California red-legged frog and the Santa Cruz tarplant, and their aquatic and upland habitats. The NRCS will conclude the consultation process prior to implementing any wetland restoration

activities on the subject property, and will incorporate any required conditions or modifications into the proposed project.

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (Corps) has regulatory authority over the proposed project under Section 404 of the Clean Water Act (33 U.S.C.§1251 et seq.). Section 404 regulates the discharge of dredged or fill material into the waters of the United States. The NRCS has conferred with the Corps regarding a Section 404 permit (Nationwide Permit No. 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities), will conclude this process prior to implementing any wetland restoration activities on the subject property, and will incorporate any required conditions or modifications into the proposed project.

Central Coast Regional Water Quality Control Board

The Central Coast Regional Water Quality Control Board (RWQCB) has regulatory authority over the proposed project under Section 401 of the Clean Water Act (33 U.S.C.§1251 et seq.). Under Section 401 applicants for a federal permit or license for any activity which may result in a discharge to a water body must obtain State Water Quality Certification (Certification) that the proposed activity will comply with state water quality standards. Most Certifications are issued in connection with Corps CWA section 404 permits for dredge and fill discharges. The NRCS will review Section 401 Certification with the RWQCB prior to implementing any wetland restoration activities on the subject property, and will incorporate any required conditions or modifications into the proposed project.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. CD-0204-13 (Natural Resources Conservation Service, LMC Properties Wetland Reserve Program Conservation Plan, Santa Cruz County, CA, October 2013).
2. LMC Project Biological Assessment, Santa Cruz County, CA, U.S. Fish and Wildlife Service, June 4, 2013.
3. Cultural Resources Survey Report for the Terry Knox WRP Project, Santa Cruz County, California, Solano Archaeological Services, February 2012.
4. Final Programmatic Environmental Assessment, Wetland Reserve Program, Natural Resources Conservation Service, January 2009.
5. January 15, 2013, letter from Resource Conservation District of Santa Cruz County to California Coastal Commission, regarding LMC Wetlands Reserve Program Restoration Project.
6. February 1, 2013, letter from U.S. Fish and Wildlife Service to California Coastal Commission, regarding LMC Properties – Wetland Reserve Program Restoration Project, Santa Cruz County, CA.
7. March 22, 2013, letter from State of California Office of Historic Preservation to Natural Resources Conservation Service, regarding Section 106 Consultation for the Proposed Restoration of Former Wetlands in Santa Cruz County.
8. ND-047-10 (U.S. Fish and Wildlife Service, Comprehensive Conservation Plan for Ellicott Slough National Wildlife Refuge, Santa Cruz County).
9. Watsonville Slough Hydrology Study (Santa Cruz Resource Conservation District), Balance Hydraulics, February 2014.
10. 2012 Crop Report for Santa Cruz County, Office of the Agricultural Commissioner, County of Santa Cruz.
11. Coastal Development Permit No. 2-09-13 (Tomales Farm & Dairy LLC)
12. Coastal Development Permit No. 1-10-032 (Humboldt County Resource Conservation District)
13. Coastal Development Permit No. A-1-MEN-09-034 (Marr and Malin)

