Finding of No Significant Impact
For the South San Diego Bay Coastal Wetland Restoration and Enhancement Project

National Marine Fisheries Service

In compliance with the National Environmental Policy Act (NEPA), a memorandum for the Record has been prepared that adopts the Environmental Assessment (EA) for the South San Diego Bay Coastal Wetland Restoration and Enhancement Project. The EA was prepared by the U.S. Fish and Wildlife Service (USFWS) and finalized October 20, 2009. The National Oceanic and Atmospheric Administration (NOAA) is listed as a Cooperating Agency on the EA. The USFWS EA describes the overall proposed restoration actions and environmental consequences related to the restoration of the South San Diego Bay Salt Ponds and the Chula Vista Wildlife Reserve (CVWR) to historic wetlands. The Adoption Memorandum explains and incorporates the analysis developed in the USFWS EA as it relates to a proposed action by the NOAA Restoration Center (RC) and explains that NOAA RC is adopting that EA for its own action.

The NOAA RC proposed action is providing funding via a NOAA Award (# NA09NMF4630314) in the amount of $2,975,000 to the California Coastal Conservancy, to implement a portion of the habitat restoration project involving restoring three former salt ponds (identified as the western salt ponds number 10,10A, and 11) to historic wetland function and restoring the Chula Vista Wildlife Reserve to historic wetland function in south San Diego Bay near the City of San Diego, California. As explained in detail in the Adoption Memorandum, the action that NOAA RC proposes to fund is within the scope and scale of the project analyzed in the USFWS EA. Using the information and analysis of the adopted EA, NOAA RC has independently determined that its proposed action will not cause significant environmental impacts and consequently this Finding of No Significant Impact (FONSI) is being prepared.

The NOAA RC funding action involves only a part of the overall 305-acre project site, which is part of the San Diego Bay National Wildlife Refuge Complex. Specifically, NOAA RC will provide funding for the western salt pond and CVWR components of the project.

NOAA Administrative Order 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant to making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

Response: The proposed action is not expected to cause substantial damage to the ocean and coastal habitats or designated essential fish habitat (EFH). The proposed action is to fund a portion of the overall restoration program described in the USFWS EA as Alternative 1A and 2A. That overall restoration program will re-introduce tidal circulation to 305 acres of land that historically was tidal marsh. The western salt pond component of the project includes 230 acres of marsh that was separated from the tidal system when a perimeter levee was constructed to convert the marsh into a series of salt ponds. Tidal circulation will be re-introduced by breaching the exterior levee near the Otay river mouth and removing an existing tide gate that has regulated exchange between the Otay river and the salt ponds since their creation. As described in section 4.3 of the adopted EA, the project is not expected to have any effect on the currents or circulation patterns of the Otay River or adjacent San Diego Bay. The CVWR component of the project will enhance tidal exchange and intertidal function to 50 acres of wetland habitat by lowering much of the highest intertidal portions of the CVWR and expand the existing tidal channels with the basin. This component of the project also is not expected to have any affect on the currents or circulation of the adjacent San Diego Bay. Overall, the project is expected to have a long term positive effect on the currents and circulation patterns of the tidal sloughs and habitats will be improved.

The proposed action is not expected to cause substantial damage to EFH. Although NMFS determined that some aspects of the project would result in adverse effects to EFH, the effects were determined to be minimal and short term only. NMFS also determined that completion of the project will result in improvement to subtidal and intertidal fish habitat within the southern ecoregion of the bay. As described in section 4.8.1 of the EA, the project will permanently benefit EFH with the restoration of 35.4 acres of shallow subtidal habitat, 19.5 acres of mudflat, and 166.4 acres of coastal salt marsh (summarized in Table 34 of the adopted EA). In addition, Mitigation Measure #10 of the adopted EA requires pre- and post-construction monitoring and mitigation for any loss eelgrass at a 1.2:1 area ratio in concordance with the Southern California Eelgrass Mitigation Policy (SCEMP, Revision 11; NMFS 1991). In sum, the proposed action cannot reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or EFH.

