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STAFF REPORT
CDP APPLICATION

Application Number:	**3-19-0894**
Applicants:	Monterey County Housing and Community Development and Big Sur Land Trust
Project Location:	A quarter-mile portion of Highway 1 just south of the Carmel River, 106.8-acres inland of the highway, and 21.6-acres seawards of the highway; a total project area of 133.5-acres just outside and south of the City of Carmel-by-the-Sea.
Project Description:	Restore historic Carmel River floodplain function (via removing Highway 1 roadbed fill, elevating Highway 1 on a new bridge, opening up approximately one-quarter mile of river levee, and restoring about 100 acres of the historic riparian corridor), create a 23-acre agricultural preserve, develop 2.5 miles of public access trails, and manage the site moving forward to facilitate habitat, access, agricultural, and related resources.
Staff Recommendation:	Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed 133.5-acre project site on the downcoast side of the Carmel River was historically an important part of the Carmel River floodplain, providing connectivity directly with the coastal and estuarine waters of the Carmel Lagoon. Hydrologic connectivity to and across the site was restricted in the early 1930's after levees were constructed along the river, and after Highway 1 was constructed on an elevated roadbed across the site. In part due to this artificial alternation river water flows, flooding events in recent decades that overtop the levees and highway embankment have caused severe and costly damage to development in the vicinity of the project site.

Starting in the 1990's, and in response to both these growing flood concerns and concerns about endemic fish population declines (including federally threatened steelhead), an ambitious plan to restore this portion of the lower Carmel River floodplain began to take shape.

The proposed Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) project is one result of that vision, and is designed to improve the natural and historic functions and values of the lower Carmel River and Carmel Lagoon through the hydraulic reconnection of the Carmel River, its southern floodplain, and the lagoon while addressing the long-standing problems of flood management and floodplain habitat loss within the lower Carmel River Basin. This would primarily be accomplished by creating 5 "notches" in the southern river levee inland of Highway 1, allowing floodwaters to enter the eastern portion of the site, and removing the Highway roadbed fill and elevating Highway 1 on a new 360-foot bridge, thus effectively reconnecting to the south arm of the Carmel River lagoon located just seaward of the highway that was restored in 1997. The floodplain restoration areas on both sides of the highway would be graded to create a series of low-elevation braided distributary channels, through which floodwaters will flow across the site, as well as multiple areas of high ground elevation "islands" intended to separate distributary channels, control flood, and provide dry refuge for wildlife during flood events. The project also includes habitat restoration intended to establish a mosaic of habitats across the site (including willow and cottonwood riparian forest, mixed riparian forest, coastal scrub, and grassland) that will provide a diverse array of habitats for birds and other wildlife. A suite of mitigation measures and BMPs designed to address coastal resource concerns will be implemented both during and after construction of the project.

In addition to these floodplain restoration efforts, the project would also include construction of over 2.5 miles of public access trails through and around the restored floodplain area that will connect to existing and future trails adjacent to the site. Specifically, the project site is in a 'hub' location of sorts as it relates to access and potential future access, and project trails would connect to other public accessways, including to the next-door Palo Corona Regional Park and, critically, to the seaward side of the highway via a crossing beneath the new bridge. Further, agricultural viability on the site will be maintained by raising a 23-acre portion of the inland portion of the site above the 100-year flood elevation to create a permanent agricultural preserve.

In short, the CRFREE project is intended to remedy historic flood problems and increase coastal hazards resiliency; restore a significant acreage of floodplain, riparian, and scrub habitats while also reconnecting to the lagoon; protect local agricultural operations; and provide significant new public recreation areas and connectivity. The proposed project is an important example of the ways in which projects can combine natural systems and resiliency benefits, and it represents a significant contribution towards enhancing the lower Carmel River watershed. Thus, staff recommends that the Commission approve a CDP with conditions, which will help refine certain details of the project proposal and ensure the project's overall consistency with the policies of the Coastal Act. The motion and resolution to effectuate this recommendation are found on **page 4** below.

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EXHIBITS

1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission* ***approve*** *Coastal Development Permit Number 3-19-0894 pursuant to the staff recommendation, and I recommend a* ***yes*** *vote.*

Resolution to Approve CDP: *The Commission hereby approves Coastal Development Permit Number 3-19-0894 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

2. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

3. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1) **Final Plans.**

   a) **Phase 1 Plans.** PRIOR TO COMMENCEMENT OF PHASE 1 CONSTRUCTION, the Permittee shall submit, for Executive Director review and written approval, two full-sized sets of Final Phase 1 Plans that substantially conform to the 60% Project Plans (dated November 18, 2016 – excerpts seen in **Exhibit 3**).

   b) **Phase 2 Plans.** PRIOR TO COMMENCEMENT OF PHASE 2 CONSTRUCTION, the Permittee shall submit, for Executive Director review and written approval, two full-sized sets of Final Project Plans for the CRFREE project that substantially conform to the 60% Project Plans (dated November 18, 2016 – excerpts seen in **Exhibit 3**).

   All requirements above and all requirements of the approved Final Plans shall be enforceable components of this CDP. The Permittee shall undertake development in conformance with this condition and the approved Final Plans.

2) **Final Restoration Plans.** PRIOR TO COMMENCEMENT OF PHASE ONE AND PHASE TWO OF CONSTRUCTION, the Permittee shall submit, for Executive Director review and written approval, two copies of Tier 1 and Tier 2 Restoration Plans applicable to the respective phase of construction. Such Plans shall be prepared by a qualified resource specialist with experience in floodplain and riparian restoration/enhancement, shall provide that all Plan activities (including documentation, monitoring, and assessment activities) shall be carried out and/or overseen (as applicable) by a qualified resource specialist; and shall account for the following:

   a) **Tier 1 Plans.** Revised Tier 1 Plans shall substantially conform to the proposed Tier 1 Plans (titled *Restoration and Management Plan for the Carmel River Floodplain Restoration and Environmental Enhancement Project,* prepared by H.T. Harvey & Associates, dated November 16, 2016) as revised per the *Rationale for Riparian Mitigation Metrics in Riparian Mitigation Areas Memorandum* (prepared by H.T. Harvey & Associates, dated April 7, 2022, and dated received in the Commission's Central Coast District Office on April 19, 2022), except that such Plans shall be modified to meet the following requirements:

      1) **Riparian Habitat.** Riparian habitat shall be created at a ratio of no less than 3:1 for permanent impacts to riparian forest and riparian scrub habitats, and active revegetation efforts associated with Tier 1 shall begin immediately following initial project construction.

      2) **As-Built Report.** Within 8 weeks of completion of Tier 1 activities associated with each phase of construction, an As-Built Report summarizing mitigation activities to date, as well as any other initial management actions, shall be

submitted to the Executive Director. The As-Built Reports shall include documentation of actual areal impacts and evidence of compliance with the 3:1 mitigation ratio, details on vegetation material sourcing, maps showing where revegetation has been initiated, maps of any temporary infrastructure installed, photos, and a description of consistency with all terms and conditions.

3) **Monitoring.** The Tier 1 Plan(s) shall provide that either a pre-construction condition or nearby site be established as a reference site to help measure Tier 1 performance. Monitoring of the Tier 1 areas and reference site (if applicable) occur annually for a period of no less than 5 years or at least 3 years following the cessation of all remedial actions and maintenance activities except for weed treatments, whichever is longer. Monitoring shall employ quantitative methods relevant to, and enabling statistically robust evaluation of, the approved success criteria as well as a series of permanent photo points, and shall conform to the following:

   i. **Success Criteria.** Success criteria shall have a clear empirical basis, such as data from reference sites or other published technical literature appropriate for the local area. Criteria for native and non-native vegetation cover, native species diversity and wildlife support functions shall be included. Invasive species ranked by the California Invasive Plant Council as “high” or “moderate” shall not exceed 5% cover in any restoration area. Proposed functional assessment criteria that would rely on CRAM or QBR methods shall not be considered adequate alone for demonstrating CDP compliance, but may be used to supplement other analyses.

   ii. **Methods.** A detailed description of monitoring methods, including for any reference sites, shall be provided. Sample sizes for final performance monitoring shall be informed by statistical power analyses of preliminary data and included in the plans, and shall be used to evaluate compliance with final success criteria.

   iii. **Assessment.** Methods for judging mitigation success (e.g., statistical tests of similarity, maximum allowable differences, etc.) shall be specified and include supporting rationale for their selection.

4) **Reporting.** By December 31 of each year in years when monitoring is conducted (e.g., Years 1-5, 7 and 10), an Annual Report shall be submitted to the Executive Director for review and written approval. The Annual Report shall include an evaluation of progress towards overall mitigation goals, interim and final success criteria, a description of a work plan for the subsequent year, and any recommendations to facilitate restoration success. In years when monitoring is not conducted (e.g., Years 6, 8 and 9), any adaptive management actions that were taken or other potentially relevant situations that may affect the progress or final performance of the mitigation (e.g., extreme weather or climate-related events, vandalism, disease, etc.) shall be described along with a work plan for the subsequent year and any

recommendations to facilitate mitigation success. Each Annual Report shall be cumulative and summarize all previous results and include photos from fixed photo points. The Permittee shall implement any recommendations identified in the approved Annual Report.

5) **Final Report.** The Final Report shall be submitted once all success criteria have been achieved, and no sooner than the conclusion of the initial 10-year monitoring period. The Final Report shall include a cumulative summary of the prior Annual Reports, a timeline of mitigation progress, evaluation of success using approved criteria and assessment methods, and sufficient detail to demonstrate conformance to the goals and success criteria set forth in the approved Final Tier 1 Plans. If the Final Report indicates that the mitigation effort has been unsuccessful, in part or in whole, the Permittee shall submit within 90 days a revised or supplemental mitigation plan for Executive Director review and written approval to account for any deficiencies.

b) Tier 2 Plans. Revised Tier 2 Plans shall substantially conform to the proposed Tier 2 Plans (titled *Habitat Management Plan - Carmel River Floodplain Restoration and Environmental Enhancement Project Tier 2 – Odello East,* prepared by Denise Duffy & Associates, dated May 3, 2022, and dated received in the Commission's Central Coast District Office on May 5, 2022) except that such Plans shall be modified to meet the following requirements:

1) **Revegetation.** Following the completion of earthwork for each phase of construction, all Tier 2 restoration areas shall be seeded with a native grass mix to manage for erosion and initiate native revegetation. All plant material (such as seed, seedlings, cuttings, or other propagules) to be used in subsequent revegetation of the restoration areas and managed flood conveyance areas (MFCAs) shall be of compatible genetic origins and clearly documented (when feasible) and at a minimum native from a licensed native plant supplier. A phased approach may be applied to the restoration area, allowing for completion of approximately five zones as funding, pilot efforts, and logistics allow.

2) **Wildlife Use.** Observed wildlife use of the restored areas during vegetation monitoring shall be documented to characterize the development of wildlife support functions over time. Species lists of wildlife observed on-site shall be included in Tier 2 annual reports.

3) **Maintenance and Adaptive Management.** Management of Tier 2 restoration areas shall be informed by pilot studies and ongoing monitoring across the project site, including potential adjustments to plant palettes, irrigation, and controls for animal browsing and weeds. Triggers specified for remedial action in the *Restoration Outcome Scoring & Remedial Action Worksheet*, and as may be advised by the Technical Advisory Committee, shall be documented in Tier 2 annual reports

i. **Mowing.** Mowing to manage weedy vegetation in either the MFCAs or restoration areas shall ensure a minimum four inches of vegetation is left standing for habitat purposes.

ii. **Grazing.** If grazers are used manage weedy vegetation in either the MFCAs or restoration areas, the placement of any temporary infrastructure, including but not limited to fencing, signage, or water access, shall not interfere with public access or areas being actively restored (i.e., more than seeded). Fencing shall be maintained in working condition when animals are present; once animals are removed, so shall be any infrastructure. Notice of activities underway and emergency contacts shall be posted for the duration of any intermittent grazing activities.

c) Both Tiers.