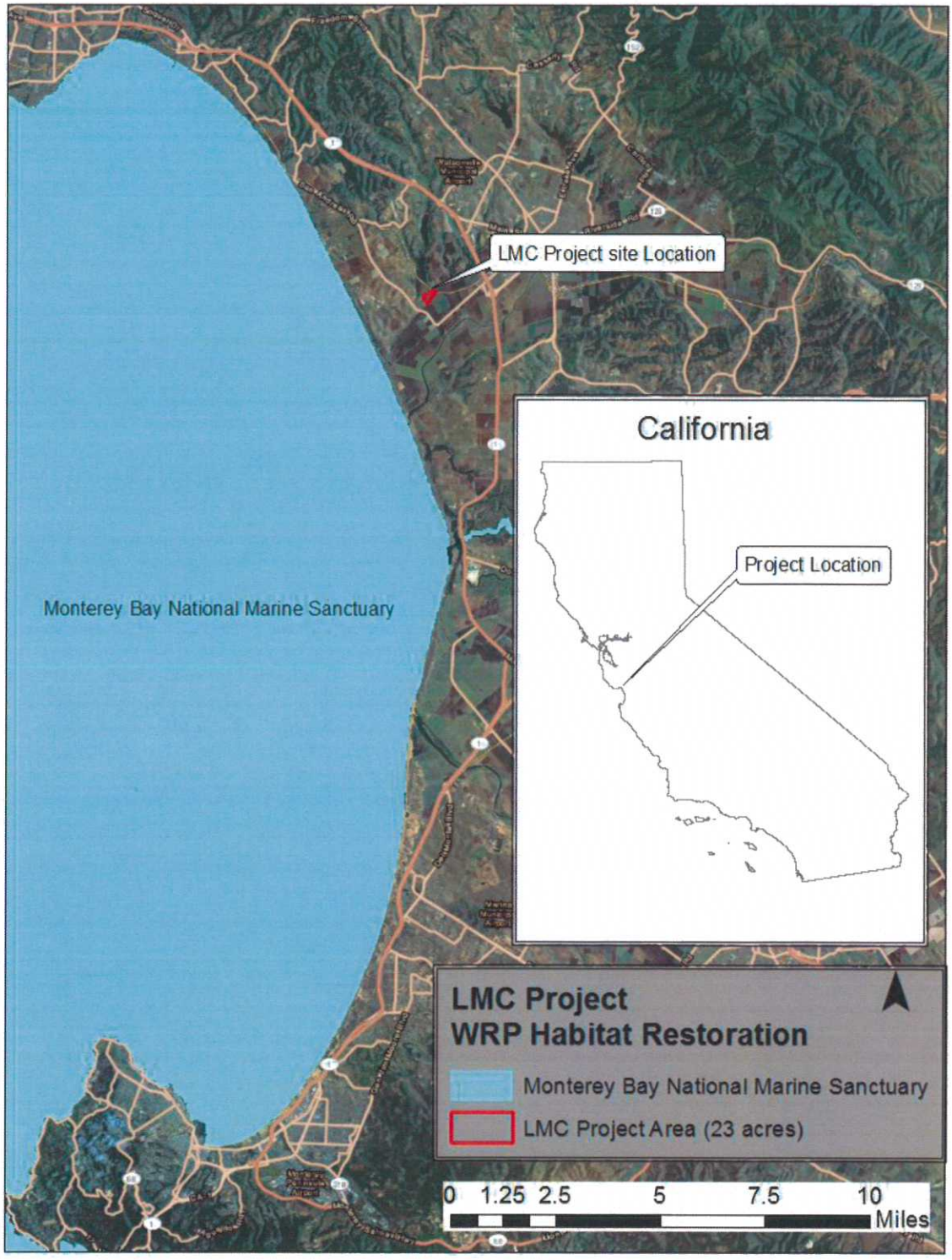


Figure 1. Monterey Bay Sanctuary in relationship to the LMC Project area.

EXHIBIT NO. 1
APPLICATION NO.
CD-0204-13

Location Map

Date: 1/17/2013
Customer: LMC Properties LLC
Easement Area: 23.0 ac
Legal Description: Portions of Section 13, R1E, T12S.
Portions of Sections 7 & 18, R2E, T12S
USGS Quad: Watsonville West

Field Office: Capitola Local Partnership Office
Agency: USDA- Natural Resources Conservation Service
Assisted By: Karl Kraft

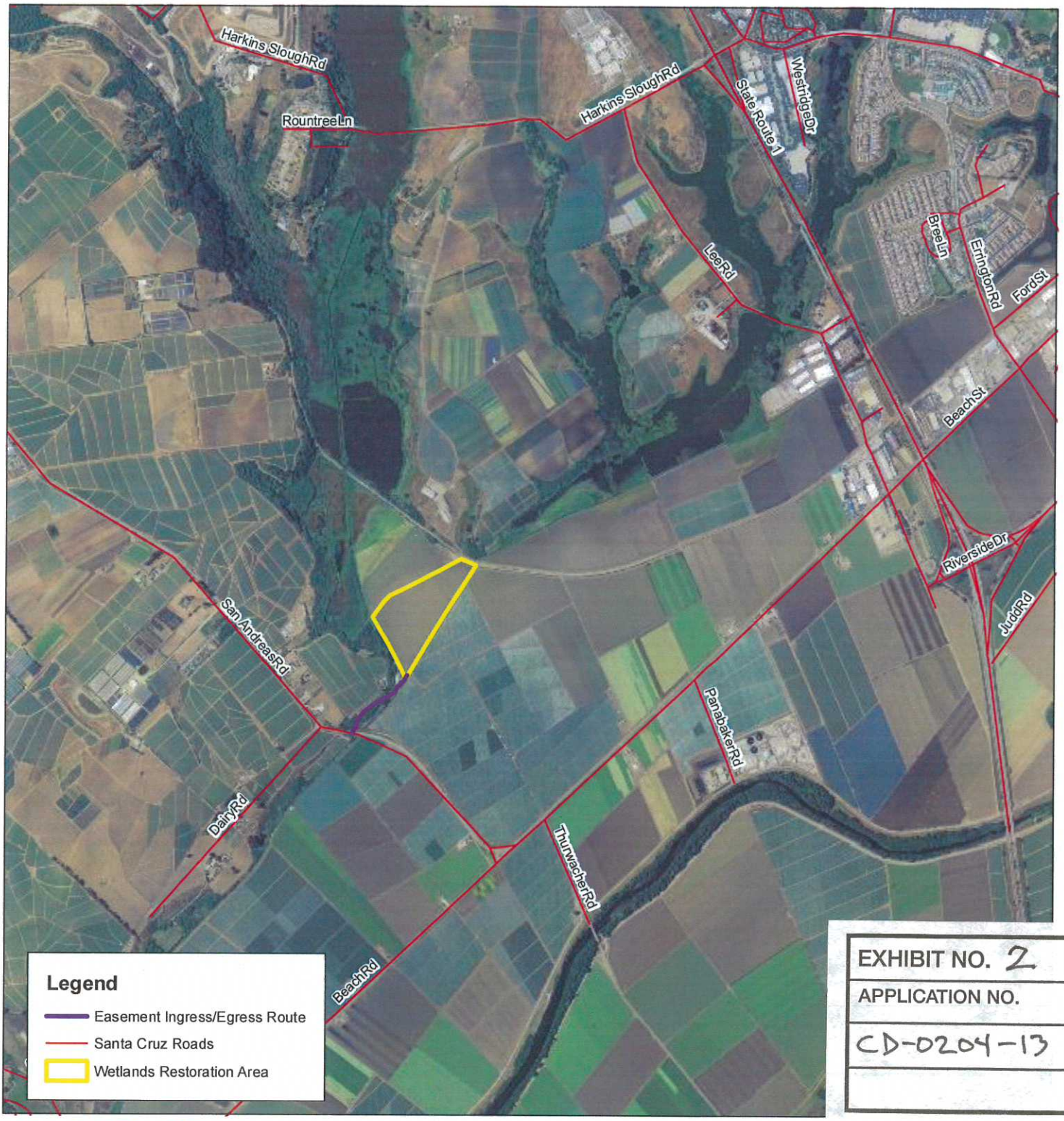


EXHIBIT NO. 2
APPLICATION NO.
CD-0204-13

NRCS Natural Resources Conservation Service

1:24,000

0 0.25 0.5 1 Miles

Areial Image: NAIP 2009 (summer)

N

Physical Features Map

Date: 1/15/2013

Customer(s): LMC Properties LLC
Approximate Acres: 23.0
Legal Description: Portions of Section 13, R1E, T12S.
Portions of Section 7 and 18, R2E, T12S.
USGS Quad: Watsonville West.

