

Appendix B. Advance Mitigation

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Table of Contents

1.0 IntroductionB-1

2.0 BackgroundB-1

3.0 Implementation of Advance Mitigation ProjectsB-2

 3.1 Solicitation and Funding of Advance Mitigation ProjectsB-3

List of Tables

Table 1. Advance Mitigation Projects Funded/Under Contract Since 2013B-5

Table 2. Advance Mitigation Projects Approved but Not Funded.....B-7

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1.0 Introduction

Section 7.0 of the Conservation Strategy presents methods for coordinating the acquisition of permits for implementation of the Central Valley Flood Protection Plan (CVFPP). These approaches have been initiated and are expected to be used in the future to mitigate impacts on species and habitats that result from CVFPP actions. As explained in Section 7.0, one regional permitting tool used by the California Department of Water Resources (DWR) is the development of advance mitigation projects.

This appendix further describes the purpose and benefits of advance mitigation, DWR's efforts to date, and the process for selecting the first set of advance mitigation projects that will support the CVFPP. Each advance mitigation project has been, or will be, carefully selected in collaboration with permitting agencies to mitigate the effects of activities that will be implemented by DWR and Local Maintaining Agencies in the Systemwide Planning Area (SPA). DWR and the resource agencies are continuing to develop the mechanisms for crediting and a process for tracking the credits. Future advance mitigation projects are likely to follow the same process described herein.

2.0 Background

The traditional project-by-project approach to mitigation can result in delays in project approval prompted by lengthy negotiations and/or approvals, temporal loss of habitat between the time when projects are constructed and the time when habitat is reestablished, inflated costs, small and fragmented mitigation sites, high long-term maintenance costs, lower long-term viability, and poor integration with regional conservation priorities.

In light of these issues, DWR is funding advance mitigation projects that are intended to result in mitigation credits being available well before flood projects or actions that need mitigation are permitted. Because the mitigation is purchased and habitat is restored and protected before the immediate need occurs, there is no temporal loss of habitat that can result in lower mitigation ratios, and a lower overall costs for mitigation. Advance mitigation sites provide a preapproved type and amount of habitat credits.

This coordinated mitigation effort provides a variety of benefits, both in terms of completing flood projects and in terms of improving conservation. The advance mitigation approach can increase the efficiency of the permit process for flood projects, reduce project approval delays, and reduce mitigation costs. From a conservation perspective, it can establish mitigation sites that provide better conservation outcomes. These sites can be connected or be located adjacent to existing conservation areas, contribute to improving ecosystem functions, and be more viable over the long term.

DWR is funding advance mitigation for the effects of State Plan of Flood Control (SPFC) improvements and establishing projects that provide mitigation for habitats and species most commonly affected by flood management (i.e., targets of this Conservation Strategy), thus enabling a broad set of flood projects to use the credits.

DWR prepared funding guidelines for advance mitigation projects and issued a Proposal Solicitation Package (PSP) in 2012. This package solicited proposals to provide mitigation for the unavoidable impacts resulting from future evaluation, repair, reconstruction, or replacement of SPFC levees, weirs, bypasses, and other facilities. To date, three advance mitigation projects and one land acquisition have been funded or are under contract. Each project has been carefully selected in a collaborative effort with the wildlife resource agencies to meet the expected mitigation needs for future improvements to SPFC facilities. DWR and the wildlife resource agencies are continuing to develop crediting and credit-tracking mechanisms as described in Chapter 8 of the Conservation Strategy.

The three projects that are underway are being developed in close coordination with the Mitigation Banking Interagency Review Team (IRT), the multiagency body that formally reviews and approves mitigation banks in California. There is a checklist of documents and information that the IRT reviews as part of all mitigation bank proposals. First, proponents submit a prospectus, supporting documents, and applicable review fees (proponents also have the option of submitting a draft prospectus before submitting a prospectus). Then, after the IRT's approval of the prospectus, proponents may prepare a Bank Enabling Instrument (BEI), which consists of several exhibits ensuring the funding, liability, and short-and long-term management of the property. DWR expects to have all of its advance mitigation projects approved through the formal IRT process. However, if a project is expected to meet the mitigation needs of specific SPFC improvements and a responsible wildlife resource agency agrees to sign an agreement assigning the project's ecological enhancements to compensate for the impacts of those improvements, then the formal IRT process may not be necessary.

3.0 Implementation of Advance Mitigation Projects

The FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO) was allocated \$25 million under Proposition 1E to provide mitigation for the evaluation, repair, rehabilitation, reconstruction, and replacement of SPFC facilities. Because many of the specific SPFC projects are still being identified, these mitigation efforts will provide "credits" for future use. In 2011, FESSRO began developing the Central Valley Flood System Conservation Framework and Strategy Funding Guidelines (Guidelines) to direct the funding toward advance mitigation/compensation projects. A public review process on the draft Guidelines was initiated in November 2011; final Guidelines were approved by the DWR director on 23 February 2012. The Guidelines, which are intentionally broad and general in nature, provide the basis for issuing one to several PSPs that are more specific about the types of projects and activities that will be

pursued with the Proposition 1E funds. Under the Guidelines, Proposition 1E funds may be granted to public entities selected through the PSP process that are responsible for flood management of SPFC facilities; awarded to private entities or nongovernmental organizations selected through a competitively bid State contracting process; or dedicated to direct expenditures, which can be proposed at any time but must meet the same requirements and undergo the same review as PSP grant submittals and competitively bid contracts. For each funding source associated with the CVFPP, staff members will identify the amount necessary for advance mitigation and follow the same process of creating Guidelines and a PSP.