1) **Herbicides.** The application or use of any herbicide and/or adjuvant shall be limited to those products certified by the California Department of Pesticide Regulation (as reported in the California Product/Label Database available online at the CDPR website) at the time of use and shall only be used in conformance with label instructions for the intended use, including conditions for the specified application timing, rates, and methods. Preparation of herbicides for use shall not occur within 100 feet of sensitive resources, including ESHA, aquatic habitat, and wetlands, however, use is not restricted in these areas in conformance with the above.

2) **Limit on Plastics.** Any plastic materials that would be necessarily used in either Tier 1 or Tier 2 efforts, including but not limited to irrigation infrastructure, protective tubing for growing seedlings, and browse protection, shall be fully removed once no longer necessary in facilitating restoration goals.

All requirements above and all requirements of the approved Final Restoration Plans shall be enforceable components of this CDP. The Permittee shall undertake development in conformance with this condition and the approved Final Restoration Plans.

3) **Public Access Management Plan.** BY DECEMBER 31, 2025, the Permittees shall submit, for Executive Director review and written approval, two copies of a Public Access Management Plan that substantially conforms to the Proposed Public Access Trail Map. The Plan shall clearly describe the manner in which public recreational access at the site, including as it relates to connections to offsite public accessways, is to be provided and managed, with the objective of maximizing public access and recreational use of all public access areas and amenities associated with the approved project, consistent with the protection of habitat areas. The Plan shall at a minimum include and provide for all of the following:

a) **Public Access Trails and Amenities.** The Plan shall clearly identify and depict on a site plan all existing public access areas and amenities, including all trails, parking, signs, and other amenities associated with this CDP. Public access trails shall be appropriately sized, and as narrow as 3 feet wide where appropriate for floodplain function and sensitive habitat protection. Trails shall be sited and designed to provide connection and/or to facilitate future connection to adjacent public access trails and facilities. Any flood damage to the trails shall be corrected in a timely manner based on best trail maintenance and land management practices and public safety to ensure that trails are available to the public as soon as possible following the end of flooding events leading to such damage.

b) **Parking.** The Plan shall identify sufficient parking in the vicinity, not located along the highway shoulder, to support expected levels of public use.

c) **Signs.** The Plan shall identify all signs, and any other project elements that will be used to facilitate, manage, and direct public access use of the site, including identification of all public interpretation features that will be provided on the site (e.g., educational displays, interpretive signage, etc.). At least one public access interpretive sign shall be included describing relevant information about the site and surroundings (e.g., related to site history, floodplain restoration, climate resiliency, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided as part of the Plan. At a minimum, public access signs shall be placed at all five site entrances, and all directional signs shall include the Commission's access program "feet" logo and the California Coastal Trail emblem.

d) **Public Access Use Parameters.** All parameters for use of the public access areas and amenities shall be clearly identified, and shall be designed to maximize options and opportunities for high quality access experiences, including as it relates to uses on adjacent public lands, trail connection needs, ongoing restoration and maintenance activities, wildlife habitat protections, seasonal conditions, and public hazards. All public access areas, improvements, and amenities shall be free and publicly available.

e) **Other Agreements.** The Permittee shall provide to the Executive Director a copy of any agreements with adjacent landowners that affect public use of the project site, and shall inform the Executive Director of any changes to the project as may be required by any such agreements. Any such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this CDP, unless the Executive Director determines that no amendment is legally required.

All requirements above and all requirements of the approved Public Access Management Plan shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Public Access Management Plan, which shall govern general public access at the site pursuant to this CDP in perpetuity.

4) **Coastal Hazards Risk.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, to all of the following: (a) that the site may be subject to coastal hazards, including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tsunami, tidal scour, coastal flooding, landslides, bluff and geologic instability, bluff retreat, liquefaction and the interaction of same, many of which may worsen with future sea level rise; (b) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

5) **Cultural Resources.** If potentially significant cultural resources are discovered during construction, all work shall cease within 50 feet of such resources to allow all Project Archaeologists, Native American monitors, and State Parks' Archaeologists (for discoveries within State Parks' property) to evaluate the discovery. Construction shall not recommence until all of the following have occurred: (a) a qualified archaeologist assesses the nature and the significance of the find and, if the find is determined to be significant, develops recommended avoidance, minimization, and mitigation measures in consultation with Project Archaeologists, Native American monitors, and State Parks' Archaeologists; (b) if the find is determined to be significant, the Permittee submits to the Executive Director for review and written approval a report documenting such archaeologist's findings and recommendations; and (c) the Executive Director (or the Commission if the Executive Director determines that the measures required to adequately address the discovery require a CDP amendment) authorizes work to continue subject to implementing report recommendations.

6) **Other Agency Authorizations.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit, for Executive Director review and written approval, two copies of all authorizations, or evidence that no such authorization is necessary, from all other agencies with review authority over the proposed project, including at a minimum the California Department of Fish and Wildlife and Monterey County. The Permittee shall inform the Executive Director of any changes to the approved project required by any such authorizations, and such changes shall only be incorporated into the approved project if the Executive Director (or the Commission if the Executive Director determines that the changes require a CDP amendment) approves such changes.

7) **Other Property Owner Authorizations.** PRIOR TO COMMENCEMENT OF EACH PHASE OF CONSTRUCTION, the Permittee shall submit, for Executive Director review and written approval, evidence of all necessary property owner authorizations for the approved project phase (including right of entry and other agreements for portions of the project on land not owned by the Permittee) or evidence that no such

authorizations are required. The Permittee shall inform the Executive Director of any changes to the approved project required by any such authorizations, and such changes shall only be incorporated into the approved project if the Executive Director (or the Commission if the Executive Director determines that the changes require a CDP amendment) approves such changes.

8) Minor Modifications. Minor adjustments to the above conditions and their requirements may be allowed by the Executive Director if the Executive Director concludes that such adjustments: (1) are reasonable and necessary; (2) do not adversely impact coastal resources; and (3) do not legally require a CDP amendment.

4. FINDINGS AND DECLARATIONS

A. Project Location and Background

The proposed project is located in the Carmel area of unincorporated Monterey County at the downstream end of the Carmel River Watershed approximately one mile inland from the Carmel River lagoon and beach (see **Exhibit 1**). The project site consists of seven parcels spanning 133.5-ares on both sides of Highway 1 south of the Carmel River channel (see **Exhibit 2**). Historically, the site was an important part of the Carmel River floodplain as a low-lying area directly adjacent to the river that would provide connectivity directly with the coastal and estuarine waters of the Carmel Lagoon. The Odello family began to farm artichokes on the former floodplain beginning in 1924 when the site, and the Odello name is still associated with the site with the portion east of the highway informally referred to as “Odello East” and the portion west of the highway referred to as “Odello West”; the project spans both Odello East and Odello West, as well as Caltrans’ Highway 1 right of way. The hydrologic connection was essentially severed in the early 1930s by two things. First, earthen levees were constructed along both banks of the Carmel River to control its flows and facilitate for farming on the nutrient-rich, historic floodplains by blocking heavy river flows from dispersing laterally beyond the main river channel. And second, construction of Highway 1 on an elevated embankment through the site bifurcated the floodplain into an east half and a west half. BSLT acquired the majority of the Odello East area through two land donations in 1997 and 2016, respectively. Since coming under BSLT’s ownership, agricultural activities on this portion of the project site have gradually decreased, and currently there is only limited grazing on portions of the property.

In recent decades, flooding events have caused severe and costly damage to the lower reaches of the Carmel River watershed in the vicinity of the project site.[1] Perhaps the most significant and damaging such event occurred when an El Niño storm in March 1995 washed out the central span of the Highway 1 bridge across the Carmel River just north of the project site, overtopped the highway, and flooded development on both sides of the river, including the Crossroads Shopping Center and residential

[1] Major flood events were reported in 1911, 1914, 1922, 1926, 1931, 1937, 1938, 1941, 1943, 1945, 1952, 1955, 1956, 1958, 1962, 1966, 1969, 1973, 1978, 1983, 1995, 1998, and 2017.

developments adjacent to the river.[2] Subsequent significant river flooding also occurred in 1998, with flood waters again overtopping Highway 1 (and almost overtopping Val Verde Drive north of the river).

In response to both these growing flooding concerns and concerns about endemic fish population declines (including federally threatened steelhead), an ambitious plan was developed in the 1990's to restore the lower Carmel River floodplain and Carmel Lagoon and that plan has come to include over 19 complementary projects located both inside and outside of the coastal zone.[3] Significant milestones of this plan include creation of a 43-acre restoration area in 1996 (Carmel River Mitigation Bank, CDP 3-96-033) and the reconstruction of a then 'dry' arm of the Carmel Lagoon in 1997 (Carmel River Lagoon Enhancement Project, CP-1-97), both located immediately west of the project site. The proposed Carmel River Floodplain Restoration and Environmental Enhancement (CRFREE) project is one result of that vision, and it is designed to improve the natural and historic functions and values of the lower Carmel River and Carmel Lagoon through the hydraulic reconnection of the Carmel River, its southern floodplain, and the lagoon while addressing the long-standing problems of flood management and floodplain habitat loss within the lower Carmel River Basin. Along with a series of complementary projects, CRFREE represents a renewed focus on better addressing habitat, flooding, and related issues affecting the river and its environs.

B. Project Description

The CRFREE project aims to restore natural hydrologic function and habitat throughout the historic floodplain south of the Carmel River through several interdependent components: (1) levee notches and floodplain grading to allow floodwater to flow onto the Odello East property, (2) removal of a 360-foot-long section of the Highway 1 fill embankment and replacement with a bridge to allow floodwaters to then move under Highway 1 between the restored floodplain east of the highway and the habitat-rich Carmel Lagoon area west of the highway at Odello West (along with additional highway improvements); (3) riparian and floodplain habitat restoration across the majority of the site, (4) development of an elevated 23-acre agricultural preserve along the southern edge of the site, (5) construction of approximately 2.5 miles of public access trails, and (6) long-term management and maintenance of the site to facilitate habitat, access, agricultural, and other coastal resource protection. See **Exhibit 3** for 60% project plans. The following sub-sections describe the individual project components in greater detail.

Levee Modifications

The project would cut five "notches" in an approximately 1,500-foot section of the Carmel River's south bank levee just inland of the Carmel River Bridge. Such notches would allow a two to five-year flood event to flow from the Carmel River onto the created floodplain. The remainder of the levee would remain in place, including to help preserve

[2] The Carmel River bridge was replaced in the mid-1990s following this event (per CDP 3-95-038).

[3] For example, the 2015 San Clemente Dam removal project that occurred outside of the coastal zone was a momentous event for the River, leading to opening up steelhead access to some 25 miles of spawning and rearing habitat upstream, and allowing sediment to travel downstream to naturally replenish Carmel River State Beach and other nearby beaches.

important areas of riparian vegetation that would support colonization and expansion of riparian plant communities to the floodplain.

Floodplain Creation

The project would include grading (approximately 471,000 cubic yards of cut and 67,000 cubic yards of fill) across about 100 acres of the site to achieve topography and proximity to groundwater consistent with riparian habitat and floodplain conditions, create braided distributary channels to resemble flow paths characteristic of the historic floodplains, and elevated "islands" to support native upland habitat and wildlife refuge from floods, public access trails and maintenance roads. The project would include 36 acres of "maintained flow conveyance areas" (or MFCA's) to facilitate transmission of floodwaters from the main river channel across the floodplain and towards the lagoon. The varied floodplain topography would also to create a vegetation mosaic intended to provide soil stability (especially where larger rooted trees and shrubs occur), reduce channel blockage and scour (e.g., where herbaceous vegetation occurs), create various types of habitats for a diversity of wildlife species, and integrate both visually and functionally with the surrounding landscape.

Agricultural Preserve

The majority of the soil removed to create the above-described floodplain (some 330,000 cubic yards) would be used to elevate approximately 23 acres of the site along its southern edge (and above the 100-year flood elevation) to facilitate agricultural use. The agricultural preserve has been designed to direct any agricultural runoff away from the floodplain area and towards the southwest corner of the field, where it won't impact the floodplain habitat. The perimeter of the agricultural preserve would be delineated by a "wildlife friendly barbed wire fence",[4] and would be accessed via an access road along the southern boundary of the preserve that would not be accessible to the public.