Field Office: MODESTO SERVICE CENTER
Agency: USDA-NRCS
Assisted By: KARL KRAFT

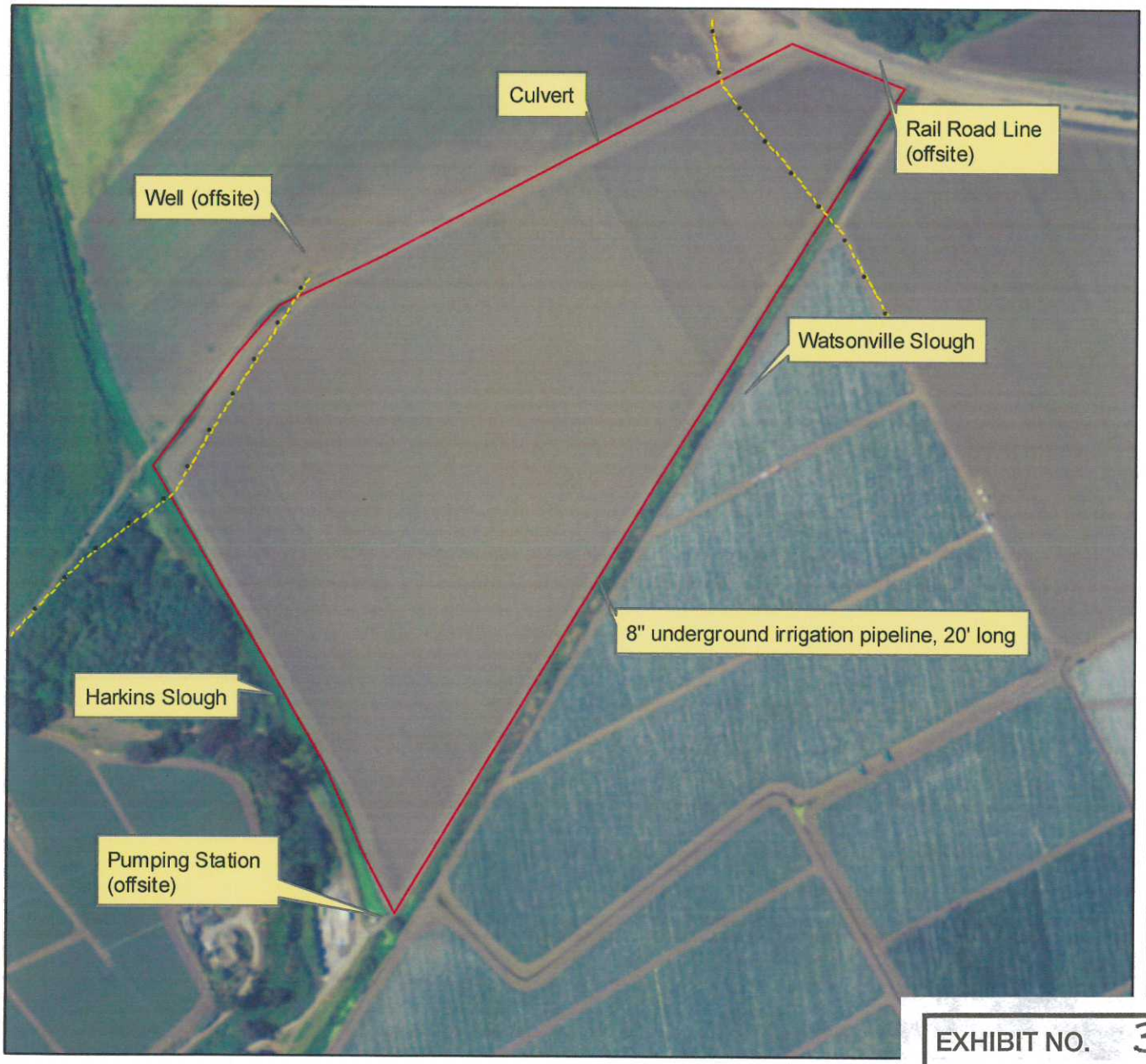


EXHIBIT NO. 3
APPLICATION NO.
CD-0204-13

Legend

- Existing Power Lines
- Project Boundary

330 0 330 660 990 1,320 Feet

N

United States Department of Agriculture

NRCS
Natural Resources Conservation Service
Modesto Service Center
3800 Cornucopia Way, Suite E
Modesto, CA 95358-9492
(209) 491-9320 ext. 113
(209) 491-9331 (Fax)

Karl Kraft
Wildlife Biologist
karl.kraft@ca.usda.gov

Subject: LMC Properties Flooding Photos **Date:** 2/19/2013

2010-2011 wet season.

The photo below was taken by NRCS Rich Casale in February of 2011 of the eastern side of the parcel.

Helping People Help the Land

An Equal Opportunity Provider and Employer

EXHIBIT NO. 4
APPLICATION NO.
CD-0204-13

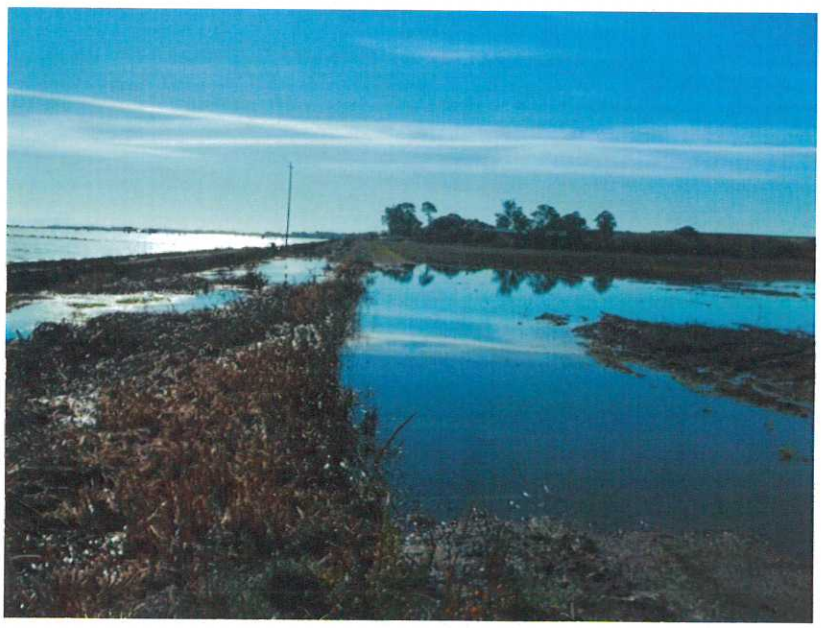
2011-12 wet season.

