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Tu 5b**STAFF RECOMMENDATION****ON CONSISTENCY DETERMINATION**

Consistency Determination No.	CD-11-02
Staff:	JRR-SF
File Date:	2/19/2002
60th Day:	4/20/2002
75th Day:	5/5/2002
Commission Meeting:	4/9/2002

FEDERAL AGENCY: U.S. Fish and Wildlife Service**PROJECT LOCATION: Salinas River National Wildlife Refuge, Monterey County (Exhibit 1- 2)****PROJECT DESCRIPTION: Comprehensive Conservation Plan****SUBSTANTIVE FILE DOCUMENTS: See page 18****EXECUTIVE SUMMARY**

The U.S. Fish and Wildlife Service (Service) has developed a Comprehensive Conservation Plan (plan) for the Salinas River National Wildlife Refuge (Refuge) that provides management direction for the next fifteen years. The proposed alternative provides for improved management of habitat and improved, but not expanded, public access and recreational activities.

The proposed management plan provides for the protection and management of environmentally sensitive habitat areas (ESHAs) within the Refuge. Because these activities manage and protect the ESHAs, they are dependent on the sensitive resources. In addition, the activities described in the plan will not significantly disrupt the ESHAs. With respect to the avian predator management plan, there may be adverse effects to sensitive species, but the program relies mainly on capture and relocation of suspected plover predators and will provide substantial protection to the threatened snowy plover. Therefore, the avian predator plan will not significantly disrupt

the ESHA. The proposed project is consistent with the Section 30240 of the Coastal Act, and thus the ESHA policy of the California Coastal Management Program (CCMP).

The proposed plan provides for recreational opportunities in a manner that protects sensitive habitat and natural resources. In order to protect these resources, the plan provides for some restrictions on access and recreational uses. These restrictions are consistent with Coastal Act policies that allow limitation of access and recreation in order to protect sensitive resources. The plan recognizes the California Coastal Trail and the Service has committed to coordinate with trail planners to identify routes through the Refuge that will protect its habitat values. The proposed plan is consistent with Coastal Act Sections 30210, 30214, and 30223, and thus is consistent with the access and recreation policies of the CCMP.

Some of the activities described in the plan may adversely affect water quality resources of the coastal zone. The Service commits to minimizing this impact. In addition, these activities (including the construction of a kiosk and parking area surfacing) will require future consistency review. Therefore, the plan is consistent with Section 30231 of the Coastal Act. In addition, the Service has modified the plan to indicate that ongoing Salinas River bar breaching does occur within the Refuge and is not authorized to occur on the Refuge. Therefore, the plan will not result in a substantial alteration of the river and does not raise any issues with respect to Section 30236 of the Coastal Act. Finally, the plan identifies several activities that will require phased consistency review. These activities include parking area surfacing, kiosk construction, and a state lands lease. The Service, prior to implementation, will review other activities described in the plan to determine if they affect coastal resources.

STAFF SUMMARY AND RECOMMENDATION

I. **Staff Note.** As of the publication of this recommendation, the Commission staff has received verbal commitments to the modifications described in this report. The staff expects to receive a written commitment from the Fish and Wildlife Service before the Commission hears the item. If the written commitments are not received by the hearing date, the staff may change its recommendation.

II. **Project Description.** The U.S. Fish and Wildlife Service (Service) has drafted a Comprehensive Conservation Plan (plan) as required by the National Wildlife Refuge System Improvement Act of 1997. The Salinas River National Wildlife Refuge (Refuge) encompasses 366 acres located at the mouth of the Salinas River. In the draft plan, the Service evaluated four alternative management strategies (Exhibit 3 and 4): 1) No Action; 2) Reduced Public Use and Improve and Expand Resource Management; 3) Improve Public Use and Resource Management; and 4) Expand and Improve Public Use and Resource Management. The Service has selected Alternative 3 as its preferred plan. Under Alternative 3, the Service will improve, but not substantially

expand, visitor services at Salinas River Refuge. These access improvements include informational signs and interpretive exhibits on the Refuge and a wheelchair-accessible trail to the Salinas River. In addition, the Service will improve the existing parking lot with gravel or a hard pack surface. The area in which seasonal waterfowl hunting is permitted will be reduced by approximately 15 percent to protect roosting California brown pelicans. Under this alternative, the Service will continue implementing all of its current management activities and expand its special-status species inventories. The current management activities include hunting and fishing management, fire control, and mammalian predator management (mainly red foxes). The Service also proposes to use the following new management tools and techniques: 1) using prescribed fire to augment mowing and herbicide use in the grassland/shrub habitat; 2) conducting inventories of all habitats on the Refuge; 3) capturing and relocating problem avian predators of the western snowy plover; and 4) creating a GIS database to track vegetation and population trends. In addition, the Service will pursue a long-term lease with the State Lands Commission to manage the beach and tidelands below mean high water.

III. Status of Local Coastal Program. The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If an LCP that the Commission has certified and incorporated into the California Coastal Management Program (CCMP) provides development standards that are applicable to the project site, the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The Commission has certified Monterey County's LCP and partially incorporated it into the CCMP.

IV. Federal Agency's Consistency Determination. The U.S Fish and Wildlife Service has determined the plan consistent to the maximum extent practicable with the California Coastal Management Program.

V. Staff Recommendation. The staff recommends that the Commission adopt the following motion:

I move that the Commission concur with consistency determination CD-11-02 that the plan described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).

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

B. RESOLUTION TO CONCUR WITH CONSISTENCY DETERMINATION

The Commission hereby concurs with the consistency determination by the U.S. Fish and Wildlife Service, on the grounds that the plan described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the CCMP.

VI. Findings and Declarations:

The Commission finds and declares as follows:

A. Environmentally Sensitive Habitat Area.

1. Relevant Coastal Act Sections

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30240

(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.

2. Existing Resources. As described above, the Salinas River National Wildlife Refuge is a 366-acre wildlife refuge located south of the mouth of the Salinas River. In general, the area includes a variety of habitat types including, salt marshes, brackish marshes, estuary, riparian areas, coastal dunes, and shrub/grasslands. The Service established the Refuge in 1973 in order to protect its migratory bird value. In the mid-1980s, the Service expanded its management of the refuge to provide for the protection of other sensitive species including several federally and state listed threatened and endangered species. In its draft plan, the Service describes the habitat value of the refuge as follows:

Refuge lands include a range of terrestrial and aquatic habitats, including coastal dunes and beach, grasslands, wetlands and riparian scrub.

Because of its location within the Pacific Flyway, the Refuge is used by a variety of migratory birds during breeding, wintering, and migration periods. It also provides habitat for several threatened and endangered species, including western snowy plover, California brown pelican, Smith's blue butterfly, Monterey gilia, and Monterey spineflower. Approximately 40 species that occur or are suspect to occur on the Refuge are considered sensitive by Federal and State agencies [Exhibit 5].¹

Since the Refuge provides habitat for federally listed threatened and endangered species, state species of special concern, and rare and threatened habitat types (e.g. sand dunes, wetlands, and riparian areas), the area is an Environmentally Sensitive Habitat Area (ESHA) as defined by the Coastal Act.

3. Proposed Activities. The Service has developed a management plan that provides management direction for the next fifteen years. The proposed alternative provides for improved management of habitat and improved, but not expanded, public access and recreational activities. The existing habitat management activities incorporated into the plan include mammalian predator management (see CD-61-93), fire management, vegetation management, and species monitoring. The mammalian predator management focuses on removal of non-native red foxes, feral cats, skunks, and other small mammal predators. The primary beneficiary of this predator management program is the western snowy plover, a federally listed threatened species that nests and winters on the beaches within the refuge. The Coastal Commission reviewed a consistency determination for this activity in 1993 (CD-61-93) and found it consistent with the CCMP.

