

INFORMATION ITEM

Knightsen Wetland Restoration and Flood Protection Project

Summary

The East Contra Costa County Habitat Conservancy (ECCCHC) has initiated the Knightsen Wetland Restoration and Flood Protection Project (Knightsen Project), a multi-objective effort to attenuate flooding in the unincorporated Contra Costa County community of Knightsen, restore wetland and upland habitats for native and special status species, provide water quality benefits, and provide recreation and Delta access. ECCCHC used a recently-established California Environmental Quality Act (CEQA) statutory exemption for the Knightsen Project aligned with California's "Cutting the Green Tape" (CGT) initiative, and has determined that the Knightsen Project does not meet the Council's regulatory definition of a covered action. At today's meeting, ECCCHC staff will describe the Knightsen Project. California Department of Fish and Wildlife (CDFW) staff will describe this streamlined process. Council staff will summarize why they agree that the project should not be deemed a covered action. No Council action is contemplated at this time.

Background

A history of flooding and poor stormwater quality led the Contra Costa County Public Works Department and the Knightsen Town Advisory Council to conduct a study to determine the best way to address drainage concerns in the region. This study identified a 639-acre property just east of the Knightsen community as an optimal location to direct and store stormwater. This would allow natural wetlands to clean and filter water prior to discharge into the Delta and create habitat to support native and special status species. Historically the site was tidal marsh, wetland, sand dune, grassland and oak savanna. More recently, the majority of the project area has been farmed (irrigated agriculture) with a small portion that is seasonally grazed.

The Knightsen Project location is shown on Attachment 1. The project would restore habitat by creating seasonal wetlands, alkali meadows, grassland, and oak savanna on the central portion of the project site, and by creating emergent wetlands with adjacent alkali meadows and grassland habitat on the eastern portion of the project site. The northern portion of the site would be used to enhance and restore seasonal wetland and remnant interior dune habitat. Some of the actions ECCCHC will undertake include shallow excavation of uplands to direct runoff, excavation of channel networks, grading of adjacent areas to create wetland and transitional topography, grading to raise elevations to create dunes, and constructing drainage inlet features along the perimeter to create seasonal wetland conditions. The project is designed to result in numerous long-term net benefits for several native species, specifically targeting habitat restoration for the tricolored blackbird, Swainson's hawk, burrowing owl, giant garter snake, fairy shrimp, legless lizard, and western pond turtle.

CEQA Statutory Exemption for Restoration Projects

For the Knightsen Project, ECCCHC used a recently-established California Environmental Quality Act (CEQA) statutory exemption called the Statutory Exemption for Restoration Projects (SERP), administered by CDFW (Senate Bill 155, statutes of 2021; Public Resources Code section 21080.56). The SERP process begins with consultation between the applicant and CDFW regarding the suitability of the project for the exemption. For a project to qualify, the lead agency must first make its own independent determination that the statutory exemption applies. Once the lead agency has done so, it must then seek concurrence from the CDFW Director that the project meets the specific qualifying criteria for the SERP (set forth in Public Resources Code section 21080.56 (a) through (d)). The CDFW Director's concurrence must be based on substantial evidence and best available science, two standards the Council also applies when considering covered action certifications and appeals.

CDFW staff works in tandem with lead agencies seeking efficient methods for restoration project approvals without compromising the integrity of existing regulations and requirements. Prior to the CGT initiative, permitting processes were designed to respond to impacts associated with development and not on creating

new tools that would better serve restoration projects. After completing several technical studies ECCCHC reached out to CDFW for a SERP consultation and submitted a SERP concurrence request for the Knightsen Project. ECCCHC received a letter of concurrence from CDFW in March 2023. (A copy of the concurrence is located online at .) ECCHC also completed the “Good Neighbor Checklist” for restoration projects identified in Delta Plan Recommendation **ER RB**, and obtained a letter from the Delta Counties Coalition supporting the project and its use of the SERP exemption.

Relevance to the Council

A covered action is: 1) a project as defined under Public Resources Code section 21065; 2) that will occur in whole, or in part, in the boundaries of the Delta or Suisun Marsh; 3) will be carried out, approved, or funded by a public agency; 4) will have a significant impact on the coequal goals or implementation of a flood control program; and 5) is covered by a Delta Plan regulatory policy. Typically, this type of habitat restoration and flood protection project would meet the definition of a covered action, requiring a certification of consistency with the Delta Plan. However, a project that is exempt from CEQA is not a covered action unless there are “unusual circumstances indicating a reasonable possibility that the project would have a substantial positive or negative impact on the achievement of one or both of the coequal goals for the Delta or the implementation of a government-sponsored flood control program.” (23 CCR section 5001(dd)(4)). As discussed above, ECCHC, in concurrence with CDFW, has determined that the project is exempt from CEQA.