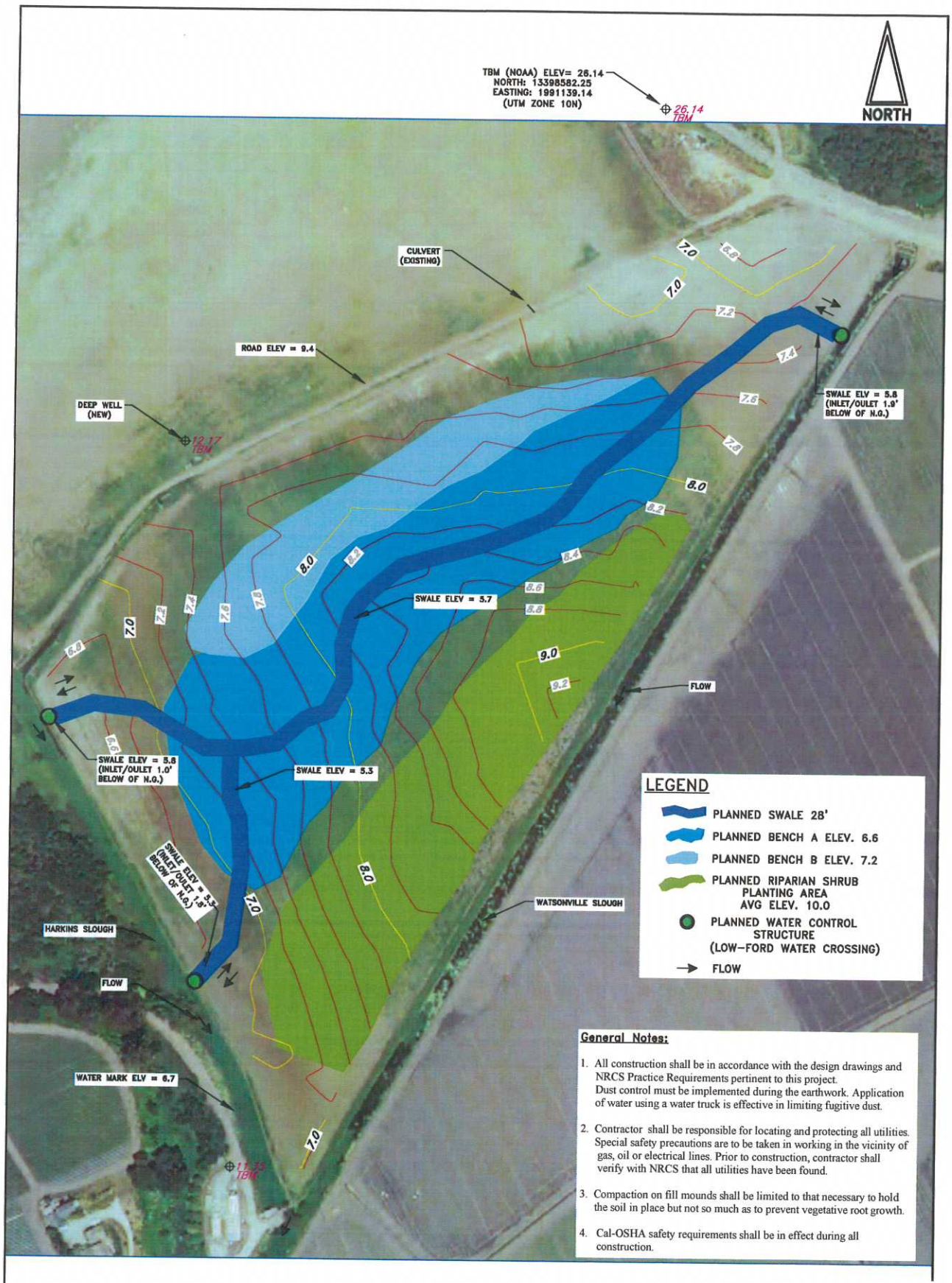
The photo below was taken by Jonathan Pilch from Watsonville Wetlands Watch in February of 2012 of the NE corner of the parcel.

2012-13 wet season.

The photo below was taken by NRCS Karl Kraft in December 2012 of the NE Corner of the parcel.

The photo below was taken by NRCS Karl Kraft in December of 2012 of SE corner of the parcel.





Sheet - of -

DRAWING NUMBER SHEET #1

FILE NAME LMC PROPERTIES

NRCS Natural Resources Conservation Service United States Department of Agriculture

FIELD LAYOUT SHEET
LMC PROPERTIES WRP

Designed _
Drawn _
Modified _
Approved _

EXHIBIT NO. 5

APPLICATION NO.

CD-0204-13

Conservation Plan Map

Date: 5/6/2014

Customer(s): LMC Properties LLC
Easement Area: 23.93 acres
Legal Description: Portions of Section 13, R1E, T12S.
Portions of Section 7 and 18, R2E, T12S.
USGS Quad: Watsonville West.

Field Office: CAPITOLA
LOCAL PARTNERSHIP OFFICE
Agency: USDA-NRCS
Assisted By: KARL KRAFT

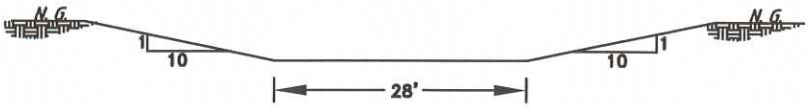
Legend

- Easement Boundary
- Planned Water Control Structures (Low-Flow Water Crossing), Conservation Practice 587, 578
- Planned 28' Swale, 2.4 acres, Conservation Practice 657, 327
- Planned Bench A, 3.8 acres, Conservation Practice 657, 327
- Planned Bench B, 1.8 acres, Conservation Practice 657, 327
- Planned Creeping Wildrye Seeding Area,12.5 acres, Conservation Practice 657, 327
- Planned Purple Needle Grass and Blue Wildrye Seeding Area, 3.5 acres, Conservation Practice 657, 327
- Planned Riparian Shrub Planting Area, 3.5 acres, Conservation Practice 657, 327