Habitat Restoration

Following initial floodplain development, the project includes two "tiers" of restoration over 57 acres (as described in the project's conceptual restoration design plans (see **Exhibit 4**) and its Restoration Management Plan (RMP). The overall restoration is intended to establish a mosaic of habitats across the site (including willow and cottonwood riparian forest, mixed riparian forest, coastal scrub, and native perennial grassland) to help provide a diverse array of foraging, breeding, and nesting habitats for birds and other wildlife. Specifically, Tier 1 efforts would be implemented as 14 acres of compensatory mitigation for unavoidable impacts to riparian habitat during construction and would be initiated following the grading of Odello East but completed only following construction of the new bridge and reconnection to the western portion of the site. Tier 2 work constitutes voluntary restoration of an additional approximately 42 acres of habitat at Odello East and the management of approximately 36 acres of Managed Floodplain Conveyance Areas (MFCAs). Active and passive restoration of the Tier 2 areas would be accomplished sequentially, as five sub-sections or zones, with the first being initiated

[4] A barbed wire fence is included as a means to control cattle to within the delineated agricultural preserve area, and to help reduce conflicts with the adjacent sensitive habitat or human uses. A "wildlife friendly barbed wire fence" is one that allows animals to jump over and crawl under easily without injury while also being highly visible for both cattle and birds.

soon after initial first phase grading and being designed with pilot studies that would inform subsequent work across the restoration.

Public Access Trails

The project also includes construction of approximately 2.5 miles of public access trails, where the trails would connect to existing Monterey Parks Regional Park District (MPRPD) trails east and south of the project site and extend under the proposed causeway bridge towards the State Parks property west of the project site, where additional future trails are planned (including as described in the State Parks general plan for the area). Cumulatively, these new trails would provide significantly enhanced connectivity between the inland areas higher in the Carmel River watershed and north of the river and the low-lying coastal areas around Carmel Lagoon and Carmel River State Beach, including a critical pedestrian link underneath Highway 1 to allow safe public crossing of the highway. The proposed public access trails will either be unimproved (native soil) or surfaced with natural aggregate (such as an engineered aggregate base, 3/4" size rock material approved by State Parks and Caltrans). The proposed trails would allow for multiple paths of travel throughout the site and would facilitate both public access as well as access for restoration and maintenance activities. Through a long-term maintenance agreement estimated to be finalized in approximately 2024, public access on the access roads/trails will be managed by each respective landowner and coordinated jointly by BSLT, State Parks, and MPRPD, based on allowed uses on public lands, ongoing restoration and maintenance activities, and seasonal conditions.[5] See proposed trail map in **Exhibit 5**.

Highway 1 Bridge and Improvements

Highway 1 bisects the project site in a roughly north-south orientation. The highway is built on an earthen berm that inhibits natural water flows across the historic southern floodplain, creating a barrier during significant flooding events. The highway roadway is a two-lane conventional highway with 12-foot-wide travel lanes and four-foot-wide shoulders. To accommodate water flows along the restored floodplain, the project would remove the earthen berm along a 360-foot section of the existing Highway 1 causeway and replace it with a bridge (supported by six 56" diameter piles). The roadway atop the bridge would maintain the two-lane configuration of the current highway, but the roadway width would be expanded to allow for wider roadway shoulders (going from four to eight feet), which will provide a Class II bicycle lane as well as additional space for vehicles to exit the travel lanes in case of emergency. The eight-foot-wide shoulders would transition to match the existing four-foot-wide shoulders at each end of the bridge. At the southern end of the structure, the roadway will also include a 12-foot-wide center left turn lane. This long-envisioned turn lane, previously required by Caltrans and Monterey County during construction of MPRPD's Palo Corona Regional Park immediately adjacent to the site, will allow southbound-traveling vehicles to safely

[5] The way in which such access would be managed in relation to adjacent properties (i.e, State Parks and MPRPD properties) is proposed to be finalized in approximately 2024, where the intent is to ensure appropriate connectivity and management coordination.

decelerate and turn left across northbound traffic to enter the lot.[6] Additional highway elements include construction of a temporary detour road, removal of existing culverts and paving, two phases of utility relocation, signage and striping, and removal of the temporary detour road.

Long Term Maintenance

The project includes long-term maintenance of flood conveyance channels and public access trails and roads. Specifically, the designated 36-acres of MFCA's and 2.8 acres of intermittent drainage channel will be mowed to no less than four inches and be maintained clear of woody vegetation as necessary to limit flood flow impediments.[7] Public access trails and roads will also be mowed and maintained free of vegetation to continue to provide vehicle and pedestrian access, as appropriate. This may include minor grading of roads/trails to reshape sections after flooding events. Pre-maintenance biological surveys are proposed to be conducted in coordination with maintenance activities to avoid and reduce impacts to sensitive biological resources.

Other

Lastly, existing irrigation and monitoring wells on the property would either be replaced, relocated, or retained in place, in addition to construction of two new water monitoring wells to be used for future restoration maintenance purposes. In addition, the proposed project also includes a series of mitigation measures emanating from the Final EIR (FEIR) for the project (certified by Monterey County on January 28, 2022), which are compiled in the FEIR's Mitigation Monitoring and Reporting Program (MMRP).

Construction Phases

Construction of the CRFREE project is generally proposed to be broken up into two phases, where Phase 1 will include most of the development on Odello East (i.e., the portion of the project site east of the highway), and Phase 2 will include all development on the Highway 1 right of way and on Odello West (i.e., the portion of the project site west of the highway). Phase 1 is scheduled to commence in late 2022, and is detailed on the 90% proposed project plans dated February 11, 2022. Phase 1 would include erection of a temporary exclusion fence around the proposed construction area, vegetation removal and grading on approximately 93 acres of site, associated utility relocation work, partial construction of the agricultural preserve and replacement of the existing barbed wire fence between the future preserve and Palo Corona Regional Park with a new wildlife friendly barbed wire fence, placement of salvaged tree trunks with root-wads at various locations to act as future "habitat logs", and about 2 acres of Tier 1 mitigation and seeding of the remainder of the site with a native seed mix. Tier 2 restoration and its associated pilot studies would also commence following initial site

[6] The Palo Corona Parking Lot was constructed in 2016 but has not been opened to the public due to safety concerns without a turn-lane off Highway 1. The project intends to facilitate general public use of the MPRPD Palo Corona parking lot through construction of the left-hand turn lane and the subsequent use of the lot by member of the public to access Palo Corona park and the proposed public access trails.

[7] If the configuration of the MFCAs is altered following high flow events, post-storm maintenance and restoration will be limited to the original area designated for MFCAs, even if the precise location or alignment of these features have changed. No excavation and removal of accumulated sediments will occur within the MFCAs or intermittent drainage.

grading. Phase 2 is estimated to begin in early 2024 and includes construction of the bridge (and temporary highway detour), completion of the agricultural preserve (using soils from the berm removal), relocation of the State Parks irrigation well, and the remaining approximately 12 acres of Tier 1 restoration. Phase 2 would also ultimately include removal of the levee notches to allow the floodplain connection sometime between 2026 and 2030,[8] as well as other remaining project components (including replacement of the three existing water monitoring wells, and construction of two new water monitoring wells).

Property Owner and Partner Roles and Responsibilities

The proposed project has been a multi-decade endeavor advanced by a large group of entities spearheaded by the non-profit BSLT. In fact, although the CDP Applicants are BSLT and Monterey County, the project site actually spans multiple property ownerships besides BSLT's 102.5-acres; namely 21.6-acres of State Parks property, 3.3-acres of MPRPD property, 5.1-acres of Caltrans' Highway 1 right-of-way (ROW) and 1.0-acre of Clint and Margaret Eastwood property (see **Exhibit 2**).[9] BSLT owns the vast majority of the project site (76%), and maintains a commitment to long-term management of the project. Monterey County is the CEQA lead, executed the cooperative agreement with Caltrans for the Highway 1 component of the project, and also contracted for final engineering and design, environmental review, and permitting of the project. The County and BSLT are co-applicants for nearly all CRFREE permits and authorizations. For the Caltrans Project Report Approval and the Caltrans encroachment permit, which are necessary for the Highway 1 component of the project, the County is the only applicant.

The County, Monterey County Water Resources Agency (MCWRA), Monterey Peninsula Water Management District (MPWMD), State Parks, and BSLT entered into a Memorandum of Understanding (MOU) on November 24, 2010 for the purpose of applying for grants and program planning, development and coordination of the project.[10] Prior to construction, these same entities and MPRPD intend to enter into a Construction Phase MOU that is intended to identify the roles and responsibilities of each party though the completion of construction, as well as commit the four project site property owners (i.e., BSLT, Caltrans, State Parks, and MPRPD) to their respective contributions of land area for the purposes of the project, and to compliance with the CDP's terms and conditions. Prior to completion of construction, the property owners and the County intend to enter into a long-term maintenance agreement that will delineate the parties' roles and responsibilities for long term, including adaptive

[8] Removal of the levee notches is contingent on first allowing the successful establishment of the vegetation proposed in the habitat restoration component of the project.

[9] Property ownership by Assessor's Parcel Numbers (APNs) as follows; BSLT, APNs 243-071-005-000, 243-071-006-000, and 243-071-007-000; State Parks, APN 243-021-007-000; MPRPD, APNs 157-121-001-000 and 243-081-005-000; and Clint and Margaret Eastwood (APN 243-071-008-000). All property owners are in agreement on and support the CDP application.

[10] The Eastwoods are not involved with construction or future maintenance of the site, and thus are not included in MOU or long-term maintenance agreement.

maintenance activities post-construction of the project (such as restoration and access parameters for public access trails) and adhering to CDP terms and conditions.

Overall, the proposed Carmel River FREE project is a premiere example of a "green infrastructure" project in action, leveraging natural systems to benefit people and the environment, while also facilitating a new public access trail connection between Palo Corona Regional Park and Carmel River State Beach. Further, the project will significantly reduce flood risks within the river's floodplain, and the Applicants estimate that it could avoid the need for over $14 million in flood-related infrastructure to achieve similar levels of flood protection.

C. Standard of Review

The proposed project includes proposed development that is partially located within the delegated CDP jurisdiction of Monterey County and partially located within the Commission's retained CDP jurisdiction. In cases like this where a proposed project requires CDPs from both a local government and the Commission, Coastal Act Section 30601.3 allows for the Commission to process a single 'consolidated' CDP application for the proposed development if (a) the applicant, the local government, and the Commission's Executive Director agree to such consolidation, and (b) public participation is not substantially impaired by such consolidation.

Here, Monterey County's local CEQA provided substantial opportunities for public participation, as did the many BSLT forums where the project was presented and discussed. In addition, the Commission will hold a properly noticed public hearing on this proposed CDP application. As a result, public participation is not substantially impaired by consolidation in this case, and the Applicants, Monterey County, and the Commission's Executive Director have all agreed to consolidate the CDP application with the Commission. The standard of review for a consolidated CDP application is Coastal Act Chapter 3, with certified LCP provisions providing non-binding guidance.

D. CDP Determination

1. Habitat Resources

Applicable Coastal Act Provisions

The Coastal Act includes a comprehensive suite of natural habitat protection provisions, including for both wet and terrestrial habitat resources. It includes specific requirements related to maintaining biological resources and productivity, protecting wetlands and watercourses, and protecting especially sensitive habitats. It also includes provisions that explicitly speak to flood control along rivers and streams; the issues raised here. Applicable Coastal Act provisions[11] include:

> ***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*

[11] In addition, the Monterey County LCP includes a series of similar such provisions that don't significant alter these (including Carmel Area LUP policies 2.3.3.1, 2.3.3.2, 2.3.3.7, 2.3.3.9, 2.3.3.10, 2.3.4.1, 2.3.4.2, 2.3.4.1, 2.3.4.3, 2.3.4.4, and 2.3.4)

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 30231. *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.*

Section 30240. *(a) Environmentally sensitive habitat areas[12] 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.*

Analysis

The project site is located at the downstream end of the roughly 35-mile-long Carmel River, approximately one mile from where it meets the Carmel Bay and the Pacific Ocean. Although the project site was historically part of the southern Carmel River floodplain, that connection was effectively severed in the 1930's with the construction of earthen levees along the south bank (isolating the main channel from this portion of the floodplain) and the subsequent construction of Highway 1 on an elevated berm, which further parsed the landscape by disconnecting the eastern and western halves of the historic floodplain. The site was subsequently farmed for over 60 years by the Odello family, and its ecological functions (i.e., riparian and wetland habitats) were largely eliminated as a result. BSLT acquired the Odello East parcels through two land donations in 1997 and 2016, respectively. Since coming under BSLT's ownership, agricultural activities on this portion of the project site have gradually decreased, and currently there is only limited grazing on portions of the property. Reconnaissance-level biological surveys in 2015 determined that the vegetation types now present on the project site include: riparian forest and scrub, ruderal and invasive weeds, non-native annual grassland, and coastal scrub. Endangered or protected wildlife species known to occur or with the potential to occur within the project site and vicinity include California red-legged frog (*Rana draytonii*), California legless lizard (*Anniella pulchra*), monarch butterfly (*Danaus plexippus*), sensitive bat species, Monterey dusky-footed woodrat (*Neotoma fuscipes luciana*), western pond turtle (*Emys marmorata*), Coast Range newt

[12] Section 30107.5 defines such areas as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."