3.1 Solicitation and Funding of Advance Mitigation Projects

DWR issued its first PSP under the Guidelines in September 2012, committing to allocate up to \$25 million to projects that would provide advance mitigation for impacts on several targeted species and natural vegetation communities, most expected to be adversely affected by implementation of the CVFPP and improvements or modifications in the SPA. The PSP process consisted of two phases: submittal of a concept proposal and supporting information, followed by submittal of a full proposal by applicants deemed to have the concept proposals that best meet the criteria.

DWR used a multiagency Project Evaluation Team (PET), composed of personnel from DWR (FESSRO and the Division of Flood Management/Flood Maintenance Office), the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service, to evaluate the concept and full proposals. The PET convened in late October 2012 to review and score approximately 40 concept proposals that exceeded the funding capacity; those submitting the qualified 11 proposals covering 10 projects were invited back for submission of a full proposal. The PET then met in February 2013 to evaluate the full proposals and issue its funding recommendations. The PET analyzed both the concept and the full proposals in accordance with weighted evaluation criteria published in the PSP, which focused primarily on (1) the ecological benefits to be generated by the project and (2) the political/technical feasibility of getting the project implemented in the near term, as well as on (3) the reasonableness of project costs for the purported benefits and (4) how the project is expected to benefit flood management. Based on scores, proposals advanced from the concept to the full proposal phase and then were further screened before they were submitted to the DWR director for final approval.

The outcome of the PET's February 2013 review was the recommendation, ultimately approved by the DWR director in May 2013, that eight proposals (covering seven sites because one site was the focus of two proposals) be funded. One proposal was withdrawn, leaving seven projects. The PET convened in May 2013 and again in August 2013 to consider two direct expenditure proposals, both of which were ultimately approved and funded in fall 2013. Thus, a total of nine projects have been approved by the director to date. At this time, four of the nine projects (one property acquisition and three fully inclusive advance mitigation/compensation projects) have been funded or are under contract. Of the remaining projects approved by the director, one was withdrawn by the applicant in early 2014, one was a property acquisition (the initial phase of a

two-phase project) that underwent internal review but ultimately was not pursued, one is likely to be funded as part of a Sacramento–San Joaquin River Delta-related planning effort, and two that were dependent on the property acquisition likewise were not pursued because the acquisition was not completed.

Table 1, below, lists the advance mitigation projects that have been funded or are under contract, as well as the expected advance mitigation benefits/credits of those projects to flood risk management. These four projects total \$16,160,867.50.

Table 2 lists the advance mitigation projects that were approved by the DWR director but have not been funded. These projects are expected to cost between \$8,700,000 and \$10,400,000.

Table 1. Advance Mitigation Projects Funded/Under Contract Since 2013

Project Title/ Applicant	Proposal Process	Funding Amount (Total Project Cost)	Advance Mitigation Benefits/Credits Expected	Status as of January 2016
Grasslands Giant Garter Snake (GGS) Mitigation Preserve <i>Westervelt Ecological Services</i>	Direct expenditure	\$4,164,000 of which \$3,164,000 is from Proposition 1E. ¹ (\$9,050,372)	This 281-acre mitigation bank will provide 130 giant garter snake credits (from USFWS and CDFW), which will be used to offset impacts on giant garter snakes from SPFC and Delta Levees Program activities throughout the San Joaquin Valley and South Delta.	Bank approved; BEI signed July 8, 2015. Construction completed October 2015. First credits (27.9 of DWR's 130 credits) released August 7, 2015; second release (25%, or additional 46.5 credits) occurred November 24, 2015.
Hidden Valley Ranch Acquisition <i>Reclamation District 2092</i>	Direct expenditure	\$3,900,000 (\$9,300,000)	Acquisition of this 497-acre property in the lower San Joaquin River Conservation Planning Area adds to the flood benefits currently being realized at the adjacent Dos Rios Ranch and the San Joaquin River National Wildlife Refuge. Cumulatively, these properties will provide river- floodplain connectivity to more than 1,000 acres, absorb approximately 10,000 acre-feet of floodwaters, and increase flood protection for downstream communities. Phase 2 will focus on achieving mitigation.	Acquisition complete. Funded October 9, 2013; escrow closed November 5, 2013. CEQA notice of exemption filed.
Salmonid Conservation Bank <i>Westervelt Ecological Services</i> ²	State contracting process: secondary request for proposals to the original PSP	\$4,656,867.50 (<i>Unknown</i>)	A mitigation bank that creates floodplain on a 115-acre property along the Sacramento River (between Colusa and Verona) is expected to generate 57.5 advance mitigation credits from NMFS (for salmonids), which will be used to offset impacts on salmonids from SPFC activities along the Sacramento River. Riparian (CDFW) credits and possibly Swainson's hawk credits (CDFW, USFWS) will also be created at the site.	Prospectus drafted; permit applications and draft CEQA document completed September 2015 (notice of determination recorded November 2, 2015). First credits expected for release in 2016.