The plan also incorporates several new habitat management activities. These activities include avian predator management, controlled burns, and habitat assessments. In cooperation with the Santa Cruz Predatory Bird Research Group, the Service developed a plan to manage avian predators on the Refuge. The plan focuses on three main problem species: loggerhead shrike, northern harrier, and American kestrel. The primary objective of the plan is to identify individuals preying on snowy plover eggs, chicks, and adults and capture them and remove them from the Refuge. The plan also provides for lethal removal of these avian predators if the identified individual cannot be captured or consistently returns to the refuge after relocation and continues to prey on plovers. Another new habitat management activity incorporated into the plan is controlled burns. The Service intends to use this vegetation control mechanism to supplement its ongoing activities to manage, and possibly eliminate, non-native vegetation from the Refuge. The Service currently uses hand, mechanical, and

¹ Draft Comprehensive Conservation Plan and Environmental Assessment, p. 4-5.

chemical tools to manage non-native vegetation. Finally, the Service proposes to improve its assessment and monitoring of habitats and species on the Refuge.

In addition to these habitat management activities, the draft plan provides for management of public access and recreational resources. Under current management direction, the Service allows hunting, fishing, and wildlife observation on the Refuge. The Refuge includes existing dirt parking and access and a designated interpretive trail. The Service has designated a small area of the Refuge for recreational hunting and has constructed several blinds to support this activity. The plan provides for enhancing, without expanding, these recreational activities. The improvements include paving or surfacing the parking area, construction of an entrance kiosk, and improved interpretive facilities. The plan also reduces the area available for hunting from 45 acres (3,600 linear feet) along the Salinas River to 38 acres (2,800 linear feet). The purpose of this reduction is to protect roosting California brown pelicans, a federally listed endangered species. Finally, the plan provides for the Service to lease state tidelands from the State Lands Commission in order to improve management of public access and recreational activities for the protection of snowy plover habitat.

4. Dependent on Sensitive Resources. Section 30240 of the Coastal Act identifies two tests for activities within an ESHA. The first test is that the proposed activity must be dependent on the sensitive resource. On a general level, the plan provides for the management and protection of the Refuge resources including sensitive dunes, wetlands, riparian areas, and endangered/threatened species habitat. Obviously, a plan to manage and protect sensitive resources is dependent on those resources and is consistent with the first requirement of Section 30240 of the Coastal Act. In addition, most of the management activities are for the purposes of protecting, managing, and enhancing ESHAs. Specifically, the following new and existing activities are for the management of ESHAs: mammalian predator management; fire management; vegetation management; species monitoring; access improvements; avian predator management; controlled burns; habitat assessments; and State Lands Commission lease. Since the Service intends to conduct these activities for the purpose of protecting and managing sensitive resources on its property, these activities are also dependent on the sensitive resources.

The only activities described within the plan that are not clearly dependent on the sensitive resources of the ESHAs are hunting and fishing. However, these are existing activities that the plan restricts in order to protect habitat resources. In its plan, the Service proposes to reduce hunting in order to protect roosting California brown pelicans. An objection to this consistency determination would result in hunting continuing at its current level. Therefore, the proposed restriction on hunting protects the sensitive resources, and thus is dependent on the resources.

5. Avoid Significant Disruptions. In addition to the resource dependency test, Section 30240 also requires that all activities in an ESHA avoid significant disruption to the ESHA. As described above the primary purpose of the plan for the Refuge is to protect, manage, and enhance the habitats within the Refuge. Although the plan allows for recreational activities, it provides for their management in order to minimize impacts to sensitive habitat areas.

Most of the habitat management activities described in the plan will directly or indirectly improve the Service's ability to manage the sensitive resources. Specifically, the Service proposes to continue with its existing exotic vegetation management activities and proposes to add the use of controlled burns as another technique to manage exotic vegetation. The plan requires the Service to conduct these vegetation management activities in a manner that will minimize impacts to other sensitive resources. For example, the Service will not conduct vegetation removal activities within snowy plover habitat during the nesting season. Despite the Service's efforts to minimize impacts associated with vegetation management, this activity is likely to have some effects on sensitive resources. However, the long-term advantage of removing exotics and allowing native vegetation to thrive is much greater than the short-term effects from the vegetation removal activities. Therefore, this management activity will avoid significant disruptions to the ESHAs.

Other habitat management activities described in the plan include habitat monitoring and assessments. These are scientific studies aimed at providing more information about the habitats and species within the Refuge and will not disrupt the sensitive resources. In addition, the management plan provides for continued implementation of the mammalian predators, mainly the non-native red fox. As stated above, this plan was previously reviewed and approved by the Commission. This program has substantially reduced red fox predation of snowy plover eggs, chicks, and adults. The removal of mammalian predators increases human presence within the snowy plover nesting area and may result in adverse effects on the plovers. However, the predator removal program is implemented in consultation with plover biologists and conducted in a manner that avoids impacts to the nesting plovers. In addition, the long-term benefits to the plover from removal of red foxes far more significant than the residual impacts from the removal activities.

a. Avian Predator Management. In its conservation plan, the Service proposes to expand its predator management program to include management of avian predators, which in recent years have been responsible for significant impacts to plovers. During the 1999-nesting season, none of the chicks hatched within the refuge

fledged.² In the 1999 monitoring report, the plover monitors attribute the low fledging rate at the Refuge, and in southern Monterey Bay generally, to avian predators. In that report, the monitors state that:

American Kestrels were suspected of being the cause of the low chick fledging rates on the Marina and Martin beach sections. Kestrels were present in these areas on many occasions and were observed hovering near broods on the lower beach and in the foredunes. We believe the kestrels nested on the Lonestar property, successfully fledged chicks, and then dispersed into adjacent areas.

Shrikes were strongly suspected of taking the chicks from a nest in the Jetty to Beach Road area as one was seen in the vicinity of an empty nest about the times the eggs were scheduled to hatch. We also believe shrikes were responsible for the low chick fledging rate in this area in 1999....

*Northern Harriers were suspected of lowering plover fledging success at the salt ponds during the latter part of the 1999 nesting season. From 22 May to 19 July, 71.9% of 64 chicks fledged from 24 broods. And during this 59-day period harriers were seen hunting in the ponds on only 5 days. From 20 July to 7 September, only 32.3% of 62 chicks from 24 broods fledged. Over this 50-day period harriers were observed hunting on 24 days. **Harriers may have also contributed to the failure of nesting birds on the Salinas River NWR [National Wildlife Refuge].***

...

On the North Beaches of Monterey Bay clutch-hatching success exceeded 70 % for the first time sine our Bay-wide monitoring commenced in 1984.... However, the 14% chick-fledging rate was the lowest rate recorded to date.... On the South Beaches [including the Refuge] of Monterey Bay the clutch hatching rate was over 70% but the 14% chick-fledging rate was also the lowest recorded to date....³ (emphasis added)

Issues with avian predators continued during the 2000-breeding season. However, the Service, along with other Monterey Bay land managers and in cooperation with the Santa Cruz Predatory Bird Research Group (SCPBRG), experimented with avian

² Nesting of Snowy Plovers at Monterey Bay and Pocket Beaches of Northern Santa Cruz County, California in 1999, Page, et al., November 1999, p.5.