(*Taricha torosa torosa*), raptors, and other sensitive avian species. Two special-status[13] plant species are present on the project site, Monterey pine (*Pinus radiata*, CRPR 1B.1) and Monterey cypress (*Hesperocyparis macrocarpa*, CRPR 1B.2).

A fundamental goal of the proposed project is to restore hydrological processes and native vegetation communities across the historic Carmel River floodplain, which will in turn ultimately result in significant ecological benefits in addition to improved resiliency for both the natural and built environments throughout the area. At the same time, grading activities associated with project construction would necessarily disturb the majority of existing habitat on-site now, including 4.1 acres of existing riparian habitat and 3.7 acres of existing coastal scrub. To address project related habitat impacts and issues, the proposed project includes approximately 57 acres of restoration as described in the project's conceptual design plans (see **Exhibit 4**) and its Restoration Management Plan (RMP)[14]. The focus of the RMP is detailing Tier 1 restoration, the compensatory mitigation intended to account for the project's direct impacts to existing sensitive habitats, but the RMP also provides broad guidance for the Tier 2 restoration effort, which is the larger voluntary restoration over the remainder of the site. The Habitat Management Plan (HMP)[15] further details the Tier 2 restoration, which would be implemented over five sequential zones and a more extended period of time. In some ways, the Tier 1 work might be understood as a more targeted restoration effort, with explicit objectives, active facilitation, and rigorous success criteria, whereas Tier 2 work will take a more adaptive approach guided by broad trajectory-based criteria and use a combination of plantings and natural recruitment processes to restore the area. Together, the overall restoration is meant to achieve the larger project's floodplain restoration goals, while also accounting for active maintenance of the approximately 36 acres of flood conveyance channels throughout the restoration area (e.g., through moving or removal of woody vegetation).

ESHA

Pursuant to Coastal Act Section 30240, development in environmentally sensitive habitat areas (ESHA) is limited to uses that are dependent on the resource and must protect against any significant disruption of habitat values, and development that occurs adjacent to ESHA must be sited and designed to prevent impacts which would significantly degrade those areas, and must be compatible with the continuance of those habitat areas. Here, biological surveys determined that project activities are expected to impact 4.1 acres of riparian habitat (3.6 acres of riparian forest and 0.5

[13] California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) 1B plant species are considered rare, threatened, or endangered in California and elsewhere. All of the plants constituting CRPR 1B species meet the definitions of the California Endangered Species Act of the California Fish and Game Code, and are eligible for state listing; however, these two particular species are considered limited endemics and are only sensitive within their native ranges. More broadly, they have been widely planted and naturalized across the California landscape; the California Invasive Plant Council (Cal-IPC) recognizes both as moderately invasive in some locations.

[14] Restoration and Management Plan for the CRFREE Project (November 16, 2016), H.T. Harvey & Associates

[15] *Habitat Management Plan Carmel River Floodplain Restoration and Environmental Enhancement Project, Tier 2 - Odello East* (May 3, 2022), Denise Duffy & Associates

acres of riparian scrub) and 3.7 acres of coastal scrub. The Commission's Staff Ecologist, Dr. Lauren Garske-Garcia, reviewed the relevant project materials and determined that the 4.1 acres of impacted riparian habitat qualifies as ESHA, primarily because of the presence of sensitive natural communities, its value as wildlife habitat and as an important corridor (including for several sensitive species such as California red-legged frogs and dusky-footed woodrats), and the many physical attributes and processes riparian vegetation contributes to, including the shading and cooling of aquatic habitat used by federally listed steelhead. Conversely, Dr. Garske-Garcia determined that the 3.7 acres of coastal scrub does not qualify as ESHA, as the *Baccharis pilularis* Shrubland Alliance does not qualify as a sensitive natural community based on rarity and there has been no indication that this scattered common scrub is functioning otherwise as especially valuable habitat. Thus, the ESHA analysis is limited to that 4.1-acre riparian area. The table below lists the estimated riparian habitat acreage for the phases of construction of the bridge.

Habitat Type	Floodplain Restoration (Phase 1 / Phase 2)		HWY 1 Bridge	Acreage Impact
Riparian Forest	1.9	1.4	0.3	3.6
Riparian Scrub	0	0.4	0.1	0.5
Total	1.9	1.8	0.4	4.1

*Bridge construction will occur concurrently with Phase 2 construction

Overall, the development proposed will restore the historic floodplain and is, by its very nature, dependent on the resource. It would be infeasible to reconnect the existing riparian corridor to the floodplain without some level of disturbance to existing ESHA and in this case, impacts to riparian habitats would be associated with excavation for the bridge, notching of the river's south levee, and grading to recreate the historic floodplain and reconnect it to the south arm of the Carmel River lagoon. To some extent, riparian vegetation will reestablish in these areas by growing in from surrounding unaffected areas and habitat will be created throughout the greater project area via restoration over time. However, ongoing maintenance of the Managed Flood Conveyance Areas (MFCAs) will preclude a significant portion of the existing ESHA footprint from recovering in-place and the restoration will be necessarily phased along with the overall construction schedule, meaning that there will inevitably be temporal losses due to lags in resource replacement between both time to restoration initiation and restoration maturity.

To offset project impacts to existing riparian forest and riparian scrub ESHA, compensatory mitigation is proposed as the creation of willow and cottonwood riparian forest and mixed riparian forest at 3:1 mitigation ratio (i.e., mitigation acreage:impact

acreage) within the project site.[16] This proposal is codified in **Special Condition 2(a)(1)**. Other portions of the site will be voluntarily restored through a combination of active revegetation, natural processes, and adaptive management techniques, and/or managed for flood conveyance into the future. The Applicants' proposed restoration program is implemented and reinforced by **Special Condition 4**. That condition requires submittal of final restoration plans, including an accounting to ensure all project impacts are addressed, as well as a series of monitoring and reporting requirements to ensure restoration success over the longer term.

In addition, Highway 1 bridge construction activities will result in the removal of 10 Monterey pine and 15 Monterey cypress trees (both CNPS CRPR 1B plant species) located on the existing embankment.[17] Dr. Garske-Garcia reviewed this component of the project and determined that these trees are not part of native stands and thus do not qualify as ESHA or require mitigation under the Coastal Act. Nevertheless, the Applicant proposes to mitigate for impacts to these trees by re-planting two trees for each tree that is removed in the Highway right-of-way.

In short, while the proposed project will initially have some adverse impacts to existing riparian habitat, it can be viewed holistically as a restoration effort that, once completed, will contribute to the extent and resilience of sensitive coastal habitats into the future. Resource-dependent development, such as habitat restoration and nature study, is allowed in ESHA under the Coastal Act. Where the project proposes to construct public access trails across the site, simple cable-fencing will be employed to minimize trail user intrusion into sensitive restoration areas. The proposed project also includes an extensive list of mitigation measure to minimize impacts to sensitive plant and animal species located on or adjacent to the project site, including pre-construction surveys for nesting birds and other special status or sensitive wildlife, protective fencing around sensitive habitats on and adjacent to the project site, and biological training of all

[16] As further described in the Applicants' memorandum dated April 7, 2022 (*CRFREE Project - Rationale for Riparian Mitigation Metrics in Riparian Mitigation Areas Memorandum* by H. T. Harvey & Associates), the Applicants propose a minimum of 14.7 acres of riparian restoration (including 14.2 acres of willow and cottonwood riparian forest and 0.5 acres mixed riparian forest) and thus, the proposed mitigation acreage is actually more than 3:1 (i.e., 3: 1 would be 12.3 acres). However, the proposed restoration only includes riparian forest restoration and would not reflect 'in-kind' restoration for the 0.5 acres of riparian scrub impacted. The Commission has typically avoided using out-of-kind restoration to offset impacts, including as it leads to a conversion of ESHA types. In this case, though, it appears that the scrub habitat is a legacy of past agricultural use rather than representative of the natural historic condition of this area. Such conclusion is supported by the fact that both the mapped riparian forest and riparian scrub are variations of the same vegetation community alliance (*Salix lasiolepis* Shrubland Alliance), which can be reasonably interpreted here as different stages of community succession. In addition, project materials indicate that in similar circumstances just inland of the site there is evidence that riparian forest is beginning to develop, and the fact that the scrub here occurs as patches interspersed with forest and ruderal areas suggests it is transitioning/maturing towards riparian forest already. Accordingly, it can be reasonably expected that the riparian scrub would become riparian forest going forward if left on its own. For these reasons, the Commission considers the proposal to replace existing riparian scrub with future riparian forest communities to not constitute out-of-kind habitat conversion.

[17] Of the 25 trees to be removed, 23 are located within the Highway 1 right of way on the highway embankment, and two are located at the juncture of the CAWD access road and one of the proposed trails.

construction staff.[18] As such, the project has been sited and designed to address ESHA concerns, both on and off-site, and is consistent with Coastal Act Section 30240.

Tier 1

The compensatory mitigation proposed as Tier 1 Restoration will be located across seven separate areas covering both the eastern and western portions of the project site. Implementation would begin in one area shortly following completion of the Odello East grading during Phase 1 and the remainder would begin after completion of Phase 2 construction, some years later. Along with the Tier 2 restoration areas and MFCAs, the site will be prepared with the removal of invasive vegetation including seedbanks, harvest of topsoil for reuse, and creation of floodplain topography via grading. Tier 1 revegetation activities include three major components: seeding with native perennial grass species, planting of riparian forest trees and shrubs, and management for the natural recruitment of coastal scrub habitat. Herbaceous understory vegetation would develop naturally with the reintroduction of flows into the floodplain. Target vegetation communities are generally informed by surrounding riparian areas and studies of the site's hydrology and geology. Following initial Tier 1 revegetation activities associated with each construction phase, an As-Built Biological Report will be submitted within 8 weeks of completion of revegetation activities that documents the mitigation area condition, delineates acreages completed, and discusses any deviations from implementation as described in the RMP (such as changes to the revegetation area configurations and any features added to the sites that were not included in the plan).[19] This proposal is codified in **Special Condition 2(a)(2)**.

During the plant establishment period, maintenance monitoring will involve qualitative assessments of the general condition of the planting areas, including assessments of the presence of herbivore damage, drought stress, erosion, invasive plant species, evidence of vandalism, and other potential threats to revegetation success. Proposed success criteria rely on functional assessment methods and a target level of riparian vegetation cover. All Tier 1 areas will be maintained and monitored by a qualified restoration ecologist for at least ten years from the point of initial implementation, to ensure that the project meets mitigation goals. While much of the proposed mitigation is consistent with typical Commission expectations, additional information is necessary to fairly assess its performance. In particular, while the methods proposed to evaluate performance (specifically used the CRAM and QBR Index methods) may be adequate for voluntary restoration efforts such as in Tier 2, they are relatively coarse and subjective, relying on broad categories of visually estimated metrics or conditions rather than systematically quantifiable values that may be tested statistically against a reference condition, as is expected of mitigation assessments to assure that resources have been appropriately replaced. Similarly, success criteria for invasives species, native species diversity, and validation of wildlife use are needed to ensure full mitigation and therefore consistency with Coastal Act requirements. **Special Condition**

[18] A complete list of all mitigation measures proposed to be included in the project can be seen in the MMRP.