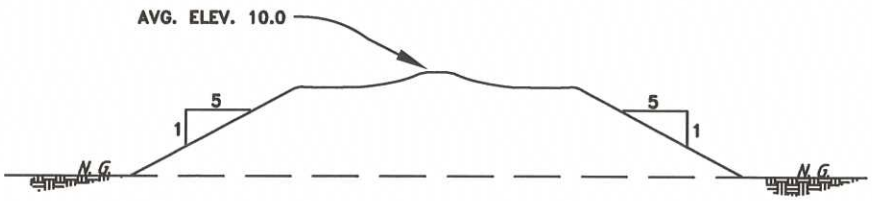
400 0 400 800 1,200

EXHIBIT NO. 6
APPLICATION NO.
CD-0204-13

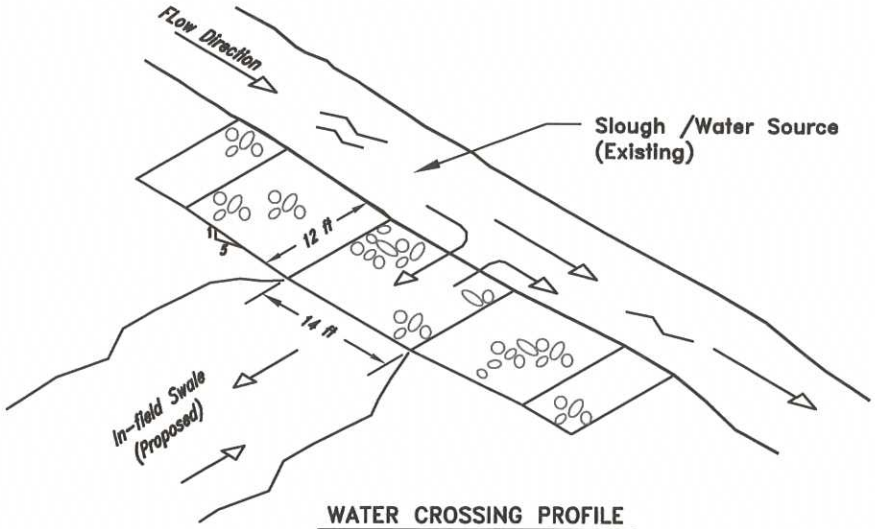
3-13-14



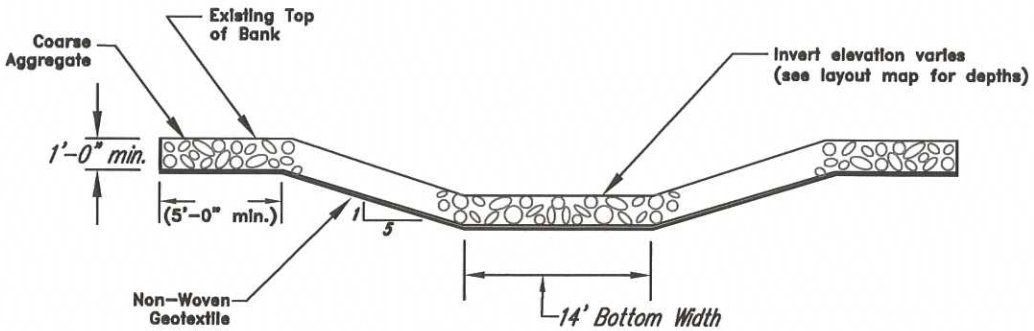
PLANNED SWALE



PLANNED RIPARIAN SHRUB PLANTING AREA



WATER CROSSING PROFILE



WATER CROSSING
CROSS-SECTION

TYPICAL X-SECTIONS

NOT DRAWN TO SCALE

NRCS
Natural Resources Conservation Service
United States Department of Agriculture

WETLAND

LMC PROPERTIES WRP

Designed
Drawn JOSE LULE 1
Checked JOSE LULE 3
Approved

EXHIBIT NO. 7
APPLICATION NO.
CD-0204-13

Project Location
NWI Map

Date: 11/27/2012

Customer(s): LMC Properties LLC
Easement Area: 23.0
Legal Description: Portions of Section 13, R1E, T12S.
Portions of Section 7 and 18, R2E, T12S.
USGS Quad: Watsonville West.

Field Office: CAPITOLA
LOCAL PARTNERSHIP OFFICE
Agency: USDA-NRCS
Assisted By: KARL KRAFT

Legend

- Project Area (23.0 Acres)
- National Wetlands Inventory polygon shapefile

2,600 0 2,600 5,200 7,800

EXHIBIT NO. 8
APPLICATION NO.
CD-0204-13

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

IN REPLY REFER TO:
08EVEN00-2013-B-0071

February 1, 2013

Larry Simon
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105

Subject: Support for the LMC Properties – Wetland Reserve Program Restoration Project, Santa Cruz County, California

Dear Mr. Simon:

I am writing to express our strong support for the U.S. Department of Agriculture - Natural Resources Conservation Service's (USDA - NRCS) Wetland Reserve Program (WRP) Restoration Project (Project) on the LMC Properties in Watsonville, California. The Project will protect and restore 23 acres of wetland and upland habitats within the middle reach of the Watsonville Slough, which is a major wetland area of the Watsonville Slough Wetland Complex and immediately south of the U.S. Fish and Wildlife Service's (Service) Ellicott Slough National Wildlife Refuge (NWR) Harkin Slough Unit. The Ventura Fish and Wildlife Office's (VFWO) Endangered Species Program and Coastal Program, as well as the Service's NWR program, recognize the coastal habitats of the Central Coast region as a priority for conservation and restoration, particularly those in the Monterey Bay region. In the last year, our Coastal Program has provided direct support (through technical assistance) to develop this priority restoration and protection project. Our Coastal Program will continue to provide technical assistance to the USDA – NRCS as the Project enters the compliance phases and likely during project implementation.