³ Ibid., pp. 6-9

predator controls, which resulted in improved breeding success. Specifically, the plover-fledging rate was up to 27-28 % during the 2000-breeding season.⁴ In 2000, the Point Reyes Bird Observatory (PRBO) studied the effect of harriers and other diurnal avian predators on chick-fledging success at the Fish and Game Wildlife Preserve (Salt Ponds) adjacent to Elkhorn Slough, Monterey County. Based on these observations, the PRBO concluded that during the 2000 plover-breeding season "the median chick loss rate was 2.3 times greater on raptor than non-raptor days."⁵ (A raptor-day is defined as days during which the monitors identified a raptor foraging within the vicinity of a plover nesting area.) In the 2000-breeding season monitoring report, the PRBO described raptor activities at the Refuge as follows:

SCPBRG removed nesting harriers from the Salinas River National Wildlife Refuge in 2000 so we could look for a response in the chick fledging rate, which has been relatively low at the refuge for the past 3 years. Although we had planned to remove one pair of nesting harriers in 2000, one male nested with three different females (SCPBRG 2000). Although two of the females were captured and moved to other locations, harriers were present at the refuge throughout the plover nesting season. The 2000 chick fledging rate of 27.8% was greater than the 0.0% rate in 1999, but still relatively low compared to the past.... Chick fledging rate has fallen below the 40% level during the past 4 years (including 2000....) Harriers have been observed at the refuge during at least the last four breeding seasons and have nested there every year since at least 1998.⁶

Based on the information in these monitoring reports and other observations, the Service developed an avian predator management plan. The purpose of this plan is to reduce avian predation of snowy plover eggs, chicks, and adults. The management plan provides for expanding plover monitoring to include avian predators on the Refuge and adjacent lands. If, based on the monitoring, the Service determines that an individual predator poses a threat to snowy plovers at the Refuge, the predator will be trapped, banded and relocated. The Service will select a relocation site that provides appropriate habitat for the avian predator and is of sufficient distance from the Refuge to reduce the possibility that the predator will return to the Refuge. The plan also provides for hazing and lethal measures for control of these predators. Specifically, the plan states that:

⁴ Nesting of Snowy Plovers at Monterey Bay and Pocket Beaches of Northern Santa Cruz County, California in 2000, Page, et al., January 2000, p.7.

⁵ Ibid. p. 9

⁶ Ibid. p. 10

Hazing or lethal control will only be use on extremely rare occasions when it is demonstrably necessary, for example, when repeated trapping attempts have failed and there is an immediate threat to snowy plover chicks. The decision to lethally remove an avian predator will be determined on a case-by-case basis, and will be based on the degree of threat, the breeding phase of the snowy plovers, and professional judgement of the situation and knowledge regarding the species involved. Lethal methods may include euthanasia and shooting, and will be implemented as humanely and selectively as possible.⁷

Finally, the plan provides for continued research into other methods for avian predator management that would protect the plover and permit these predators to remain on the refuge.

In evaluating the proposed avian predator management plan, the Commission must determine if it would result in significant disruptions to sensitive resources. Clearly, the plan will provide added protection to the plovers and will likely increase nesting success. The Service can remove these predators with little disturbance to the plovers. Thus, the Commission can conclude that the plan will not significantly disrupt plover habitat. However, many avian predators are also sensitive species and the proposed plan may have adverse effects on these predators. In its plan, the Service targets loggerhead shrikes, northern harriers, and American kestrels as the primary species responsible for plover predation. Both the shrike and harrier are on the State of California's list of Species of Special Concern. In addition, there are several other sensitive species that could be affected by the proposed plan, including the Peregrine falcon (State Endangered), white-tailed kite (State Fully Protected Species), and the burrowing owl (State Species of Special Concern). In other words, the habitat that supports these sensitive species is also an ESHA. The trapping, relocation, and possible lethal removal would disrupt these sensitive avian predators.

Therefore, the proposed predator management plan places the Commission in a position of determining which ESHA to protect at the expense of the other ESHA. In this case, the long-term benefits to plover protection outweigh relatively short-term effects to the avian predators. As described above, avian predation has had a significant effect on plover breeding success in the last few years, with no plovers fledging in 1999. Without some management of the avian predation, the Service believes that it is possible that the plovers will stop breeding on the refuge or that the refuge would become a plover sink (i.e., an area where mortality exceeds reproduction). On the other hand, the proposed avian management activities are not likely to

⁷ Salinas River National Wildlife Refuge draft Comprehensive Conservation Plan, Appendix H, Avian Predator Management plan, section VIII.

significantly affect the population, reproduction, or behavior of the avian predators. The management plan relies mostly on monitoring, capture, and relocation of these predators. These components of the plan will not significantly disrupt the sensitive predators. Although trapping and banding results in short-term disturbances to the individuals captured, the effect on the bird will dissipate after the predatory birds are released. In addition, the birds will be released in areas that provide suitable habitat for the species. Thus these activities will not substantially disrupt the avian predators. However, the predator management plan allows for lethal measures if capture and relocation are not successful. An extensive lethal program would adversely affect the sensitive avian predators and would not be consistent with Section 30240 of the Coastal Act. In this case, lethal measures are the last option when other methods have failed to prevent predation and the responsible individual continues to prey on plovers. The SCPBRG has successfully trapped and relocated predatory birds in other locations without requiring any lethal control techniques. For example, the SCPBRG has been managing predatory birds at the plover colonies on Vandenberg Air Force Base for several years and it has not used any lethal measures. In addition, the SCPBRG has successfully trapped and relocated golden eagles on Santa Cruz Island without using any lethal measures. Finally, since 1999, the SCPBRG has implemented predatory bird management in the Monterey Bay area without the use of any lethal measures. In other words, lethal management measures are necessary as a final option, but it is unlikely that they will be used very often. In addition, the significance of the potential impact from lethal measures is lessened when put in the context of predatory bird behavior at the Refuge. The Service estimates that its management of predatory birds will affect two to six birds per year. Since it will rely almost exclusively on non-lethal measures, the ecological and biological effects from lethal actions will be minimal. In its predatory bird management plan, the Service describes the impacts and benefits from the program as follows:

The predator management program will result in small, localized reductions in populations of some native avian predator species around the Refuge. In most years, an estimated 2--6 birds will be affected and impacts on individual birds will be minimized by the use of humane and selective techniques. Nonlethal methods will be used almost exclusively. Avian predators will be trapped and released into suitable habitat elsewhere. Populations of avian predators using grassland and riparian habitats will not be affected. The program proposes to remove only avian predators using the beach or salt pan areas, where snowy plovers nest.

Without effective predator management, large losses of chicks and adults of the western snowy plover will continue to threaten the recovery of this listed species. With predator management, including avian predator management, the Refuge snowy plover population is expected, at a

minimum to sustain its current size of approximately 35 breeding adults, and ideally to increase to 40 breeding adults. Snowy plover reproductive success is expected to increase to 1.0 fledglings per male per year.⁸

It is difficult to provide for the protection of one sensitive species at the expense of another. However, the effects from predator management on predatory birds are not significant, even though the management actions provide for lethal removal as an option if other methods fail. Based on past successes from similar programs, it is likely that the Service will successfully trap and relocate birds that threaten plovers. Even though the Service does not expect to use lethal actions regularly, it is a management option that is necessary for the protection of the plovers. In most cases, one or two individual predators are responsible for significant impacts to plover breeding success. If those individuals cannot be trapped or if they consistently return to the breeding site, the damage to the plovers would be significant. However, the lethal removal of one or two individuals will not significantly affect the predatory bird species. Therefore, the Commission finds that the proposed avian predator management plan will not significantly disrupt the predatory birds and will avoid significant disruptions to the plover.

6. Conclusion. The proposed management plan provides for the protection and management of ESHAs within the Refuge. The activities described plan provide for the protection of ESHA from other activities such as public access, hunting, and fishing. The plan also provides for the enhancement of ESHAs by allowing for habitat assessments and monitoring, management of exotic vegetation, and control of predators. Because these activities manage and protect the ESHAs, they are dependent on the sensitive resources. In addition, the activities described in the plan will not significantly disrupt the ESHAs. With respect to the avian predator management plan, there may be adverse effects to sensitive species, but the program relies mainly on capture and relocation of suspected plover predators and will provide substantial protection to the threatened snowy plover. Therefore, the avian predator plan will not significantly disrupt the ESHA. In conclusion, the Commission finds that the proposed project is consistent with the Section 30240 of the Coastal Act, and thus the ESHA policy of the CCMP.