[19] For example, the As-Built Report could describe additional riparian mitigation acreage if the project impacts more existing riparian ESHA habitat than expected (see also **Special Condition 4**).

2(a)(3) resolves these issues through requirement of a local reference condition or site, refined criteria, and the use of quantitative methods and statistically robust evaluations for assessing mitigation success.

Monitoring would occur annually initially, but potentially become less frequent following vegetation establishment. Annual monitoring reports will be submitted by December 31 of each year and will include, among other things, descriptions of methods, results, and management recommendations along with maps showing monitoring locations and copies of photo documentation; a final monitoring report will be provided no sooner than Year 10 of monitoring and will document a cumulative summary of the prior annual reports, a detailed timeline of mitigation progress, evaluation of performance using the approved criteria and assessment methods, and sufficient detail to demonstrate conformance to the goals and success criteria set forth in the approved final mitigation plan. This proposal is codified in **Special Condition 2(a)(4)**, which also provides that in years when regular monitoring is not conducted, any adaptive management actions taken or other potentially relevant situations that may affect the progress or final performance of the mitigation (e.g., extreme weather or climate-related events, vandalism, disease, etc.) will be described, along with a work plan for the subsequent year and any recommendations to facilitate mitigation success. If the Final Report concludes that the mitigation efforts did not meet the approved final success criteria, **Special Condition 2(a)(5)** then requires submission of a revised or supplemental mitigation plan to compensate for those portions of the original effort which did not meet the approved performance criteria.

Tier 2

Voluntary restoration activities, to be completed as part of the Tier 2 work and focused on the Odello East parcel, will similarly commence following completion of Phase 1 grading activities, and will include immediate broadcast seeding with a grassland habitat native grass seed mix of areas not included in Tier 1 restoration to manage for erosion and initiate native grassland restoration.

Due to the large area involved and some uncertainty regarding which species will most successfully establish in transitional areas given the constructed topographies, proximity to groundwater, and microclimate responses, the Tier 2 restoration will use pilot studies in the first of five zones to inform subsequent work in both Tier 1 mitigation areas and the remaining Tier 2 restoration zones. Subsequent to the initial hydroseeding, all plant materials (including seed, cuttings, or other propagules) used for revegetation will be of local origin and collected from within appropriate areas of the Carmel River watershed or adjacent watersheds whenever feasible and will be well-adapted to the physical and environmental conditions of the restoration, as reflected in **Special Condition 2(b)(1)**. Tier 2 restoration will also employ an adaptive management approach, where monitoring results and a Technical Advisory Committee will guide ongoing decision-making related to the restoration process. As a result, specific Tier 2 restoration acreages by habitat type cannot be explicitly known at this time but will generally include a mosaic of the same habitat types as in Tier 1, following a progression of predominantly wetter low to higher and drier flood refuge vegetation communities, all native to the area (i.e., willow and cottonwood riparian forest, mixed riparian woodlands, and coastal sage scrub). **Exhibit 4** shows a projected revegetation layout for Tier 2

based on anticipated post-construction conditions, but the design presented in the figure should be considered an educated concept at this point. Tier 2 restoration plans specify not only a sequence of zones for restoration but also provide for details on planting and maintenance methods (including for MFCAs), potential pilot studies, monitoring, data analysis, triggers for adaptive management action, and triggers for remedial action. As with Tier 1, Tier 2 restoration areas will be maintained and monitored for at least 10 years by a qualified restoration professional, though these may be temporally offset depending on the initial point of restoration implementation for each zone. Success criteria for Tier 2 focus on long-term trajectories and improvements to the habitats but do not necessitate a quantitative basis as with the compensatory mitigation. The results of annual monitoring and the progress of revegetation over the past year will be summarized in annual reports that provide a cumulative summary of quantitative vegetation monitoring results including summaries of any pilot study findings, adaptive management actions triggered and taken, and any lessons learned during restoration implementation. These Tier 2 annual reports will not be submitted to the Commission for review and approval, but may be provided upon request once they have been prepared. As a goal of the restoration is to support local native wildlife species, **Special Condition 2(b)(2)** requires that wildlife which is opportunistically observed during vegetation monitoring be documented in the Tier 2 annual reports to characterize the development of wildlife support functions over time.

Tier 2 plans also contemplate the use of grazing animals as a cost-effective and potentially ecologically compatible approach to vegetation management. As proposed, grazers would only be used in areas where revegetation has been accomplished through the application of seed and be excluded from areas where more intensive actions such as nursery plantings have been used, to avoid compromising restoration investments; however, details such as the infrastructure that would be necessary to manage this are presently unavailable for evaluation. **Special Condition 2(b)(3)** establishes guidelines for grazing management with a focus on temporary infrastructure placement, maintenance, removal, and posting of activities and emergency contacts, to ensure that activities and infrastructure would not conflict with public access or other coastal resources and be ecologically compatible.

Finally, both Tier 1 and Tier 2 plans identify specific herbicides that might be used to manage invasive vegetation, and note limited use of various plastic materials over the course of restoration including irrigation infrastructure and protection for young plants as they establish (e.g., from browsers, wind, etc.). **Special Condition 2(c)(1)** ensures that any unlisted herbicides or adjuvants that might be used are certified by the California Department of Pesticide Regulation, would be deemed appropriate for the intended use, and conform to product label restrictions, and that all plastic materials are removed from the environment once they are no longer needed to advance the project's restoration goals. Both Tier's of restoration will also require the use of various plastic materials (such as for irrigation infrastructure, protective tubing for growing seedlings, and browse protection) on a temporary basis to bolster restoration efforts. Given plastics ability to break down in the environmental **Special Condition 2(c)(2)** requires that all temporary plastic materials used for restoration be removed once no longer necessary.

Conclusion

Although the proposed project will remove 4.1 acres of existing riparian habitat which qualifies as ESHA, it also includes two tiers of restoration across the entire site in excess of what the Commission would typically require. The proposed work also includes suite of mitigation measures to ensure that sensitive and protected species are not adversely impacted either during construction or during future ongoing maintenance of flood conveyance channels. Further, the project's reconnection of the floodplain to the Carmel River and lagoon will expand a mosaic of habitats across the landscape that will foster primary productivity, aid in the reproductive cycle of fish, provide nesting and foraging habitat for birds, regenerate riparian vegetation, and provide increased breeding and upland habitat for special-status wildlife species. Therefore, while limited adverse impacts are considered unavoidable and permanent, the project as designed and conditioned will net nearly 13 times more area of much higher functioning riparian ecosystem than presently exists, and the overall project can be found consistent with the above descried Coastal Act habitat protection provisions.

2. Public Access and Recreation

Applicable Coastal Act Provisions

The Coastal Act grants a high priority to public recreational access uses and activities to and along the coast. The Act protects and encourages lower-cost visitor and recreational facilities where feasible and states a preference for developments providing public recreational opportunities. Coastal Act Sections 30210 through 30213, and 30221 and 30223 specifically protect public access and recreation. In particular:

> **Section 30210.** 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 with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.
>
> **Section 30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.
>
> **Section 30212.** (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects …
>
> **Section 30213.** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. …
>
> **Section 30221.** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.
>
> **Section 30223.** Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

> **Section 30240(b).** Development in areas adjacent to … 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 … recreation areas.

LCP provisions essentially reiterate those above, but the Carmel Area LUP also includes direction related to public access in environmentally sensitive habitat areas and the Odello East site specifically:

> **LUP Policy 2.3.3.9.** Where public access occurs or has been introduced in areas of environmentally sensitive habitats, it shall be limited to low-intensity recreational, scientific, or educational uses such as nature study and observation, education programs in which collecting is restricted, photography, and hiking. Access in such areas shall be controlled and confined to designated trails and paths. No access shall be approved which results in significant disruption of habitat.
>
> **IP Section 20.146.120.C.2.A.6.** Odello East Property - Public access along the existing levee shall be provided.

Section 30210 of the Coastal Act requires the Commission to provide the general public maximum access and recreational opportunities. Section 30211 prohibits development from interfering with the public's right of access to the sea where acquired through use or by legislation. In approving new development, Section 30212 requires new development to provide access from the nearest public roadway to the shoreline and along the coast, save certain limited exceptions, such as existing adequate nearby access. The Coastal Act Section 30210 direction to maximize access quires more than simply providing or protecting access to and along the coast, rather such access must also be maximized. This terminology provides fundamental direction to projects along the California coast that raise public access issues, like this one. Taken together, these overlapping policies protect public access and recreation opportunities for the public, particularly free and low-cost access. They also protect Highway 1 for its public recreational attributes.

Analysis

Public Trails

In addition to its primary objectives of flood risk reduction and habitat restoration, the proposed project has been designed to provide multiple public access enhancements. In fact, the project includes construction of over 2.5 miles of public access trails. In addition to their onsite utility, these trails would provide significant public access connectivity to and between the surrounding public lands and recreational areas owned by State Parks and the Monterey Peninsula Regional Parks District (MPRPD), including the South Bank Trail at La Cañada, Palo Corona Regional Park, and the Carmel River State Beach parklands west of Highway 1 (see **Exhibit 5** for proposed trail map). These trails would also provide a crucial connection underneath Highway 1, as there is no existing dedicated bike or pedestrian crossing of Highway 1 in the vicinity of Carmel River State Beach or Palo Corona Regional Park.

Many of the public access trails will also serve as access roads for vehicles to facilitate the restoration and maintenance of the floodplain area. Simple post and cable fencing would delineate the trails/access roads, including to help keep trail users out of sensitive resource areas, such as the south arm of the Carmel Lagoon and previous restoration sites. Public access to the trails would become available following completion of initial restoration activities, which is expected to begin in approximately 2024. For public safety, trail access will be temporarily restricted during high flow events. Following flooding events, and as reflected in **Special Condition 3(a)**, the Permittees will correct any damage to trails **i**n a timely manner based on best trail maintenance and land management practices and public safety to ensure trails are available to the public as soon as possible.

Trail segments A, B, and C (located west of Highway 1 on parcels owned by State Parks) would be constructed pursuant to State Parks access standards, including that they would be surfaced with aggregate base (i.e., 3/4" size rock) that will be brown in color to match the natural landscape. Within the floodplain restoration area east of Highway 1, trail design and surfaces will vary. Trail segments that are not expected to be impacted by floodwaters or that will be used by vehicles will be surfaced with aggregate base and maintained for vehicular and equipment access. Trail segments that are within or adjacent to flood channels, which will be impacted by expected floodplain function during flood events, will be "unimproved trails" that are native soil and not surfaced with aggregate base or other road materials. This approach is intended to recognize that these access trails are in an active floodplain, and to avoid significant construction and introduction of trail materials that might impact that area. Existing agricultural and open space easements cover roughly 89 acres of the land under BSLT ownership within the CRFREE project area. The Applicants confirmed that the proposed project, including the envisioned public access, is in conformance with the terms of those easements.[20]

Highway Improvements

Construction of the proposed Highway 1 bridge and related improvements would temporarily impact Highway 1 access, including from expected traffic delays, but these impacts are intended to be minimized through use of a temporary detour road adjacent to the current highway alignment to allow for continued two-way traffic during construction. Construction for the temporary detour and its tie-ins to existing Highway 1 lanes at either end would be performed at night under temporary traffic control. With the tie-ins complete, traffic would then be directed over to the temporary detour road for the duration of the bridge construction work. The speed limit on the detour would be 45 miles per hour (as compared to 55 mile per hour currently on Highway 1). After the bridge construction is complete, the temporary detour road would be removed, and the area restored as part of the overall restoration. Construction activities would not be scheduled on Sundays and holidays to help minimize impacts during those timeframes.