2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: Any impact to biodiversity or ecosystem function will be beneficial and not significant. The project will enhance biodiversity by reintroducing bay

waters to areas that were leveed from flow. This project is expected to provide habitat for invertebrates, fish, bird, and plant life. As described in section 4.8.1 of the EA, approximately 2.9 acres of high coastal salt marsh will be lost in the CVWR component of the project, but this will be offset by the restoration of more than 15.4 acres of high salt marsh habitat throughout the project (Mitigation Measure #7). Other short term impacts may include altering the roosting opportunities available to gulls, pelicans, cormorants, and terns along the levee that separates Ponds 10 and 11. However, the EA concludes that the change to the levee would not significantly alter current roosting opportunities. In addition, the monitoring program for the project includes pre- and post-project monitoring of avian use of this internal levee (Mitigation Measure #8). Overall, this project is expected to have long-term benefits to biodiversity and ecosystem function.

3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health or safety?

Response: NOAA RC is unaware of any potentially substantial adverse impacts to public health or safety. All potentially relevant issues raised in the pubic comment period on the USFWS EA have been addressed. As explained in section 4.3 of the adopted USFWS EA, the project will not change the flood plain boundaries. Long term minimal beneficial flood control effects may occur as a result of the overall restoration project (of which the proposed action is one part) because 230-acres of land that was once isolated from tidal waters will be available to collect (exchange) and store water during storm and flood events. No comments on the USFWS EA were received from FEMA. All other comments regarding potential impacts to public health and safety were adequately addressed in the Response to Comments Section (Appendix D) of the adopted USFWS EA.

4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: As explained in the Adoption Memo, because of potential impacts to species listed under the Endangered Species Act, the project is subject to interagency consultation under Section 7 of that Act (16 U.S.C. § 1536(a)(2)). More specifically, the project may have impacts on the federally listed California Least Tern, Light-footed Clapper Rail, Western Snowy Plover, Salt Marsh Bird's-Beak, California Brown Pelican and Eastern Pacific Green Turtles. However, the USFWS EA concluded that the project was not likely to adversely affect these species.

NOAA RC and USFWS initiated informal consultation on October 7, 2009 asking for USFWS concurrence with the conclusions of the EA regarding impacts on California Least Tern, Light-footed Clapper Rail, Western Snowy Plover, Salt Marsh Bird's-Beak and California Brown Pelican. USFWS completed a Biological Evaluation and Effects Determination dated 16 November 2009, which

concurs that the action, including NOAA RC's partial funding of the project, is not likely to adversely affect these species or their critical habitat.

The USFWS EA also determined that the restoration of CVWR may have some limited potential for project implementation to affect Eastern Pacific Green Turtles. However, with the implementation of mitigation measures identified in the EA, USFWS concluded that the CVWR restoration was not likely to adversely affect the species. Based on this conclusion, USFWS and NOAA RC initiated informal consultation with NOAA on 4 November 2009 in accordance with Section 7 of the Endangered Species Act. NMFS issued a letter of concurrence dated 2 December 2009 concurring with the USFWS finding that the CVWR restoration, including NOAA RC's partial funding of the project, is not likely to adversely affect Eastern Pacific Green Turtles.

After close collaboration between NMFS Habitat Conservation Division and USFWS during the planning of this restoration project, NMFS determined that some aspects of the project would result in adverse effects to essential fish habitat (EFH) under the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended. However, the impacts were determined to be minimal and short term only and NMFS determined that completion of the project will result in improvement to subtidal and intertidal fish habitat within the southern ecoregion of the bay. Therefore, NMFS concluded that as long as the mitigation measures identified in the USFWS EA were adhered to, including Mitigation Measure #10 which required pre- and post-construction monitoring and mitigation for any loss of eelgrass at a 1.2:1 area ratio in concordance with the Southern California Eelgrass Mitigation Policy (SCEMP, Revision 11; NMFS 1991), NMFS had no additional EFH conservation recommendations to provide at that time.

5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: As described in section 4.12 of the adopted USFWS EA, components of the overall restoration project, principally the component involving the transport of dredge material from the CVWR to the western salt ponds will have temporary impacts to boating activity by presenting a navigation hazard to boats. The impacts are temporary (i.e., will only occur while the pipeline is in place during project implementation) and will only occur at high tide because the planed pipeline route is impassible at low tide. The USFWS EA identifies three mitigation measures to minimize these short term impacts to boating.

6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: The effects of the proposed action are not expected to generate any controversy or opposition.

A Public Notice describing the project was issued on September 17, 2009, was sent to all interested parties including appropriate Federal and State agencies and closed October 19th, 2009. The public notice generated 2 comment letters from individuals, 2 letters from local organizations or societies, 3 letters from city officials, 1 letter from the California Department of Transportation, and 1 letter from NOAA's Protected Resources Division. Individual letters, and letters from the affected Cities indicated concerns about traffic control, water quality and historical and cultural resources. USFWS modified the EA to address these concerns and included a detailed response to comments for each of the letters. Comments from NOAA were focused on impact of the project to green sea turtles that occur in San Diego Bay. USFWS expanded their section regarding impacts to Eastern Pacific Green Turtles and mitigating measures and prepared detailed responses to each of NOAA's comments.