B. Access and Recreational Resources. Section 30210 of the Coastal Act provides that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent

⁸ Draft Comprehensive Conservation Plan, Appendix H, Section X.

with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

In addition, Section 30214 provides, in part, that:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

...

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area....

Finally, Section 30223 provides that:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

In its Comprehensive Conservation Plan, the Service provides for limited public access and recreational opportunities within the Refuge. Specifically, the plan provides for maintaining almost all of the existing recreational and access opportunities that currently exists on the Refuge. The existing and proposed recreational activities include hiking and wildlife viewing, beach access, surf fishing, and hunting. The plan provides for maintaining the existing access and recreational opportunities and improvements to the facilities that support access. These improvements include the installation of interpretive signs, development of educational material, construction of an orientation kiosk, construction of a wheelchair accessible trail along the river, and surfacing the existing parking area. Most of these improvements will enhance the educational experience for visitors and provide the public with a better understanding of the Refuge and the resources within it. The proposed parking improvements will increase the available parking, and thus improve accessibility of the Refuge, especially during the rainy season. All of the access and educational improvements described in the plan will enhance the recreational experience of visitors to the Refuge, and therefore are consistent with the access and recreational policies of the CCMP.

However, the plan provides for some access and recreational restrictions in order to protect sensitive resources. These restrictions include limiting public access to

designated trails and beach area, the use of exclosures and symbolic fencing to restrict access to sensitive habitats (e.g. coastal dunes and snowy plover nesting areas), seasonal restrictions during snowy plover nesting periods, and a reduction in the area available for hunting (necessary to protect a California brown pelican roosting area). The plan also provides for increased Service presence and enforcement within the Refuge. As described above, the primary purpose of the Refuge is to protect sensitive habitat areas and wildlife. The Service allows consumptive (hunting and fishing) and non-consumptive (wildlife viewing, hiking, and photography) on the Refuge only to the degree that these activities do not adversely affect the sensitive resources on the Refuge. This philosophy and the restrictions that implement it are consistent with the Coastal Act policies that allow restrictions to public access in order to protect sensitive resources. The Service's plan provides for full protection of all sensitive resources and allows public access and recreational use in a manner that does not conflict with its habitat protection mission.

Despite the access provisions in the plan, the Commission is concerned about the plan's effect on the California Coastal Trail. The state legislature has recently mandated the State Coastal Conservancy, in consultation with the Commission, the Department of Parks and Recreation, and California Conservation Corps, to plan for and implement California Coastal Trail, which will parallel the coast from the Oregon to the Mexican border. The trail plan is actively being developed, no alignments have been selected, but the final report is due January 2003. Although the State has not selected an alignment through the Refuge, the Commission is concerned that the proposed Comprehensive Conservation Plan will affect the state's ability to designate a trail through the Refuge. The plan provides for leasing subtidal areas from the State Lands Commission in order to improve protection of sensitive resources. The lease may allow the Service to restrict access, and thus interfere with the use of the California Coastal Trail. In addition, although it is likely that the state will designate the beach as the alignment of the coastal trail, there will need to be an alternate route through the Refuge during the snowy plover nesting season and when the beach is too narrow for lateral access. Since the state is still in the initial planning stages for the trail and has not designated any main or alternate routes, it would be inappropriate for the Commission to require the Service to identify the California Coastal Trail through the Refuge in this plan. However, the Service has modified its plan to recognize the California Coastal Trail planning effort and to work with the appropriate parties to designate trail routes through the Refuge consistent with primary habitat management goals of the Refuge.

In conclusion, the Commission finds that the proposed Comprehensive Conservation Plan for the Salinas River National Wildlife Refuge will provide for recreational opportunities in manner that protects sensitive habitat and natural resources. These restrictions are consistent with Coastal Act policies that allow limitation of access and

recreation in order to protect sensitive resources. Finally, the plan recognizes the California Coastal Trail and the Service has committed to coordinate with trail planners to identify routes through the Refuge that will protect its habitat values. Therefore, the Commission finds that the proposed plan is consistent with Coastal Act sections 30210, 30214, and 30223, and thus is consistent with the access and recreation policies of the CCMP.

C. Water Quality Resources. Section 30231 of the Coastal Act provides that:

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 ground water 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.

The proposed plan generally provides for the protection and enhancement of natural vegetation and habitats, which will protect water quality resources in the area. However, the plan provides for the surfacing of a dirt parking area and the construction of a kiosk. These construction activities and the possible increase in impervious surfaces may increase non-point source pollution in the area. In its plan, the Service states that it will develop a storm water pollution prevention plan to minimize this impact. However, at this planning phase, it is premature for the Service to have developed all the necessary construction and mitigation plans. Therefore, as described in the **Future Consistency Review** section below, the surfacing of the parking area and the construction of a kiosk will require future consistency review. When these activities are presented to the Commission, it will be able fully evaluate their water quality impacts. At this planning stage, however, the Service has made the appropriate commitments to protect water quality resources and to return to the Commission for future consistency review. Therefore, the Commission finds that the proposed plan is consistent with Section 30231 of the Coastal Act, and thus consistent with the water quality policy of the CCMP.

D. Stream Alteration. Section 30236 of the Coastal Act provides that:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to

protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat

The Monterey County Water Resources Agency regularly breaches the Salinas River sand bar in order to prevent flooding of upstream agricultural areas. These breaching activities have the potential to adversely affect habitat within the Salinas River estuary and adjacent wetland and riparian areas. The Commission staff is currently working with the Water Agency on an application for a five-year permit for the plan. The plan is ambiguous with respect to the river breaching activities, because the Service does not believe that the activities occur within the Refuge. This conclusion is supported by California Department of Parks and Recreation and the Water Agency, who believe that the breaching occurs on State Park land immediately south of the Refuge. In addition, the Service does not require a special use permit for the breaching, which it would require if it occurred within the Refuge. Because the Service, under its authority to plan for and manage resources of the Refuge (as opposed to its independent authority under the federal Endangered Species Act and the federal Fish and Wildlife Coordination Act), does not have the ability to permit or control the breaching, the proposed plan does not provide for management of this activity.

The Commission, however, is concerned that in the future, the breaching may occur within the Refuge and that the state's regulatory authority may be affected by the activity occurring on federal land. The proposed lease of state lands or southern movement of the river mouth may change the location of the breaching such that it would occur on federal land. In order to address this concern, the Service has modified its plan to clearly state that the breaching does not occur on the Refuge and that the plan does not provide for the activity to occur within the Refuge. The Service has also stated that if the breaching were to occur on the Refuge, it would require a special use permit. In addition, the Commission will continue to have permit jurisdiction for the activity even if it is on federal land and the federal special use permit would be subject to the consistency requirements of the CZMA. Therefore, the Commission finds that the plan does not provide for any stream alterations that must be evaluated for consistency with Section 30236 of the Coastal Act.

VII. Future Consistency Review

Section 930.36(d) of the regulations implementing the federal Coastal Zone Management Act (CZMA) provide that:

In cases where the Federal agency has sufficient information to determine the consistency of a proposed development project or other activity from planning to completion, the Federal agency shall provide the State agency with one consistency determination for the entire activity or development project. In cases where federal decisions related to a proposed

development project or other activity will be made in phases based upon developing information that was not available at the time of the original consistency determination, with each subsequent phase subject to Federal agency discretion to implement alternative decisions based upon such information (e.g., planning, siting, and design decisions), a consistency determination will be required for each major decision. In cases of phased decisionmaking, Federal agencies shall ensure that the development project or other activity continues to be consistent to the maximum extent practicable with the management program.⁹

In addition, the draft Comprehensive Conservation Plan for the Refuge provides that:

Full implementation of all components of this [Comprehensive Conservation Plan] will require compliance with:

...