Once complete, the proposed bridge would provide multiple permanent public access enhancements for users of Highway 1. The bridge would include larger highway shoulders (eight feet in width as compared to the 4-foot shoulders currently), which will

[20] Commission staff correspondence with Applicants, May 19, 2022.

transition to four feet at each end of the bridge. Eight-foot-wide shoulders would be consistent with other Highway 1 bridges in the area, including Carmel River Bridge to the north. These widened shoulders will provide a Class II bicycle lane in both directions, as well as additional space for vehicles to exit the travel lanes in case of emergency. The bridge will have a concrete and metal railing safety barrier 42 inches high along the outside edges of the shoulder. These barriers are designed to meet modern safety standards while providing sufficient visual permeability to afford highway travelers visual access to the floodplain and surrounding landscape.

The most consequential travel lane change to be constructed as part of the bridge will be the addition of a center left-turn lane at the south end of the bridge. This turn lane will allow southbound-traveling vehicles to safely decelerate and turn left across northbound traffic into the driveway that leads to a 58-space parking lot at Palo Corona Regional Park. Since its construction, the parking lot has been closed to the public because MPRPD and Caltrans determined that attempting to turn left from the southbound lane across the northbound lane into the driveway carries an unacceptable risk of vehicular collision. Thus, access through this entrance to the park is currently limited to 13 permits a day, and visitors must park on the gravel shoulder outside the park and enter through the gate on foot. MPRPD and Caltrans agreed that if a left-turn lane were to be constructed to allow southbound travelers to safety decelerate and turn into the driveway, the site would be safe enough for the MPRPD to open the parking lot for public use.[21]

The proposed project will construct the long-envisioned left turn lane at the entrance to Palo Corona Regional Park, and in doing so will allow for the opening of the 58-space parking lot to public use. Following inquiries with MPRPD and Caltrans staff, Commission staff is not aware of any additional barriers preventing opening of the entrance gate to the parking lot for public use, and Commission staff expects this opening to occur upon completion of construction. The opening of the parking lot to public use will coincide nicely with the opening of the trails constructed by the proposed project, which are accessible from the parking lot, and will obviate the need for parking along the Highway 1 shoulders to access the trails.

Regional Public Access and Long-Term Maintenance

The pedestrian trails and highway improvements described above will significantly enhance public access to and throughout the project site. However, the Applicants also recognize that to fully realize the public access potential of the proposed project, public use of the project site must be coordinated with use of the surrounding public lands under ownership of State Parks (to the west) and MPRPD (to the south and east). Public use of trail segments A and B, which are located primarily on State Parks land west of Highway 1, will be determined by State Parks in accordance with the Carmel River State Beach General Plan. Use of the remainder of the proposed trails and associated facilities will be delineated as part of a long-term maintenance agreement between BSLT, State Parks, and MPRPD for the project site. The agreement will be

[21] See Palo Corona Regional Park General Development Plan, page 16, available online at https://www.mprpd.org/files/823a4cdd6/PaloCoronaGDP_upload.pdf.

based on existing practices on surrounding lands, ongoing restoration and maintenance activities, and seasonal conditions. It is estimated to be finalized by the end of 2023.

The Commission strongly supports this coordinated approach, as it will provide the public with consistent and reliable access throughout the area. To ensure the seamless integration of all the public access elements of the project, the recommended CDP approval is conditioned to require the submission of a Public Access Management Plan for Executive Director review and approval (**Special Condition 3**). Building on the long-term maintenance agreement, the Public Access Management Plan will specify implementation of public access throughout the vicinity, including allowable uses and timing, directional and interpretive signage, and entry points. **Special Condition 3** requires the plan to provide for maximum use of public trails, as well as sufficient off-highway parking (e.g., in the Palo Corona Regional Park parking lot) to support maximum public use. The Applicants will propose site-specific management contingencies based on allowable uses on adjacent public lands, trail connection needs, ongoing restoration and maintenance activities, wildlife habitat protections, seasonal conditions, and public hazards. All public access areas, improvements, and amenities shall be free and publicly available. **Special Condition 3** also directs the Applicants to consider more broadly how public access facilities that currently exist or will be constructed as part of the proposed project could interconnect with future trails and access facilities in various stages of planning.[22] Implementation of the approved Public Access Management Plan will allow the public to take full advantage of the tremendous public access amenities provided by the proposed project consistent with the public recreational access provisions of the Coastal Act.

Conclusion

In conclusion, the Commission finds that the trails constructed by the proposed project will provide significant new public access and recreational amenities, as well as enhance connectivity between existing parklands west, south, and east of the project site. Moreover, the proposed bridge will provide several highway safety enhancements, including a critical left-turn lane that will allow for the long-awaited opening of the parking lot at Palo Corona Regional Park, with minimal traffic impacts during construction. Preparation of a Public Access Management Plan will ensure that all these public access enhancements are implemented in coordination with access to surrounding public lands. Therefore, the Commission concludes that the project is consistent with the above-cited Coastal Act public recreational access provisions.

3. Hazards

Applicable Coastal Act Provisions

[22] Examples include a pedestrian bridge over the Carmel River connecting the existing Hatton Canyon Trail located between Highway 1 and the Crossroad Shopping Center (approved via CDP 3-09-057-W) to the proposed Carmel River FREE trail network directly across the Carmel River, and the contemplated trail traveling from the wastewater treatment plant access road northwest along and across Carmel River and connecting with the Mission Trail in Carmel. Additionally, CDP 3-95-038, which authorized replacement of Carmel River Bridge, required Caltrans to set aside funds for a future crossing of the Carmel River in this area. It appears these funds are still available to contribute to such a future project.

The Coastal Act is premised on hazard avoidance and minimization, including to address potential coastal resource issues associated with hazard responses. Section 30253 of the Coastal Act states, in applicable part:

> ***Section 30253.*** *New development shall do all of the following: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. …*

In addition to Section 30253(a), when a project site could be exposed to sea level rise, Coastal Act Section 30270 requires the Commission to "take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and to the extent feasible, avoid and mitigate the adverse effects of sea level rise."

Analysis

The combination and extent of coastal hazards vary by location. Given this project's location within the historic floodplain of the Carmel River, the most significant hazard risk is from heavy river flows, particularly during extreme storm events. The primary objective of the proposed project is to significantly reduce this risk throughout the project area and the surrounding vicinity by restoring more natural floodplain function.

Alternatives

The Applicants evaluated multiple alternatives in order to identify the project alternative that would deliver the most significant risk reduction for a nature-based project of this type. The main alternatives are summarized below.

Proposed Alternative

The proposed project would remove a portion of the existing levees on the south bank of the Carmel River to allow heavy river flows to spill laterally onto the historic southern floodplain. The floodplain area would be graded and revegetated to provide restored habitat function and hydraulic conveyance. A portion of the Highway 1 embankment obstructing the floodplain would be removed and replaced with a bridge to allow water to flow westward across the floodplain and under the highway. The bridge would be a cast-in-place, prestressed box girder bridge founded on six, fifty-six-inch-diameter cast-in-steel-shell piers. The bridge would be approximately 360-feet long and would vary from approximately 43 to 52 feet wide. The roadway centerline along the bridge would be approximately 3 feet higher than the current roadway elevation in order to provide sufficient freeboard during a 100-year flood event. The proposed project would place a 3-foot-thick layer of 500-pound rock slope protection (RSP) around the north and south bridge abutments. The RSP layer would be approximately 22 feet high and extend 8 feet underground (see page 12 of **Exhibit 3**). The size and quantity of RSP was

calculated to be necessary to protect the abutments from significant scour during a 100-year stormwater flow.[23]

Hydraulic modeling indicates that this design alternative would provide a significant reduction in flooding within the main river channel as well as within the restored southern floodplain and the developed former floodplain area north of the river near Val Verde Drive. During a heavy stormwater flow caused by a 1% annual probability rainfall event ("100-year stormwater flow"), the predicted water surface elevation in the main channel would be 0.6 feet lower at the upstream end of the project site compared to existing conditions, 2.3 feet lower at Carmel River Bridge, and 1.2 feet lower at the wastewater treatment plant. At the segment of Highway 1 crossing the floodplain, which will be converted into a bridge crossing, projected flood elevations during a 100-year stormwater flow would decrease from 27.8 feet NAVD88 to 20 feet on the upstream side of the bridge, and from 20.5 feet to 19.6 feet on the downstream side of the bridge.[24] The proposed bridge will have a minimum soffit elevation of 21 feet, providing a minimum of approximately one foot of freeboard during a 100-year stormwater flow. Flood elevation reductions of this magnitude translate to a significant reduction in flood risk in the developed north floodplain and at the wastewater treatment plant, and significantly reduce the cost of future improvements to protect these areas from future flooding events.

Reduced Project Alternative

The Applicants also developed a "Reduced Project Alternative," which was the result of an attempt to develop an alternative that achieved the majority of the project's objectives while reducing or eliminating coastal resource impacts associated with the proposed alternative. The primary differences from the proposed alternative are:

- Instead of creating five levee openings, there would be one enlarged opening.
- Instead of significantly re-grading the BSLT property, as well as approximately 20 acres on State Parks property and 3.5 acres on MPRPD property, floodplain grading would be minimized and would be strictly for conveyance, rather than optimizing habitat restoration outcomes.

[23] Commission staff inquired of the Applicants as to the feasibility of eliminating the RSP. This was deemed to be infeasible because of estimated scour that would occur around the bridge abutments during high-flow events. Commission staff Coastal Engineer Jeremy Smith evaluated the relevant project materials and agreed with the Applicants on this point. The Applicants were also asked to evaluate whether there was a more natural type of barrier that might be used in place of the proposed RSP, such as a series of gabion benches that could be planted to help camouflage the rock and provide additional habitat function. These types of more natural options were likewise dismissed due to the difficulty of planting through 500-pound RSP and the fact that plants would not withstand high-velocity floodwater flows at the site. Moreover, the Applicants concluded that high velocity flows during significant storm events would remove natural planting materials and expose the underlying gabions to high floodwater flows, which would subsequently present a fish entrapment hazard. During consultation with the Applicants, NOAA NMFS specifically prohibited use of gabion baskets at this location due to this entrapment risk. Thus, a bridge project of this nature and at this location requires RSP of the type proposed.

[24] North American Vertical Datum of 1988 (NAVD88) is the official vertical datum in the National Spatial Reference System (NSRS). All elevations expressed in this report are with reference to NAVD88.

- Restoration planting would be reduced in proportion to the reduced habitat impacts.
- The bridge would be 180 feet long, half the length of the proposed bridge.

This alternative would provide a measurable reduction in flooding impacts to downstream areas, including the State Parks barn complex as well as to the Carmel Area Wastewater District outfall pipe crossing Carmel River Lagoon. In addition, the shorter bridge would significantly reduce various construction-related impacts (due to reduced number of bridge piles, reduced excavation quantity, reduced truck trips, etc.).

However, while the Reduced Project Alternative would still provide some flood risk and reduction and habitat restoration benefits, it would provide significantly less benefit compared to the proposed project. The most severe shortcoming is that the flow capacity beneath the shorter bridge would not be sufficient to accommodate a 100-year stormwater flow, which would result in overtopping of the highway during such an event, albeit less frequently than occurs under existing conditions. In addition to impairing highway operation, such extreme flows would exert tremendous pressure on the bridge structure and cause significant scour around the bridge piles and abutments, possibly necessitating additional RSP. The Reduced Project Alternative would also provide significantly less restored habitat due to the reduced floodplain connectivity to the main river channel and lagoon, and the increased distance from the floodplain surface to groundwater. These risks and shortcomings are not outweighed by this alternative's moderately smaller impact footprint and constitute a significant deficiency in achieving the project's primary objectives. Therefore, this alternative was rejected.

Secondary Channel Alternative

The Applicants also considered a "Secondary Channel Alternative," which was proposed for evaluation by NOAA during the scoping phase of the project. This alternative would involve all the restoration work of the proposed project, and the bridge component would be identical. However, this alternative would also include excavating a 2,400-foot-long secondary river channel within the eastern (i.e., upstream) section of the Big Sur Land Trust parcels. The intent would be to create additional habitat features for sensitive fish and wildlife. The Applicants do not propose a secondary channel at this time, as this alternative would provide roughly equal flood risk reduction as the proposed alternative with significantly higher cost. However, the Applicants have noted that the additional habitat benefits provided by the Secondary Channel Alternative could be pursued by a subsequent restoration project in the future.