One of the larger wetland complexes in the Monterey Bay region, the Watsonville Slough Wetland Complex specifically provides important wetland and upland habitats for numerous Service trust resources including the federally threatened California red-legged frog (*Rana draytonii*) and Santa Cruz tarplant (*Holocarpha macradenia*), as well as many species of migratory birds, and an array of native plants and animals. We strongly support the Project and consider it an integral step in the collaborative landscape-level conservation efforts in the slough system, as it will extend and enhance the benefits of the Service's NWR and also the efforts of many other local groups and State agencies working to restore and conserve the Watsonville Slough Wetland Complex. These protected and restored habitats will ultimately help to enhance habitat connectivity among regions of the slough system and will increase the amount of available habitats for species dependent on this valuable resource of the Central Coast.

EXHIBIT NO. 9
APPLICATION NO.
CD-0204-13

If you have any questions or would like more information about our support of these efforts, please contact Mary Root of my staff at (805) 644-1766, extension 233, or Shawn Milar who is locally-based in Pacific Grove at (831) 648-0623.

Sincerely,

for Diane K. Noda
Field Supervisor

cc:
Karl Kraft, Natural Resource Conservation Service

EX. 9, CONT.

RESOURCE
CONSERVATION DISTRICT
OF SANTA CRUZ COUNTY

820 Bay Avenue, Suite 128
Capitola, California 95010
tel 831.464.2950 | fax 831.475.3215
www.rcdsantacruz.org

January 15, 2013

Larry Simon

45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

RE: *LMC Wetlands Reserve Program Restoration Project*

Dear Larry:

I am writing to express my strong support for the Wetlands Reserve Program (WRP) proposed by the Natural Resources Conservation Service (NRCS) to implement a wetland restoration project on LMC Properties, LLC near Watsonville, California.

The project will address the restoration and management of approximately 20 acres of marsh wetland habitat in Santa Cruz County. The proposed project will include: de-leveling; creation of swales and benches; and establishment of native vegetation that will provide optimal wetland habitat for migratory birds and wetland-dependent wildlife (See attached Conservation Plan Map). Earth-work will occur during the late summer for minimal impact to wildlife. Conservation practices will be used to prevent runoff, erosion and sedimentation. Upland areas will be seeded with native grasses, forbs and shrubs following construction. Standard weed control measures will also be implemented to facilitate the establishment of native vegetation.

The Watsonville Sloughs are a critical wetland habitat on the Central Coast of California. This project meets the restoration priorities identified in the Watsonville Sloughs Assessment and Enhancement Plan. If you have any questions, please feel free to contact me at the numbers below. Thank you for your consideration of this important and much-needed undertaking.

Sincerely,

Karen Christensen
Executive Director
Resource Conservation District of Santa Cruz County
820 Bay Ave., Suite 136
Capitola, CA 95010
(831) 464-2950 x17

EXHIBIT NO. 10
APPLICATION NO.
CD-0204-13

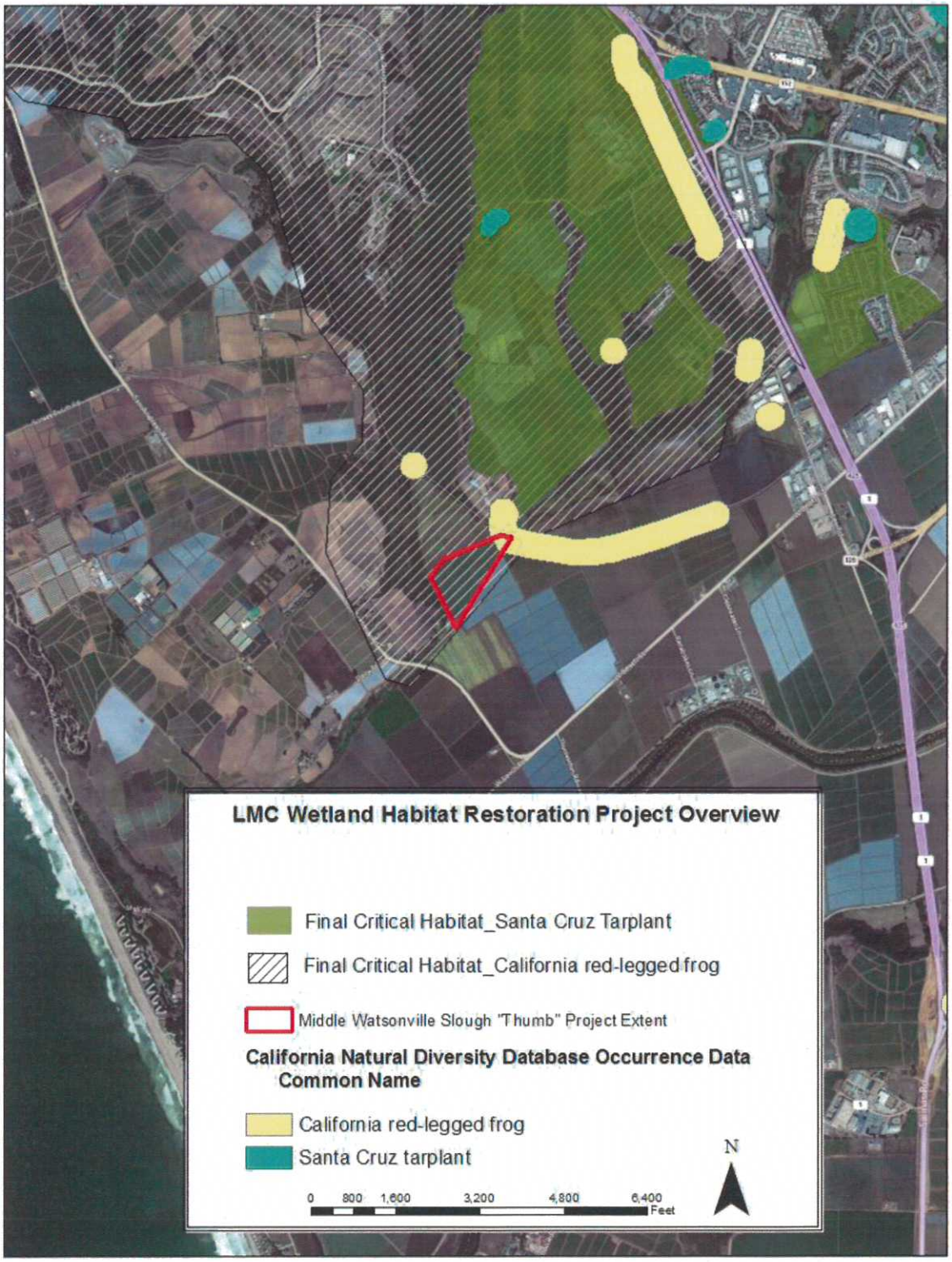


Figure 6. Critical Habitat designations for California red-legged frog and Santa Cruz tarplant and near the LMC Project site.