Coastal Zone Management Act of 1972, as amended.¹⁰

One of the purposes of the Commission's review of management plans is to identify activities that will require additional consistency review as required by Section 930.36(d) of the regulations implementing the CZMA. In its review of the draft plan, the Commission finds that several of the activities identified in the plan will require phased consistency review. As described above, the proposed parking area surfacing and entrance kiosk may affect water quality resources of the coastal zone. In addition, these activities may also affect habitat resources and recreational and public access uses of the coastal zone. In addition, the proposed lease of state lands may affect public access, recreational uses, and habitat resources of the coastal zone. Therefore, the Commission finds that the parking area surfacing, kiosk, and state lands lease will require future consistency review pursuant to Section 930.36(d) of the CZMA regulations. In addition, some of the interpretive improvements, habitat restoration, wheelchair accessible trail, and vegetation management activities may also affect coastal resources. However, at this phase the Commission cannot determine whether they will trigger future consistency review. Therefore, the Commission recommends that the Service, in order to meet its CZMA obligations, thoroughly review these activities for effects on coastal resources and uses and if necessary submits a consistency or negative determination.

⁹ 15 CFR §930.36(d)

¹⁰ Comprehensive Conservation Plan, p. 92.

VIII. SUBSTANTIVE FILE DOCUMENTS

1. CD-61-93, U.S. Fish and Wildlife Service Predator Management, Salinas River National Wildlife Refuge
2. Salinas River National Wildlife Refuge Draft Comprehensive Conservation Plan and Environmental Assessment.
3. Nesting of Snowy Plovers at Monterey Bay and Pocket Beaches of Northern Santa Cruz County, California in 1999, Gary W. Page, Jane C. Warriner, John S. Warriner, Douglas George, Kris Neuman, Carleton Eyster, David Dixon, Laird Henkel, and Lynne E. Stenzel, November 1999.
4. Nesting of Snowy Plovers at Monterey Bay and Pocket Beaches of Northern Santa Cruz County, California in 2000, Gary W. Page, Jane C. Warriner, John S. Warriner, Douglas George, Kris Neuman, Carleton Eyster, David Dixon, Laird Henkel, and Lynne E. Stenzel, January 2001.