"No Build" Alternative

Finally, a "no build" alternative was considered, which would leave the existing highway embankment in its current configuration. Given that reconnection of the south floodplain to the main river channel is necessary for restoration of the historic floodplain's functions and values, as well as reducing the flood risk in the developed northern floodplain, the "no build" alternative was rejected.

For the reasons described above, the Applicants determined that the proposed project alternative would provide the maximum flood risk reduction along with significant habitat

restoration and other benefits described throughout this report, and the Commission concurs in this chosen proposed project.

Sea Level Rise

Despite being located approximately one mile upstream of where Carmel River enters the Pacific Ocean, the project site also has the potential to be impacted by future sea level rise, particularly insofar as changes in seawater elevation affect river water elevations during significant storm events. In order to be consistent with Section 30253, the project must minimize impacts from this future combination of hazards. Specifically, the proposed bridge must be designed to minimize hazards impacts to highway operation and the traveling public throughout its 75-year lifetime.

The bridge portion of the proposed project is located approximately 3,500 feet upstream from the Carmel River lagoon and beach. In most years, the lagoon typically builds up a natural sand beach barrier that closes the lagoon from ocean inflows and allows the water surface elevation of the lagoon to remain elevated. High flow rates during the wetter winter months traditionally re-open the mouth of the lagoon, creating a seasonal cycle. However, as development has increased in the areas adjacent to Carmel Lagoon and the historic river floodplain, the lagoon water surface elevation has been actively managed by manually breaching the sand barrier when deemed necessary, typically several times per year.[25]

The Applicants conducted a sea level rise analysis that considered river conditions based on 3 feet and 6.4 feet of sea level rise. Using sea level rise projections for the Monterey tide gauge, 3 feet of sea level rise can be expected to occur by approximately 2065 under the medium-high risk aversion scenario and by 2055 under the extreme risk aversion scenario, while 6.4 feet would occur by approximately 2100 and 2080 under these scenarios, respectively.[26] This analysis indicated that sea level rise can be expected to impact the project area in two respects. The first is an impact to the elevation at which the barrier beach at Carmel Bay breaches after prolonged dry periods. The conditions that allow for breaching to occur are related to a number of factors and among the most important is the elevation to which the barrier beach has built up to. Higher sea levels are expected to lead to higher beach elevations, at least in the shorter term (i.e., before the beaches themselves are subsumed under rising seas). On this basis, the Applicants consider it reasonable to assume that breaching will occur at a higher elevation than under present circumstances and that the increase in the water surface elevation in the lagoon at the time of breaching may be similar to the increase in sea level. However, given that the lagoon is actively managed for flood risk

[25] The Commission has authorized such activities in coordination with USFWS, NMFS, and other partners though the emergency CDP process for a number of years. Monterey County is also exploring more permanent flood control solutions, which could take a variety of forms (including berms adjacent to threatened structures). In any case, the overall intent is to allow for more natural management of the lagoon as much as possible, and future options would be considered as part of their own CDP processes.

[26] These projections come from the Ocean Protection Council's *State of California Sea-Level Rise Guidance 2018 Update*. This document provides a set of sea level rise projections for 12 California tide gauges that OPC recommends using when assessing potential sea level rise vulnerability. These projections represent the current best available science on sea level rise for the California.

mitigation, the Applicants concluded that such an increase is unlikely to have an impact on the project site approximately 3,500 feet upstream.

The second pertinent impact is sea level rise increasing the tailwater for flood flows. In such cases, modeling of flood flows often use a high tide condition as the controlling tailwater elevation. However, the configuration of the mouth of the river at Carmel Bay creates a different control. There, the outlet hydraulics are set by the configuration of the bedrock underlying and bounding the channel because the barrier beach would wash away completely prior to reaching peak flood intensities, and all past modeling has utilized a tailwater condition of roughly 11.9 feet NAVD88, which is markedly higher than higher, high tide level. On this basis, the Applicants concluded that the downstream control would not be significantly impacted by projected increases in sea level, and thus would not impact 100-year stormwater flow conditions at the bridge location.

Based on these analyses, the proposed project, specifically the bridge component, is designed to experience minimal impacts from the combination of sea level rise and extreme stormwater flows during its lifetime. While the Applicants' analysis does depend on continued breaching of the lagoon mouth as part of the suite of measures to manage river surface elevation and minimize flood impacts, this assumption is reasonable to a certain degree because of the collaborative flood risk monitoring and reduction efforts demonstrated by the County and its partners. In other words, even if alternative measures to breaching to address flooding risks are implemented, the expected elevations would not likely be substantially different. As the Commission is also aware, and as is also evident from information submitted by the Applicants and other landowners and agencies, there are multiple other projects throughout the Carmel River watershed in various stages of implementation that are likely to further reduce flood risk and restore habitat along the river.[27] While these future projects do not influence the consistency of the proposed project with the hazards provisions of the Coastal Act, the Commission is cognizant that the planned mosaic of projects will cumulatively achieve the vision for a restored Carmel River and, in doing so, further reduce the risk of impacts from future coastal hazards from stormwater flows and sea level rise.

Conclusion

Though the Applicants have designed the proposed project to reduce vulnerability to coastal hazards, it is not possible to remove all associated risk associated with the uncertainties of natural hazards. **Special Condition 4** requires the Applicants to assume the risks of flooding and all other hazards in the project area. As stated above, the Applicants acknowledge that the project site is necessarily (and intentionally) subject to coastal hazards, particularly heavy stormwater flows and associated flooding, which may be exacerbated by sea level rise over time. The condition stipulates that the Commission is not liable for damage as a result of approving the CDP for the

[27] See, for example, the creation of a 43-acre restoration area in 1996 (Carmel River Mitigation Bank, CDP 3-96-033), the reconstruction of a then 'dry' arm of the Carmel Lagoon in 1997 (Carmel River Lagoon Enhancement Project, CP-1-97), and the San Clemente Dam removal in 2015 (located outside of the Coastal Zone).

development and requires the Applicants to indemnify the Commission in the event of an action against the Commission as a result hazard impacts.

For these reasons, the Commission finds that the proposed project, as conditioned, will minimize risk to life and property from hazards, assure stability and structural integrity, and will neither create nor contribute significantly to erosion, geologic instability, or destruction of the surrounding area, consistent with Section 30253 of the Coastal Act. The Commission further finds that the proposed project, as conditioned, avoids, minimizes, and mitigates the impacts of sea level rise to the extent feasible, consistent with Section 30270.

4. Cultural Resources and Tribal Consultation

Applicable Coastal Act Provisions

Construction activities that disturb soils (e.g., grinding, tilling, disking, and digging/excavating) could damage historical, cultural, and/or archaeological resources. These activities could also inadvertently damage human remains. Section 30244 of the Coastal Act requires development projects to implement reasonable mitigation measures to protect identified archaeological or paleontological resources, and states:

> ***Section 30244.*** *Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Analysis

Archaeological surveys for the project identified three historic resources within the project area: the Carmel River Floodplain Agricultural Landscape and Historic District, which consists of 13 historic agricultural structures and associated features (e.g., wells) located primarily on land owned by the State Parks west of Highway 1; a culvert headwall, which is considered a contributing element to the regional Carmel to San Simeon Highway Historic District and will be permanently removed as part of the bridge construction; and the remains of a mission-period adobe.

The Applicants completed consultation with the State Historic Preservation Officer (SHPO) pursuant to National Historic Preservation Act Section 106 regarding the project's potential impacts on the various structures in the Carmel River Floodplain Agricultural Landscape and Historic District. SHPO concurred that the District is eligible for listing on the National Register of Historic Places, and that the project would have no adverse effect on the historic resources in the project area

Caltrans performed consultation with the SHPO regarding the culvert headwall, which is located within Caltrans' right-of-way easement, to fulfill responsibilities under its agency MOU with the SHPO for state-owned historic resources. Consultation was completed in August 2016, and the SHPO concurred that removal of the headwall, one of 158 in the Carmel to San Simeon Highway Historic District, would be a minor loss of integrity to the historic district and would have no adverse effect on historic properties.

The Applicants also identified potential indirect impacts to the adobe remains consisting of an increase in flood risk as a result of the Project. Section 106 consultation was

completed in March 2017. Based on this consultation, the Applicants added a mitigation measure to the proposed project requiring installation of exclusionary fencing around the adobe under the supervision of the Project Archaeologist prior to the initiation of construction. Construction-phase monitoring would be conducted on weekly basis to ensure the exclusionary fencing is maintained during construction of the Project. SHPO concurred that with the implementation of this measure, the project will result in no adverse effect to the historic resource.

The County initiated Native American tribal consultation in December 2015. Initiation of consultation included sending memos to the cultural resources staff of the tribes and individuals identified by the Native American Heritage Council as having an interest in this area. Based on responses to this outreach, the County conducted additional consultation with the Ohlone/Costanoan-Esselen Nation (OCEN) and the Esselen Tribe of Monterey County to discuss potential project impacts to tribal cultural resources and feasible alternatives or mitigation measures to avoid or substantially lessen the impact. Specific details about the nature and content of consultation are not included in this report due to potential sensitivity of cultural resources. As a result of Native American tribal consultation, the County has incorporated mitigation measures into the proposed project, including the following:

- The final grading plan for activities will be prepared in consultation with a qualified archaeologist, an OCEN representative, and an ETMC representative. The Monterey District State Parks archaeologist will also review the final grading plan for activities on State Parks property.

- A professional archaeologist will be on call to quickly assess any potentially significant cultural materials, archaeological resources, or human remains that might be uncovered during project excavations. At least one Native American monitor, and up to one Native American monitor per excavation activity, shall be on site during excavation west of Highway 1. Additionally, at OCEN's and ETMC's discretion, up to one Native American monitor per excavation activity is optional east of Highway 1. The Project Archeologist will communicate and coordinate with the Native American monitors in regard to all data collection and the evaluation of all artifacts.

- If potentially significant cultural resources are encountered, work will cease within 50 feet of the find until the Project Archaeologist, Native American monitors, and the State Parks archeologist (for discoveries within State Parks property) can evaluate the discovery. If the find is determined to be significant, steps shall be taken to protect the find from further damage or disruption. Additionally, an appropriate mitigation plan will be developed and implemented with the concurrence of USFWS and Monterey County and in consultation with OCEN and ETMC representatives.

- The Project Archaeological and Native American monitors will closely coordinate the recovery of any significant cultural materials that may be found in the excavated soil. The property owner, in consultation with the County, will determine how best to proceed with all materials. Removal of any/all cultural deposits or features on State Parks property shall not occur unless the State Parks archaeologist has been contacted and has been on site to determine how best to proceed.

- Prior to issuance of the grading permit for the project, BSLT will enter into an agreement with the County that provides the following: (1) documented evidence that BSLT has offered a location on BSLT property to OCEN for reinternment of Native American human remains, should any be found during construction; (2) BSLT statement of intent to provide post-project construction access at the project site to OCEN members to collect native materials for cultural purposes, and a date certain by which BSLT will provide documented evidence that BSLT has offered a mechanism to provide said access to OCEN; (3) BSLT statement of intent to work with OCEN to collaboratively develop interpretive information and materials about the history of the OCEN people at the project site; and (4) a provision indicating that the BSLT will consider requests from OCEN, ETMC, and other tribes for cultural and educational activities at the project site.

In addition to the avoidance, minimization, and mitigation measures proposed by the Applicants, the Commission imposes **Special Condition 5**. This condition requires that, as part of the proposed protocol in the event of an unexpected discovery of potentially significant cultural resources, the Applicants must, before recommencing construction, submit a report to the Executive Director evaluating the find and describing any proposed changes to the project. The Executive Director will respond with a determination of whether the proposed changes are allowable under the CDP

Consistent with the Commission's Tribal Consultation Policy adopted in 2018, Commission staff reviewed the tribal consultation undertaken by Applicants. On May 2, 2022, Commission staff wrote to the tribal representatives and individuals identified by the NAHC to inform them of the project's CDP application and the Commission's upcoming hearing on the project, to offer consultation, and to advise them of the opportunity to provide comments for the CDP hearing. Commission staff did not receive responses to this outreach.