EXHIBIT NO. 11
APPLICATION NO.
CD-0204-13

Cultural Resources Review Map

Date: 12-12-12

Customer: LMC Properties

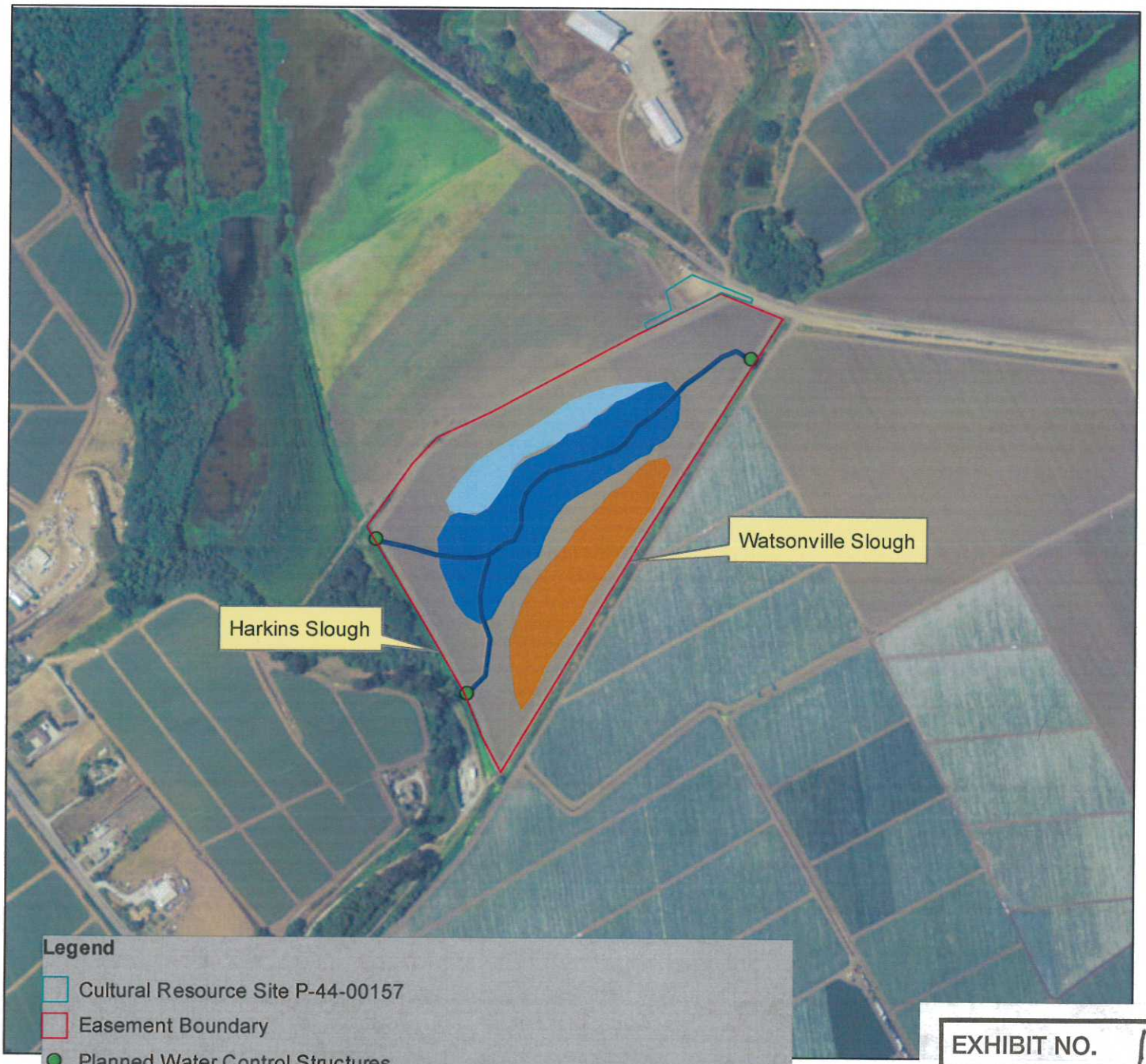
Easement Area: 23.0

Legal Description: Portions of Section 13, R1E, T12S.
Portions of Section 7 and 18, R2E, T12S.
USGS Quad: Watsonville West.

Field Office: CAPITOLA
LOCAL PARTNERSHIP OFFICE

Agency: USDA-NRCS

Assisted By: KARL KRAFT



Legend

- Cultural Resource Site P-44-00157
- Easement Boundary
- Planned Water Control Structures
- Planned Practice 657 (28' Swale, 30" cut, 10:1 side slopes)
- Planned Practice 657 (Bench A, 18" cut, 10:1 side slopes)
- Planned Practice 657 (Bench B, 12" cut,10:1 side slopes)
- Planned Practice 657 (Upland Mounds, 18-24" above grade, 6:1 side slopes)

EXHIBIT NO. 12
APPLICATION NO.
CD-0204-13

575 0 575 1,150 1,725 2,300 Feet

N

STATE OF CALIFORNIA – THE RESOURCES AGENCY

EDMUND G. BROWN, JR., *Governor*

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
1725 23rd Street, Suite 100
SACRAMENTO, CA 95816-7100
(916) 445-7000 Fax: (916) 445-7053
calshpo@parks.ca.gov / www.ohp.parks.ca.gov