Figure 1. Location Map

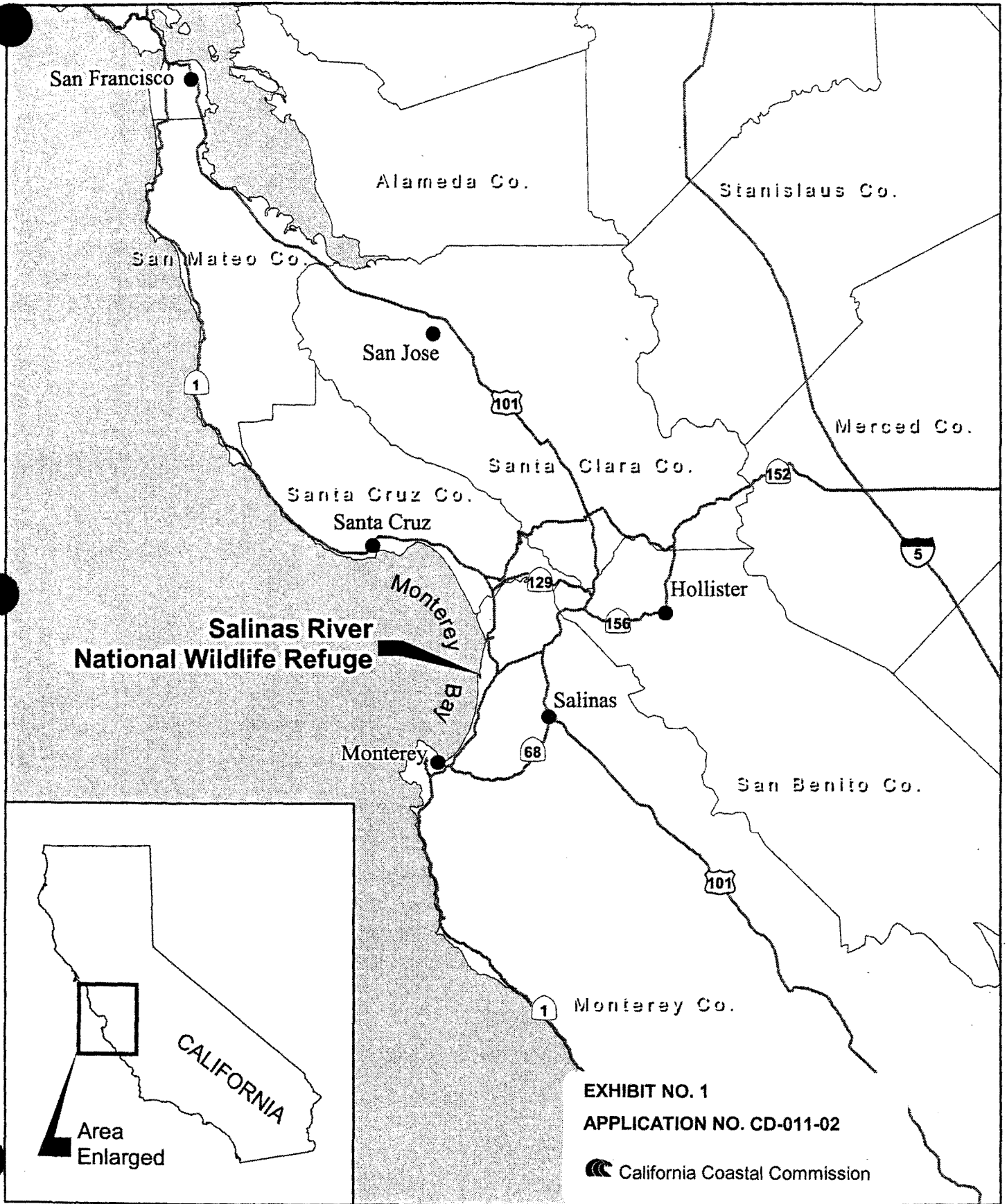


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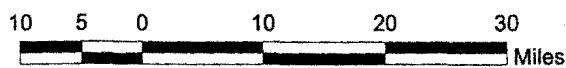
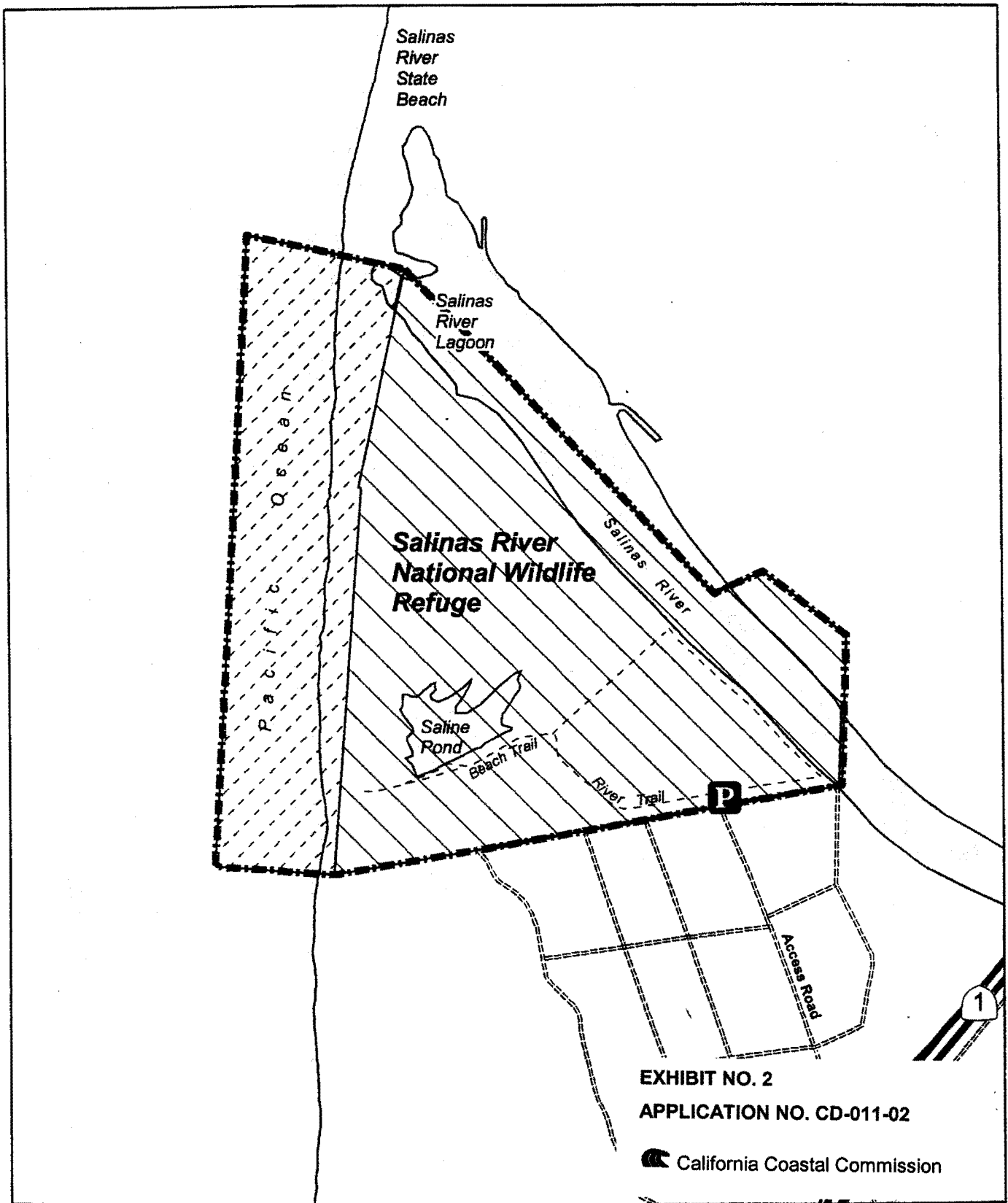
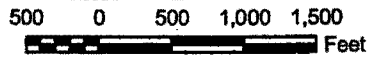


Figure 2. Refuge Map



CA/NV Refuge Planning Office - July 2001



- Approved Refuge Boundary
- FWS Lands
- State Lands
- Sand Dunes
- Parking Lot

Table 3. Summary comparison of proposed alternatives (continued).

Topic	Alternative 1: No Action	Alternative 2: Reduce Public Use, Improve and Expand Resource Management	Alternative 3: Improve Public Use and Resource Management (Proposed Action)	Alternative 4: Expand and Improve Public Use and Resource Management
Public Use (Goal 3)				
Hunting	Continue to provide waterfowl hunting opportunities in fall on approximately 45 acres (3,600 linear feet) along the Salinas River	Prohibit hunting on the Refuge	Provide waterfowl hunting opportunities in fall on approximately 38 acres (2,800 linear feet) along the Salinas River (reduce by approximately 800 linear feet)	Same as Alternative 3, but improve hunting experience by building 4 hunting blinds
Surf Fishing	Allow access to surf fishing opportunities on State tidelands through Refuge	Prohibit access to surf fishing through Refuge	Same as Alternative 1	Same as Alternative 1
Wildlife Observation and Photography	Provide wildlife observation and photography opportunities within designated areas	Except on beach, allow wildlife observation and photography only through tours guided by Service staff	Same as Alternative 1, but improved by addition of interpretive signs	Same as Alternative 3
Environmental Education and Interpretation	No formal opportunities	Allow environmental education and interpretation only through tours guided by Service staff, conduct cultural resources inventory	Install interpretive signs along trails, develop educational materials, conduct cultural resources inventory	Same as Alternative 3
Facilities/ Trails	No new facilities or trails	Same as Alternative 1	Build/install: ■ Orientation kiosk ■ Improved surface in parking lot	Build/install: ■ 4 hunting blinds ■ Orientation kiosk ■ Wheelchair-accessible boardwalk from parking lot to beach ■ Wheelchair-accessible trail to Salinas River ■ Restroom ■ Emergency phone ■ Improved surface in parking lot and on access road
Public Use Enforcement	Continue with current levels: infrequent visits by Service staff	Increase current levels: frequent visits by Service staff	Increase current levels: visits by Service staff at moderate frequency	Increase current levels: Service staff always present during daylight hours
Staffing and Cost				
Staffing Needs*	Continue current staffing: ■ Part-time Refuge Manager ■ Part-time Refuge Biologist	Increase staff to: ■ Full-time Refuge Manager ■ Full-time Refuge Biologist ■ Full-time Biological Science Technician	Increase staff to: ■ Full-time Refuge Manager ■ Full-time Refuge Biologist ■ Full-time Biological Science Technician ■ Full-time Park Ranger ■ Part-time Maintenance Worker	Increase staff to: ■ Full-time Refuge Manager ■ Full-time Environmental Education Specialist ■ Full-time Public Use Specialist ■ Full-time Park Ranger ■ Part-time Maintenance Worker
Staffing Location	Continue current staffing location out of Refuge Complex Headquarters in Fremont	Establish satellite Refuge office in Santa Cruz or Monterey County	Same as Alternative 2	Same as Alternative 2
Estimated Cost through 2015	Current funding: approximately \$125,000/year	Increased funding: approximately \$290,000/year	Increased funding: approximately \$325,000/year	Increased funding: approximately \$390,000/year