In conclusion, based on the findings of the Applicants' surveys, consultation with SHPO and Tribes, and proposed monitoring, avoidance, and mitigation protocols that will be implemented by the applicants as part of the project, the Commission finds that the development, as conditioned, is consistent with Coastal Act Section 30244.

5. Agricultural Resources

Applicable Coastal Act Provisions

The Coastal Act places a strong emphasis on the protection of coastal agriculture, including not only existing operations but agricultural soils. Applicable Coastal Act agricultural protection provisions include:

> ***Section 30241.*** *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 development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

***Section 30242.** 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.*

Section 30241 requires that the maximum amount of prime agricultural land be maintained in agricultural production, and that the conversion of agricultural land along the urban periphery be limited to instances where the viability of existing agricultural use is already 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 or would concentrate development in urban areas. In comparison to Section 30241 and its focus on conversions of agricultural lands around the urban periphery, Section 30242 addresses conversions of “all other lands” (i.e., rural locations without conflicts between agricultural and urban land uses) suitable for agricultural use.

Analysis

The project area is located on the periphery of the urbanized City of Carmel to the north and the Carmel Meadows residential community to the south. It is also bisected by Highway 1, which connects these communities and the Central Coast more broadly. The project area was historically an important part of the Carmel River system, providing critical floodplain for heavy river flows to travel to Carmel Lagoon and the Pacific Ocean. The construction of levees in the 1930s along the river’s south bank prevented this natural lateral dispersal, confining flows to the river channel. This artificial constriction made it possible to farm on the former river floodplain, and it also imposed significant flood risk on the residential and commercial development north of the river as

well as Highway 1. Farming operations in the lower Carmel Valley watershed gradually diminished in the late 1990's and 2000s, and various parts of the watershed have been restored to their historic configurations and values. Such is the nature of the project currently before the Commission.

Here, although the site contains approximately 11 acres of prime soils (which are not uncommon for floodplain areas), there has been no crop cultivation on the property since 2010, and currently there is only limited grazing on a small portion of the property. In addition, 23 acres of the site are protected for agricultural use via easement, although the site is not under a Williamson Act contract. To maintain agricultural productivity and to ensure that the areas' agricultural economy is protected (as directed by Section 30241), the Applicants will maintain a 23-acre agricultural preserve along the southern boundary of the property. Given these facts and the fact that the proposed project is intended to put the floodplain back to its historic and naturally occurring (and pre-agricultural) use, the Commission finds that the Applicant's 23-acre agricultural preserve appropriately meets the objectives of Sections 30241 and 30242.

In addition, agricultural viability on the site will be further protected by raising the agricultural preserve above the 100-year flood elevation and by ensuring that it remains in permanent agricultural use going forward. "Wildlife friendly" fencing, which allows animals to jump over and crawl under easily without injury while also being highly visible for both ungulates (hoofed mammals) and birds, will be used to properly enclose livestock without impacting other wildlife. Moreover, the agricultural preserve will be graded to slope away from the floodplain and drain towards the southwest corner of the field, where runoff will be collected in an intermittent drainage channel that runs along the north side of the agricultural preserve access road. This design will ensure that agricultural runoff does not drain into the restored floodplain.

Collectively, these developments will return the majority of the project site to its natural function as a floodplain, thereby restoring its natural and previously occurring habitat and other values, while also leading to collective benefit for the urban, residential, agricultural, and public recreation uses of the surrounding area, and at the same time honoring the legacy of agriculture in the area by maintaining a protected agricultural preserve on the site. The project thus achieves multiple Coastal Act objectives, including agricultural objectives, including that it would also help minimize conflicts between urban and agricultural land uses by allowing the Carmel River system to function naturally as a stable boundary between these uses, as suggested by the Coastal Act and in furtherance of the long-held vision for the area. Thus, the project can be found consistent with the agricultural protection policies of the Coastal Act.

6. Public Views

Applicable Coastal Act Provisions

The Coastal Act places a strong emphasis on the protection of visual resources, including not only known public viewpoints but scenic quality of coastal areas. Applicable Coastal Act visual protection provisions include:

> ***Section 30251.*** *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted*

development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Analysis

Highway 1 between Carmel and Cambria is informally referred to as the "Big Sur Coast Highway". The Carmel River separates the more urbanized Monterey Peninsula from the scenic open spaces to the south, with the Carmel River bridge marking the gateway to the Big Sur Coast Highway. The project site straddles the highway immediately south of the bridge making it a crucial public scenic area that will welcome those entering the highway heading south and say farewell to those heading north. The project site is also visible from frequently used Palo Corona Regional Park trail viewpoints located on the hill above the site, including that from Inspiration Point and the Rumsien Overlook. The site was a well-known artichoke farm owned by the Odello family that operated for over 70 years until such agricultural operations ceased in the early 1990's. The site maintains certain visual characteristics consistent with agricultural operations, such as a relatively flat landscape with access roads through the site and around the perimeter, but also now features native vegetation that has begun to reclaim the site.

The proposed project would temporarily and permanently impact the viewshed in the project site. Construction of the project, particularly soil disturbance associated with grading the site and constructing the causeway bridge, will temporarily impact views until construction is complete and vegetation is established. Construction of the bridge would also result in several permanent visual changes. The shoulders on the bridge would be 8 feet wide (as opposed to 4 feet along the existing highway) to provide space for vehicles to exit the travel lanes in case of emergency.[28] Eight-foot-wide shoulders are consistent with Highway 1 bridges in the area, including Carmel River Bridge to the north. The bridge will have a concrete and metal railing safety barrier 42 inches high along the outside edges of the shoulder. These barriers are designed to meet modern safety standards while providing sufficient visual permeability to afford highway travelers visual access to the floodplain and surrounding landscape. The visible bridge soffit, piles, and RSP around the abutments also present permanent visual changes compared to the earthen berm currently supporting this segment of highway. While each of these changes would be minor, collectively they would result in a moderately more engineered appearance at this portion of the project site.

These visual impacts would be offset by significant permanent visual benefits provided by the project. Restoring the project site to functioning floodplain would greatly improve the viewshed in the area by returning a large swath of land to riparian, wetland, and estuarine habitat more closely resembling its natural state. **Exhibit 4** shows conceptual

[28] Such widened shoulders are generally not necessary on the highway roadway where vehicles are able to pull off of the roadway in case of an emergency, unlike on a bridge.

plans for the restoration of the site that demonstrate how the project will restore and enhance scenic resources of the site from the important public viewpoints described above. The public will have significant new opportunities to experience these views using the proposed access trails. The bridge will also provide several visual benefits to further offset its visual impacts. Removing a 360-foot-long segment of the existing earthen berm supporting the highway will lessen the visual obstruction of the berm, which currently blocks views looking across the highway from either side. After project construction is complete, public trail users would be able to see across the entirety of the floodplain and seaward toward Carmel Lagoon, making the viewshed vaster and more continuous. Bicyclists along the highway would also have a more pleasurable viewing experience of the floodplain, as the Class II shoulders would provide a wider riding area from which to safely take in the viewshed while riding across the bridge.

In conclusion, the proposed project's overall visual impact would be minor and visually unobtrusive, and will be more than offset by the significant viewshed improvements provided by the floodplain restoration and enhanced public viewing experiences, particularly pedestrians on trails and bicyclists on the highway. As a result, the Commission finds that the project is consistent with Section 30251 of the Coastal Act.

7. Other Agency Approvals

U.S. Army Corps of Engineers (Army Corps)
The Army Corps has regulatory authority over the proposed project under Section 404 of the Clean Water Act, which regulates the discharge of dredge or fill material in waters of the United States. On November 14, 2019, the Army Corps concluded the project qualifies for authorization under Department of the Army Nationwide Permit (NWP) 27 (82 Fed. Reg. 1860, January 6, 2017).

U.S. Fish and Wildlife Service (USFWS)
Under the Endangered Species Act, a Section 7 Consultation is required for incidental take of any federally listed fish and wildlife species. USFWS issued a Biological Opinion for California red-legged frog on November 7, 2018, and the requirements of that Opinion have been incorporated into the proposed project

National Marine Fisheries Service (NMFS)
Under the Endangered Species Act, a Section 7 Consultation is required for incidental take of any federally listed anadromous fish species. NMFS issued a Biological Opinion for south-central California coast steelhead on July 27, 2018. An Erratum Letter was provided on October 22, 2018 that provides clarifications and editorial corrections to the original Biological Opinion. The requirements of that Opinion, as modified, have been incorporated into the proposed project

California Department of Fish and Wildlife (CDFW)
Section 1602 of the State of California Fish and Game Code requires any person, state or local agency, or public utility proposing a project that may affect a river, stream, or lake to notify the CDFW before beginning the project. If activities will result in the diversion or obstruction of the natural flow of a stream; substantially alter its bed, channel, or bank; impact riparian vegetation; or, adversely affect existing fish and

wildlife resources, a Streambed Alteration Agreement is required from CDFW. **Special Condition 6** requires the Applicants to submit the final CDFW Streambed Alteration Agreement to the Executive Director prior to commencement of construction.

California Department of Parks and Recreation (State Parks)
State Parks requires the Applicants to obtain a Right of Entry from State Parks prior to commencement of construction and restoration activities on State Parks land, which is west of Highway 1. **Special Condition 7** requires the Applicants to submit the approved Right of Entry to the Executive Director prior to commencement of construction of the relevant project phase.

California Department of Transportation (Caltrans)
Caltrans requires the Applicants to obtain a Project Report Approval and an Encroachment Permit from Caltrans prior to commencement of construction within Caltrans' highway right-of-way. **Special Condition 7** requires the Applicants to submit the final Project Report Approval and Encroachment Permit to the Executive Director prior to commencement of construction of the relevant project phase.

Regional Water Quality Control Board – Central Coast Region (RWQCB)
Section 401 of the Clean Water Act requires Caltrans to obtain a water quality certification from the RWQCB for projects involving dredging and/or filling activities. The Central Coast RQWCB issued a certification on March 25, 2022.

Monterey Peninsula Water Management District (MPWMD)
Monterey County Code requires issuance of a River Work Permit for specified construction actions within the Carmel River riparian corridor. MPWMD issued a River Work Permit for the proposed project on July 20, 2020.

Monterey County
Monterey County Code requires issuance of a Grading Permit for the proposed grading activities. **Special Condition 6** requires the Applicants to submit the approved Grading Permit to the Executive Director prior to commencement of construction.

8. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(a) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. Monterey County, acting as the CEQA lead agency, adopted a Final Environmental Impact Report for the proposed project on January 28, 2020.

The Commission's review, analysis, and decision-making process for CDPs and CDP amendments has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(c)). Accordingly, in fulfilling that review, this report has analyzed the relevant coastal resource issues with the proposal and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All significant comments received to date have been addressed, and all above findings are incorporated herein in their entirety by reference.

Accordingly, the Commission finds that only as modified and conditioned herein will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

5. APPENDICES

A. Appendix A – Substantive File Documents[29]

- 60% Project Plans for CRFREE project (November 18, 2016)
- 90% Project Plans for Phase 1 Construction of the CRFREE project (February 11, 2022)
- Restoration and Management Plan for the CRFREE Project (November 16, 2016), H.T. Harvey & Associates
- CRFREE Project - Rationale for Riparian Mitigation Metrics in Riparian Mitigation Areas Memorandum (April 7, 2022), H. T. Harvey & Associates
- FEIR for the CRFREE project (certified January 28, 2020)
- Mitigation Monitoring and Reporting Program - Carmel River Floodplain Restoration and Environmental Enhancement
- CDP File 3-95-038 (Carmel River Bridge Replacement)
- CDP File 3-19-0894 (Carmel River FREE)

B. Appendix B – Staff Contact with Agencies and Groups

- Big Sur Land Trust
- Monterey County Housing and Community Development Department
- California Department of Transportation District 5
- Amah Mutsun Tribal Band
- Amah Mutsun Tribal Band of Mission San Juan Bautista
- Coastanoan Rumsen Carmel Tribe
- Esselen Tribe of Monterey County
- Indian Canyon Mutsun Band of Costanoan
- Ohlone/Costanoan Tribe
- Ohlone/Coastanoan Esselen Nation

[29] These documents are available for review in the Commission's Central Coast District office.

- Trina Marine Ruano Family