The Knightsen Project’s objectives and the use of the “Good Neighbor Checklist” align with the Delta Plan and many of its primary objectives. Council staff have reviewed the project documentation and consulted with ECCHC and CDFW; staff has not found unusual circumstances that would indicate the project would have a substantial impact on either of the coequal goals or the implementation of a government sponsored flood control program. The letter from the Delta Counties Coalition further supports a lack of unusual circumstances in this instance. (23 CCR section 5001 (j)(3)) Council staff have discussed this understanding with CDFW and ECCCHC staff. Pursuant to the Council’s regulations, ECCHC has determined that

the project is not a covered action and does not intend to submit a certification to the Council (23 CCR 5001(j)(1)(E)(3)). No Council action is required at this time.

Council staff is aware of additional habitat restoration projects in the Delta that intend to use the SERP exemption in a similar manner as the Knightsen Project. Council staff will carefully consider the circumstances of each individual SERP for each future project concerning “unusual circumstances” under 23 CCR section 5001 (dd)(4). Council staff is also actively participating in CDFW’s early consultation process for SERP projects in the Delta, and will use that process to advise potential SERP applicants regarding Delta Plan certification of consistency requirements.

Fiscal Information

Not applicable.

List of Attachments

Attachment 1: Map of the Knightsen Wetland Restoration Project Area

Contact

Jeff Henderson

Deputy Executive Officer

Phone: (916) 842-9333

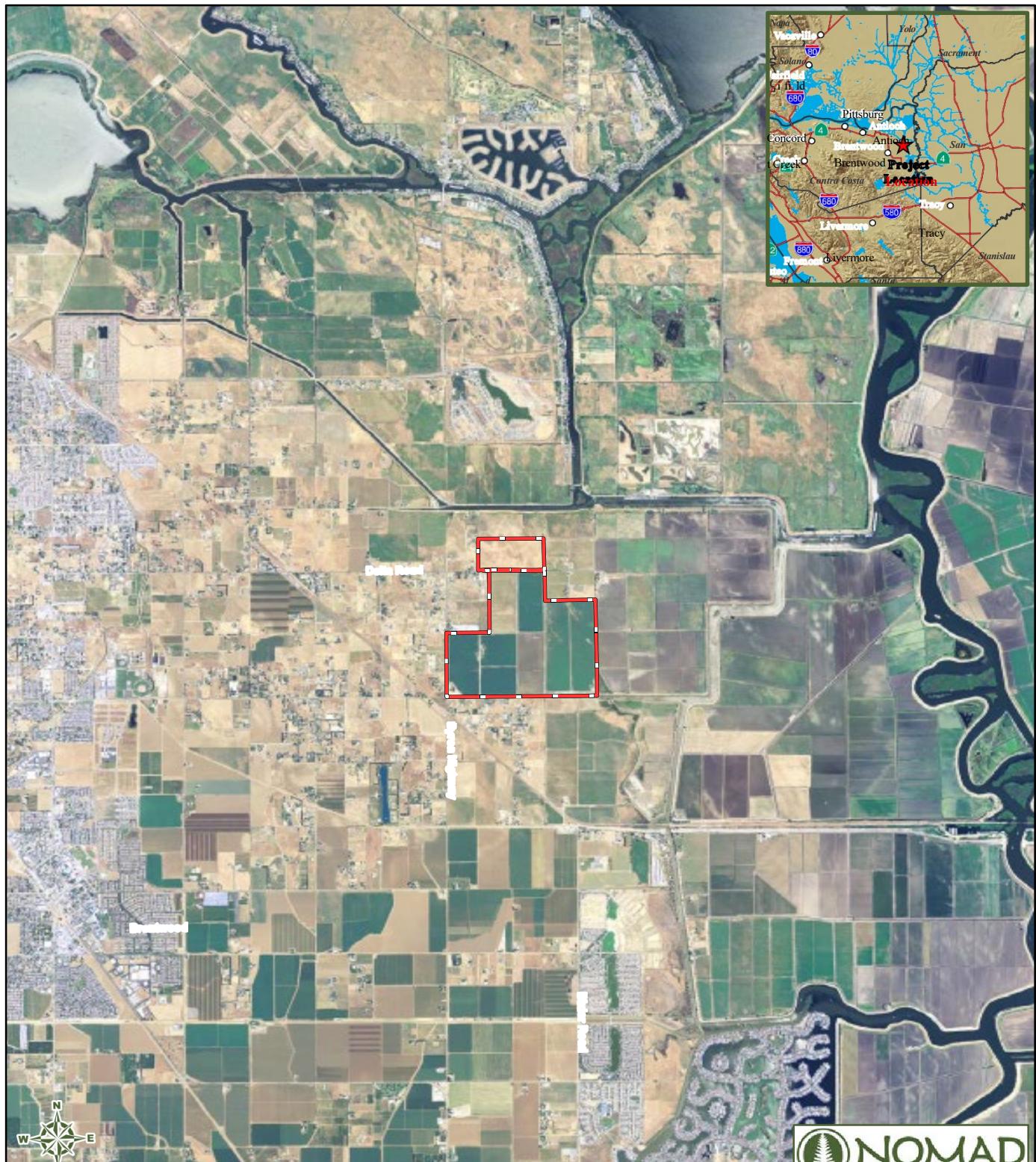


Figure 1 Project location for the Knightsen Wetland Restoration and Flood Protection Project