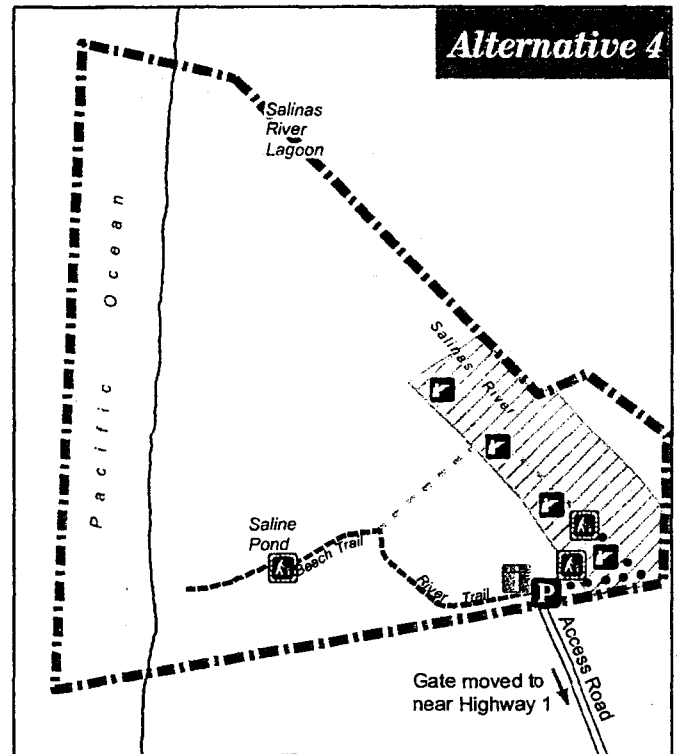
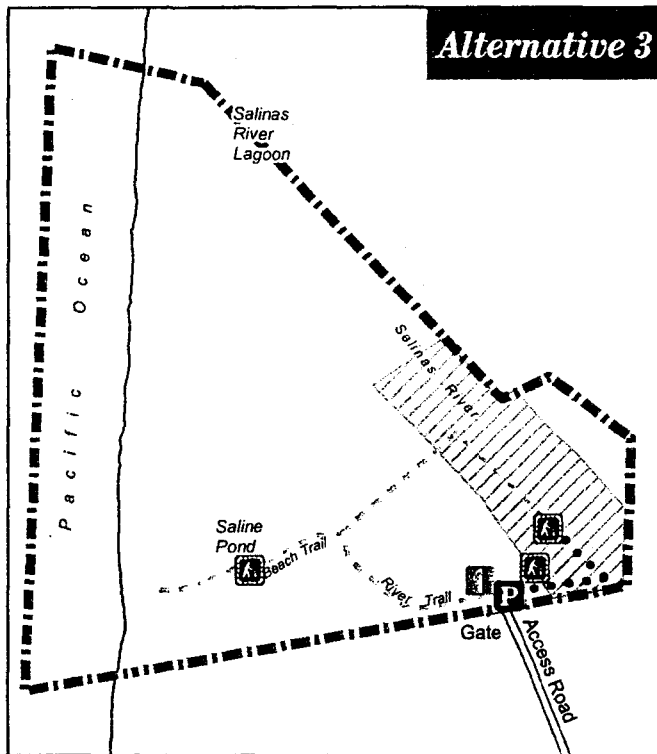
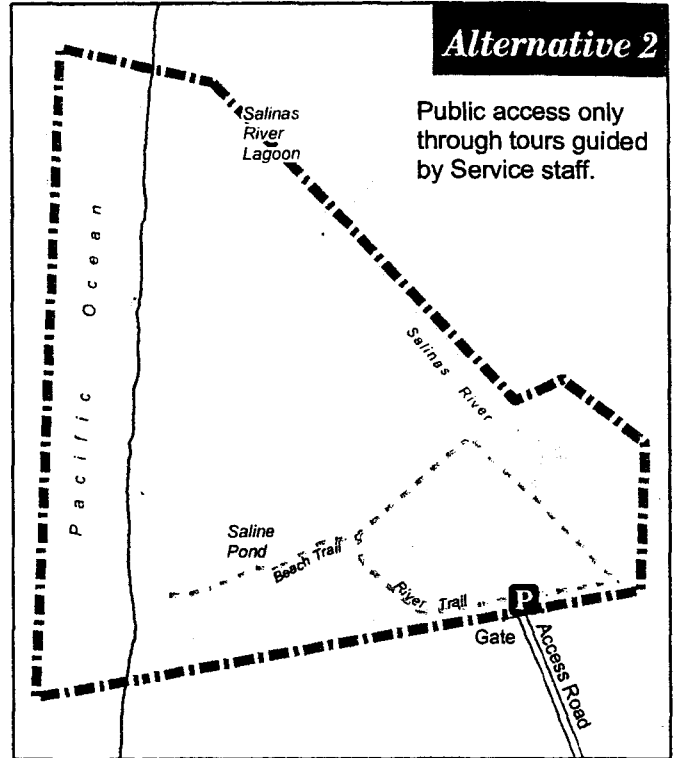
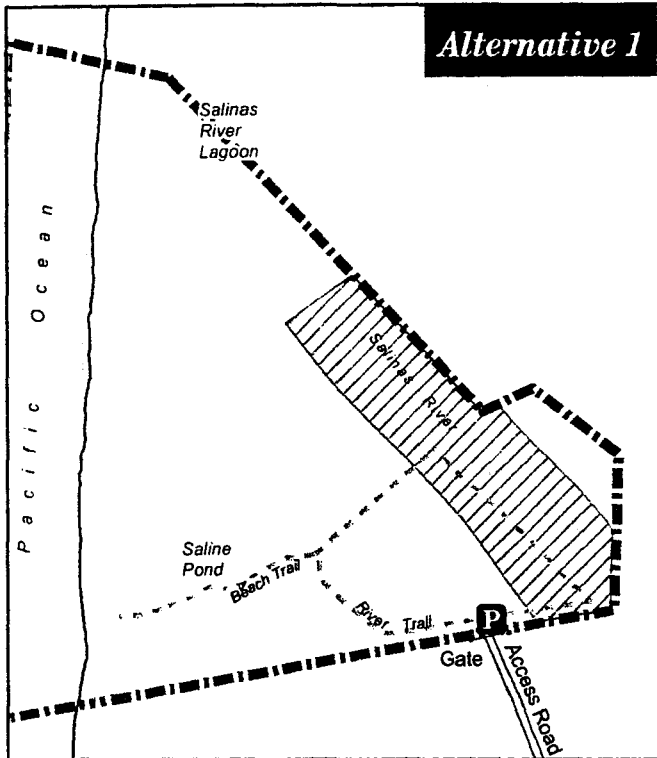
* Future staff will have responsibility for managing both of the Monterey Bay National Wildlife Refuges (Salinas River NWR and Ellicott Slough NWR).

Table 3. Summary comparison of proposed alternatives.

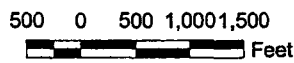
Topic	Alternative 1: No Action	Alternative 2: Reduce Public Use, Improve and Expand Resource Management	Alternative 3: Improve Public Use and Resource Management (Proposed Action)	Alternative 4: Expand and Improve Public Use and Resource Management
Overview				
Refuge Focus	Remains the same: managing wildlife and providing limited but unique recreational opportunities compatible with wildlife preservation	Changes: exclusive focus on protecting and enhancing natural resources	Same as Alternative 1	Same as Alternative 1
Summary of Management Changes	<ul style="list-style-type: none"> ■ Continue current management and public use without change 	<ul style="list-style-type: none"> ■ Close Refuge to public use except for guided tours by Service staff for nonconsumptive uses ■ Expand and improve management programs for endangered species and native habitats 	<ul style="list-style-type: none"> ■ Improve existing public use through construction of interpretive signs on existing trails ■ Improve current management through inventories, monitoring, and increased protection of threatened and endangered species 	<ul style="list-style-type: none"> ■ Increase amount and quality of public use by building facilities and interpretive signs on existing trails ■ Expand and improve management programs for endangered species and native habitats to minimize and offset potential effects of increased public use
Migratory Bird and Native Species' Habitat Management (Goal 1)				
Inventories and Management Tools Used	<ul style="list-style-type: none"> ■ Continue habitat management without change ■ Continue use of current management tool: grassland mowing 	<ul style="list-style-type: none"> ■ Conduct comprehensive inventory of species on Refuge ■ Expand management tools to include: prescribed burning of grassland 	Same as Alternative 2	Same as Alternative 2
Endangered Species Management (Goal 2)				
Protection of Populations of Endangered, Threatened, and Rare Species	<ul style="list-style-type: none"> ■ Continue habitat management and use restrictions without change ■ Do not implement new programs ■ Do not expand existing programs ■ Limit inventories to a few special-status species such as western snowy plover and Smith's blue butterfly ■ Coordinate management of plover with other groups ■ Continue mammalian predator management 	<ul style="list-style-type: none"> ■ Fence Refuge to prevent any unguided access in or near nesting habitat ■ Move closed area signs from current locations to Refuge boundary ■ Increase enforcement patrols ■ Continue monitoring of breeding and wintering plover populations in partnership with Point Reyes Bird Observatory ■ Add translocation of avian predators to predator management program ■ Evaluate and prioritize management of special-status species on Refuge ■ Preserve and enhance populations of priority special-status species ■ Substantially expand special-status species and habitat inventories and monitoring ■ Establish GIS database 	<ul style="list-style-type: none"> ■ Restrict access to nesting habitat and protect individual nests by using improved signs and symbolic fencing ■ Continue monitoring of breeding and wintering plover populations in partnership with Point Reyes Bird Observatory ■ Improve interpretation through docent program and displays ■ Increase enforcement of closed areas during nesting season ■ Add translocation of avian predators to predator management program ■ Expand species and habitat inventories and monitoring ■ Establish GIS database 	<ul style="list-style-type: none"> ■ Restrict access to nesting habitat through improved signs ■ Continue monitoring of breeding and wintering plover populations in partnership with Point Reyes Bird Observatory ■ Improve interpretation through large docent program and displays ■ Substantially increase enforcement of closed areas during nesting season ■ Add translocation of avian predators to predator management program