7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

Response: Impacts to historic or cultural resources are addressed in item 10 below, and impacts to EFH and ocean/coastal habitat are addressed in item 1 above. Other than the impacts discussed in item 1 and 10, there are no anticipated impacts to unique areas.

8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: Potential effects are not likely to be highly uncertain or involve unique or unknown risks. As described in section 4.17 of the adopted USFWS EA, the proposed action would not be expected to result in unavoidable adverse environmental effects. Where the potential for such effects has been identified, appropriate mitigation measures have been incorporated into the project scope to reduce the effects to below a level of significance. In addition, monitoring during and after construction as part of the proposed action would accommodate the implementation of adaptive measures should unforeseen problems arise.

9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: As described in section 4.14 of the adopted USFWS EA, all impacts related to the proposed action would be mitigated to below a level of significance through the incorporation of specific measures into the scope of the project. Because the majority of the impacts are temporary and these, as well as all other potential impacts, would be mitigated to below a level of significance, the proposed action would not significantly contribute to regional cumulative impacts related to water quality, air quality, GHG emission, noise, or recreation.

Construction of the tide gate would permanently impact up to 204 square feet of tidally influenced habitat that would be mitigated at a ratio of 4:1 on Refuge land located upstream of the tide gate. The proposed mitigation would offset the direct and cumulative impacts of installing the tide gate. Therefore, this action would not contribute cumulatively to the loss of wetlands in San Diego Bay.

10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: The Salt Pond Complex and associated buildings within the South San Diego Bay Unit of the San Diego Bay Wildlife Refuge, including the western salt ponds, have been determined to be eligible for listing in the National Register of Historic Places (NRHP), in part because the site retains a high degree of integrity and because the facility played an important role in the solar salt industry in Southern California from 1916 to 1949. Under the Proposed Alternative in the USFWS EA, the western ponds would be removed from the functional portion of the solar salt operation. The outer levees would be breached in two locations, but the integrity of the remaining levees would stay intact. In addition, a new tide gate would be installed to enable the remaining eastern ponds to continue to function as an active solar salt operation. While the restoration of the western salt ponds would change the function and general appearance of the salt pond complex, the USFWS proposed in their EA to enter into a Memorandum of Agreement with State Historic Preservation Office (SHPO) to implement two mitigation measures that will minimize the cultural and historical impacts of the project.

A railway that is no longer functioning (CA-SDI-5454/12,270) is located along the SR-75 right-of-way, including along the margins of portions of the western salt ponds. CA-SDI-5454/12,270 has been determined to be eligible for listing on the NRHP. As a result, design and construction of the western salt pond restoration will not occur within the upland edges of the ponds, therefore, no adverse effects to this site are expected. However, the UFSWS EA has established one mitigation measure to ensure the protection of the site.

11) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

Response: This project is not expected to introduce or spread any non-native species.

12) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

Response: The proposed action is not likely to establish a precedent for future actions with significant effects or establish a decision in principle for future consideration.

13) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

> Response: The proposed project is not expected to threaten a violation of any environmental protection laws. The project has undergone environmental reviews and will proceed in compliance with mitigation measures inserted into the USFWS EA to minimize any adverse effects to protected resources, as discussed in the Adoption Memo and USFWS EA.

14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

> Response: No cumulative or substantial effects are anticipated. As described in the Adoption Memo and USFWS EA, the project will proceed in compliance with mitigation measures inserted into the USFWS EA to minimize any adverse impacts to protected resources. Overall, this project will have beneficial impacts on living marine resources and their habitats.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the South San Diego Bay Coastal Wetland Restoration and Enhancement Project by the USFWS and the NOAA Adoption Memorandum, it is hereby determined that NOAA RC's funding of the restoration of the CVWR and the salt ponds to historic wetlands, in particular, restoration of the western ponds identified as ponds 10, 10A, and 11 as part of the overall South San Diego Bay Coastal Wetland Restoration and Enhancement Project, will not significantly impact the quality of the human environment. Furthermore, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

12/15/09

Patricia A. Montanio — Date

Director, Office of Habitat Conservation