Reply in Reference to: **NRCS_2013_0116_001**

March 22, 2013

Daniel S. Grijalva - Cultural Resource Specialist
United States Department of Agriculture - Natural Resources Conservation Service
Concord Service Center
5522 Clayton Road
Concord, CA 94521-4158

Re: Section 106 consultation for the *Proposed Restoration of Former Wetlands in Santa Cruz County*

Dear Mr. Grijalva:

Thank you for your recent letter consulting pursuant to 36 CFR Part 800 (as amended 8-05-04) regulations implementing Section 106 of the National Historic Preservation Act (NHPA). You are requesting my comments on the Area of Potential Effect (APE), historic property identification efforts, and your proposed finding of "*No Historic Properties Affected.*"

NRCS is proposing a wetlands restoration undertaking for a 23-acre easement located in southern Santa Cruz County, approximately 1-mile southwest of the community of Watsonville. The discussion of project work in the submitted cover letter was somewhat ambiguous as proposed work was simply described as "planned ground disturbances" consisting of "shallow land grading, low water crossings, and conservation cover." As I understand, NRCS determined the APE for direct effects encompasses the 23-acre easement. The APE is depicted in Figure-2 attached to the following study and cover letter provided as evidence of historic property identification and evaluation efforts:

- *Cultural Resources Survey Report for the Terry Knox WRP Project, Santa Cruz County, California* (Solano Archaeological Services/Coleman 2012)

The above work chronicles searches of records at the Northwest Information Center (NWIC), company files, and the Native American Heritage Commission (NAHC); consultation with NAHC identified contacts (consisting of letters, phone calls and emails sent in January of 2012); and, 15.0-m transect field-survey of the APE. Surface visibility was reported at "100%", but the APE was described as almost completely comprised of recently disked agricultural field. Identification work indicated the presence of the two following cultural resources within or adjacent the APE:

- **P-44-00157/Ca-Scr-154** - is a moderate size (5004.3-m^2) multi-component site partially located in the APE containing a historic trash scatter, and prehistoric midden and debitage. Midden was visible adjacent dirt roads and a railroad track that bisect the site. The study found the site potentially eligible under Criterion D. NCRS has proposed to avoid the site pursuant to their Programmatic Agreement (PA). No specific measures were discussed for avoidance. Though the site condition was described as poor in the DPR-523 (1997) site record, a single NA contact indicated evidence of human remains have been observed. The contact expressed no desire for archaeological excavation. Also pursuant to the PA, NRCS's activities at the site will be included in their annual report.

EXHIBIT NO. 13
APPLICATION NO.
CD-0204-13

- **P-44-00066** - is described as a "large habitation site containing an extensive lithic scatter, fire-affected stone, and marine shell fragments." The site is located within 50-ft of the "southwestern edge" of the APE. No site-record was provided in submitted materials.

Based on a review of your submittal, I have the following comments:

A. Pursuant to 36 CFR Part 800.4(a)(1), I have no objections to the *APE* delineation.

B. Pursuant to 36 CFR Part 800.4(b)(1), the *Level of Effort* identifying historic properties is appropriate for proposed work but I am compelled to add the following remark;

   a. I suggest NRCS continue its efforts in consulting with NA contacts as it appears all such work was completed during a short period of time in early 2012 and follow-up to those initial efforts is imperative in order to provide each contact the greatest latitude for responding.

C. Please be advised I **cannot concur** with your finding or "*No Historic Properties Affected*" pursuant to 36 CFR Part 800.4(d)(1) as you have identified multi-component site P-44-00157/Ca-Scr-154 in the APE. However, as you propose avoidance, I **can concur** with "*No Adverse Effect*" pursuant to 36 CFR Part 800.5(b) with the following additional conditions;

   a. NRCS should always identify how avoidance will be implemented in consultations with my office. As such, I advise NRCS to implement the following measures;

      - In project management documentation, identify the site as and Environmentally Sensitive Area (ESA) in which all activities will be avoided during implementation.
      - Physically delineate the ESA with materials such as flagging or environmental fencing during project implementation, taking care not to block train and automotive traffic on existing routes that bisect the site.
      - Monitor the ESA and project work (especially in proximity to P-44-00157/Ca-Scr-154 and P-44-00066) with a qualified archaeologist and, if so requested, a NA representative.
      - Should archaeological monitoring identify prehistoric remains outside existing site boundaries, consult with my office pursuant to 36 CFR Part 800.13 for "*Post Review Discoveries.*"
      - Incorporate the ESA into the project administrative record so as to identify it as a protected area for future ground disturbing work in the easement.
      - Include the results of archaeological monitoring in the annual report.

   b. If you agree with my above proposed conditions, please provide evidence by having the signature block below signed by either you or the agency official responsible for project management and returning this letter to me as soon as possible. Alternatively, you may provide me a separate letter concurring with the proposed conditions.

D. Please be advised NRCS should be consulting under appropriate stipulations of the PA and not directly under 36 CFR 800 in consultations with my office as PAs are alternative processes designed to meet special historic property management needs of individual agencies in situations where the standard process cannot be applied.

E. As multi-component site P-44-00157/Ca-Scr-154 is subjected to continuing effects of automotive and rail traffic, and because there will be an ongoing need to manage the site under 36 CFR Part 800 in perpetuity of NRCS's involvement with the 23-acre easement; please be aware a Determination of Eligibility (DOE) pursuant to 36 CFR Part 800.4(c)(1) should be completed for full compliance with the historic preservation mandate of Section 106.

EX. 13, P.2 OF 3

Be aware you may have additional future responsibilities for Section 106 for conditions such as changes in project scope or unanticipated discoveries. Thank you for including historic properties and my comments as part of your project planning. Please direct your questions to Jeff Brooke of my staff at (916) 445-7003/Jeff.Brooke@parks.ca.gov.

Sincerely,

Susan K Stratton for

Carol Roland-Nawi, Ph.D.
State Historic Preservation Officer

Date:
Daniel S. Grijalva - Cultural Resource Specialist United States Department of Agriculture - Natural Resources Conservation Service

EX. 13, P. 3 of 3