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Figure 5. Proposed Public Use Alternatives



CA/NV Refuge Planning Office - July 2001



- Approved Refuge Boundary
- Hunt Area (seasonal)
- New Hunting Blinds
- Orientation Kiosk
- Handicap Accessible Trail
- Parking Lot
- Interpretive Signs
- Handicap Accessible Boardwalk
- Existing Trails

EXHIBIT NO. 4

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Table C-2. Special-status species on the Refuge.

Common and Scientific Name	Legal Status ^a		Occurrence at Salinas River NWR
	Federal/State/CNPS		
Plants			
Sandmat manzanita <i>Arctostaphylos pumila</i>	SC/-1B		Not reported to occur at the Refuge but suitable habitat present.
Monterey spineflower <i>Chorizanthe pungens</i> var. <i>pungens</i>	T/-1B		Occurs on the Refuge; suitable habitat abundant on dunes and species also occurs nearby.
Robust spineflower <i>Chorizanthe robusta</i> var. <i>robusta</i>	E/-1B		No populations known to occur at the Refuge; occurs in dunes immediately north and south of Refuge.
Seaside bird's-beak <i>Cordylanthus rigidus</i> ssp. <i>littoralis</i>	SC/E/1B		Not reported to occur at the Refuge; suitable habitat present.
Eastwood's goldenbush <i>Ericameria fasciculata</i>	SC/-1B		Not reported to occur at the Refuge; suitable habitat present.
Coast wallflower <i>Erysimum amophilum</i>	SC/-1B		Not reported to occur at the Refuge; suitable habitat present.
Menzies' wallflower <i>Erysimum menziesii</i> ssp. <i>menziesii</i>	E/E/1B		Probably occurred historically at the Refuge; no populations currently known from the site.
Yadon's wallflower <i>Erysimum menziesii</i> ssp. <i>yadonii</i>	E/E/1B		A population of this species was located on the Refuge in the 1970s, but was likely extirpated in 1980 by natural disturbance of the central foredune community.
Monterey gilia <i>Gilia tenuiflora</i> ssp. <i>arenaria</i>	E/T/1B		Occurs on the Refuge and at Salinas River State Beach north of the Refuge.
Tidestrom's lupine <i>Lupinus tidestromii</i>	E/E/1B		Not reported to occur at the Refuge; suitable habitat present.
Wildlife			
Globose dune beetle <i>Coelus globosus</i>	SC/-		Not reported to occur at the Refuge; suitable habitat present.
California brackish water snail <i>Tryonia imitator</i>	SC/-		No known occurrences at the Refuge; several occurrences have been reported in sloughs in the vicinity of the Refuge.
Smith's blue butterfly <i>Euphilotes</i> (= <i>Shijimasoides</i>) <i>enoptes smithi</i>	E/-		Occurs at the Refuge.
Southwestern pond turtle <i>Clemmys marmorata pallida</i>	SC/SSC, FP		No known occurrences at the Refuge; occurrences have been reported in the vicinity.
Black California legless lizard <i>Ameiella pulchra nigra</i>	SC/SSC, FP		Occurs at the Refuge in the central foredune and central dune scrub communities.
Steelhead <i>Oncorhynchus mykiss</i>	T/-		Collected in Salinas River Lagoon in 1963 and 1991. Small numbers likely occur at the Refuge.
Common loon <i>Gavia immer</i>	-/SSC		Often forages in the Salinas River Lagoon during winter migration.
American white pelican <i>Pelecanus erythrorhynchos</i>	-/SSC		A small flock often forages and roosts in the Salinas River Lagoon from July through March.
California brown pelican <i>Pelecanus occidentalis</i>	E/E		Occurs year-round at the Refuge; most common between April and October.
Double-crested cormorant <i>Phalacrocorax auritus</i>	-/SSC		Roosts and forages around the Salinas River Lagoon.
White-faced ibis <i>Plegadis chihi</i>	SC/SSC		Has been observed at the Refuge during fall and winter migrations.
Osprey <i>Pandion haliaetus</i>	-/SSC		Often forages at the Refuge during fall and spring migrations.
White-tailed kite <i>Elanus leucurus</i>	-/FP		Often forages at the Refuge during winter; known to nest in the vicinity.

Table C-2. Special-status species on the Refuge.

Common and Scientific Name	Legal Status ^a	
	Federal/State/CNPS	Occurrence at Salinas River NWR
Bank swallow <i>Riparia riparia</i>	-/T	Rare spring and summer migrant through the Refuge.
Yellow-breasted chat <i>Icteria virens</i>	-/SSC	Rare spring and fall migrant in riparian scrub at the Refuge.
Tricolored blackbird <i>Agelaius tricolor</i>	SC/SSC	Occasionally forages at the Refuge.
Monterey ornate shrew <i>Sorex ornatus salarius</i>	SC/-	Suitable habitat occurs in the coastal brackish marsh and northern coastal salt marsh habitats at the Refuge.
Salinas harvest mouse <i>Reithrodontomys megalotis distichlis</i>	-/-	Reported from the mouth of the Salinas River in 1939, but has not been documented on the Refuge since then. Suitable habitat exists in the Refuge's coastal brackish marsh habitat.

^aStatus explanations:

Federal

- E = listed as endangered under the Federal Endangered Species Act.
- T = listed as threatened under the Federal Endangered Species Act.
- PE = proposed for listing as endangered under the Federal Endangered Species Act.
- PT = proposed for listing as threatened under the Federal Endangered Species Act.
- C = species for which the Service has sufficient information on file regarding biological vulnerability and threat(s) to support issuance of a proposed rule to list.
- SC = species of concern (species for which existing information may warrant listing but for which substantial biological information to support a proposed rule to list is lacking).
- = no listing.

State

- E = listed as endangered under the California Endangered Species Act.
- T = listed as threatened under the California Endangered Species Act.
- R = listed as rare under the California Native Plant Protection Act. (This category is no longer used for newly listed plants, but some plants previously listed as rare retain this designation.)
- C = species is a candidate for listing under the California Endangered Species Act.
- SSC = California State species of special concern.
- FP = species is fully protected in California under California Fish and Game Code Section 3511 (birds), 4700 (mammals), or 5050 (reptiles and amphibians).
- = no listing.

California Native Plant Society

- 1A = List 1A (species presumed extinct in California).
- 1B = List 1B (species rare, threatened, or endangered in California and elsewhere).
- 2 = List 2 (species rare, threatened, or endangered in California but more common elsewhere).
- 3 = List 3 (species about which more information is needed to determine their status).
- 4 = List 4 (species of limited distribution).
- = no listing.
- * = known populations believed extirpated from County where they were reported.
- ? = location of population within County uncertain.

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