Table 1. Advance Mitigation Projects Funded/Under Contract Since 2013

Project Title/ Applicant	Proposal Process	Funding Amount (Total Project Cost)	Advance Mitigation Benefits/Credits Expected	Status as of January 2016
TRLIA Feather River Floodway Corridor Restoration Project <i>Three Rivers Levee Improvement Authority (TRLIA)</i>	PSP (grant)	\$4,440,000 <i>(\$9,130,289)</i>	Funding would be used to enhance 500 acres of a 1,600- acre levee setback area, creating a mosaic of riparian forest, riparian scrub, valley oak woodland, and perennial grassland. This project is expected to generate advance mitigation credits from CDFW (for riparian habitat and possibly for yellow-billed cuckoo) and possibly USFWS (for valley elderberry longhorn beetle and yellow-billed cuckoo).	Draft prospectus approved by CDFW and USFWS in September 2015; other BEI documents under development. TRLIA board to consider adoption of draft IS/MND in early 2016.

Key: BEI = Bank Enabling Instrument; CDFW = California Department of Fish and Wildlife; CEQA = California Environmental Quality Act; DWR = California Department of Water Resources; IS/MND = Initial Study/Mitigated Negative Declaration; NMFS = National Marine Fisheries Service; PSP = Proposal Solicitation Package; SPFC = State Plan of Flood Control; USFWS = U.S. Fish and Wildlife Service.

Notes:

¹ \$1 million of the \$4,164,000 was provided by the Delta Levees Program.

² This project was originally approved under the original PSP as one of the 11, but it was withdrawn and then resubmitted as a Direct Expenditure.

Table 2. Advance Mitigation Projects Approved but Not Funded

Project Title/ Applicant	Proposal Process	Funding Amount (Total Project Cost)	Advance Mitigation Benefits/Credits Expected	Status as of January 2016
1,000-Acre Ranch Property Transfer (Phase I) <i>The Nature Conservancy (TNC)</i>	PSP (property acquisition)	\$401,415 <i>(\$404,376)</i>	Funding for the property transfer is the first phase of a two-phase project. After the property has been acquired from TNC (first phase), a separate contract will be pursued for the land's restoration to riparian habitat (49 acres).	Acquisition not pursued.
1,000-Acre Ranch Restoration (Phase 2) <i>TBD</i>	State Contracting Process: Competitive Bid	Unknown; estimated to be between \$300,000 and \$2 million	Restoration of the 49-acre 1,000-Acre Ranch property will follow successful DWR acquisition of the 1,000-Acre Ranch property. This restoration is expected to yield advance mitigation credits from CDFW (for riparian habitat) for SPFC activities along the middle Sacramento River.	Dependent on completion of 1,000-Acre Ranch Property Transfer (Phase 1); not pursued when acquisition was not completed.
State of California West Sacramento Floodplain Mitigation Bank <i>West Sacramento Area Flood Control Agency (WSAFCA)</i>	PSP (grant)	\$4,996,957 <i>(\$4,996,957)</i>	Funding would be used to design and implement enhancements to WSAFCA's Southport setback levee project, which would yield up to 100 acres of mixed floodplain and riparian habitat. This project is expected to yield advance mitigation credits from NMFS (for salmonids), CDFW (for riparian habitat and possibly for salmonids), and possibly USFWS (for valley elderberry longhorn beetle) for SPFC activities along the lower Sacramento River.	Ninety percent design complete. Funding may be pursued through another program.
Hidden Valley Ranch, Phase 2 <i>Reclamation District 2092</i>	Direct Expenditure	Unknown; estimated to be about \$2 million	Now that the acquisition is complete, an agreement will be crafted for restoration construction and for development of a mitigation bank enabling instrument or similar agreement. This project is expected to yield advance mitigation credits from CDFW (for riparian habitat) for SPFC activities along the middle (and possibly lower) San Joaquin River.	Draft work plan, restoration concepts, and budget are under development, but currently no funding available for Phase 2.
Willow Bend <i>TBD</i>	State Contracting Process	Unknown; estimated to be about \$1 million	This project would improve 72.1 acres and restore 77.5 acres of floodplain riparian habitat; it is located just across the Sacramento River from the 1,000-Acre Ranch property. This is expected to yield advance mitigation credits from CDFW (for riparian habitat) for SPFC activities along the middle Sacramento River.	Dependent on completion of 1,000-Acre Ranch Property Transfer; not pursued when acquisition was not completed.

Key: CDFW = California Department of Fish and Wildlife; DWR = California Department of Water Resources; NMFS = National Marine Fisheries Service; PSP = Proposal Solicitation Package; SPFC = State Plan of Flood Control; TBD = to be determined; USFWS = U.S. Fish and Wildlife Service.

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