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In Reply Refer to:
08ESMF00-2021-I-0721

February 24, 2021

Regulatory Division Chief
Attn: Naomi Schowalter
Department of the Army
San Francisco District, Corps of Engineers
450 Golden Gate Avenue
San Francisco, California 94102
naomi.a.schowalter@usace.army.mil

Subject: Informal Consultation for the West Trail Living Shoreline Project in Pillar Point Harbor, San Mateo County, California (U.S. Army Corps of Engineers File No. 2014-00294S)

Dear Regulatory Division Chief:

This letter is in response to the U.S. Army Corps of Engineers (Corps) December 30, 2020, request for initiation of informal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed West Trail Living Shoreline Project (proposed project) in Pillar Point Harbor, San Mateo County, California. Your request was received by the Service on January 4, 2021. At issue are the proposed project's effects on the federally listed as threatened marbled murrelet (*Brackyramphus marmoratus*), threatened Pacific Coast Distinct Population Segment of the western snowy plover (western snowy plover) (*Charadrius nivosus nivosus*), endangered California least tern (*Sternula antillarum browni*), endangered San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), and threatened California red-legged frog (*Rana draytonii*). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*.) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

Pursuant to 50 CFR 402.12(j), you submitted a biological assessment for our review and requested concurrence with the findings presented therein. These findings conclude that the proposed project may affect, but is not likely to adversely affect the marbled murrelet, western snowy plover, California least tern, San Francisco garter snake, and California red-legged frog. Critical habitat has been designated for the marbled murrelet, western snowy plover, and California red-legged frog but does not occur within the action area for the proposed project.

In considering your request, we based our evaluation on the following: 1) the December 30, 2020 consultation request and accompanying biological assessment for the proposed project; 2) email correspondence between the Service and Corps; and 3) other information available to the Service.

Description of the Proposed Action

The proposed project is located at Pillar Point Harbor (Harbor) in unincorporated San Mateo County. The purpose of the proposed project is to construct a living shoreline to protect and restore the severely eroded segment of the West Trail and to improve local stormwater facilities. The living shoreline would consist of a nourished beach with an elevated dune adjacent to the trail. A cobble berm (i.e., a dynamic revetment) and two rock fingers extending perpendicular from the trail would be buried beneath the surface of the sand beach and dune. Up to 7,000 cubic yards (CY) of sand, 4,000 CY of one- to four-inch-diameter rock, and 280 CY of four- to ten-ton stones would be discharged along 0.95 acre of the Harbor. Sand would be sourced from the Harbor, including 1,600 CY from a previous dredging project that is currently being stored at the Half Moon Bay Airport, and 5,400 CY dredged from 1.67 acres of Overwash Shoal within the Harbor. Dredging would be conducted from the shoreline during low tide using a clamshell or bucket dredge attached to a long-reach excavator. The dune would be planted with native vegetation once constructed.

The proposed project will also address drainage issues in the vicinity of the living shoreline project site. The concrete-lined drainage ditch along the bluff would be removed and replaced; a corrugated metal pipe between the ditch and the trail would be replaced with a concrete channel, check dam, and concrete energy dissipator; a bioretention basin with native vegetation would be constructed along the western edge of the trail, channeling runoff from the drainage ditch north to Pillar Point Marsh; an existing overflow discharge pipe would be improved to feed water from the basin to upland portions of Pillar Point Marsh; and the existing outfall pipe that discharges directly into the Harbor would be removed. Construction of the bioretention basin would include the discharge of approximately 320 CY of soil and 130 CY of gravel within 0.008 acre of non-tidal waters.

Conservation Measures

The following are the applicable conservation measures that will be implemented as part of the proposed project:

General Construction

1. Silt fences, straw wattles, or equivalent apparatus shall be installed at the perimeter of the construction site to prevent construction-related runoff or sediment from discharging to coastal waters or to areas that would eventually transport such discharge to coastal waters.

2. The fueling and maintenance of vehicles and other equipment shall occur at least 100 ft (30.5 m) from any aquatic habitat or water body.

3. The contractor shall ensure that good construction housekeeping controls and procedures are maintained at all times (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of foil and wastes); dispose of all wastes properly; place trash receptacles on site for that purpose; cover open trash receptacles during wet weather; and remove all construction debris from the site)

4. All erosion and sediment controls shall be in place prior to the commencement of construction as well as the end of each workday.

5. All coble, gravel, and sand used for shoreline rehabilitation placed under the waterline shall be clean with minimal inclusion of fine material. Materials shall also be free of pollutants, pathogens, and invasive species.

6. No rodenticides, pesticides, or herbicides will be used as part of the proposed project.

Dredging Best Management Practices

7. No project debris or waste shall be placed or stored where it may enter harbor or ocean waters, a storm drain, sensitive habitat, or be exposed to wave, wind, rain, or tidal erosion or dispersion.

8. Dredging shall be conducted using an excavator during low tides. Dredging shall occur in the dry (equipment is prohibited within the harbor). Equipment wetting as a result of an unforeseen wave is allowed.

9. Project equipment, vehicles, or other machinery not essential to the dredging shall not be allowed at any time to enter harbor waters or the intertidal zone.

General Wildlife Conservation Measures

10. At least 15 days prior to any ground disturbing activities, the applicant shall submit the name(s) and credentials of biologists who could conduct the activities specified in the following measures. A qualified biological monitor means any person who has completed at least four years of university training in wildlife biology or a related science and/or has demonstrated field experience in the identification and life history of the listed species. Resumes of all biologists will be submitted to the Service for approval. No earth moving or other project activities will begin until written approval from the Service has been received that the biologist(s) is qualified to conduct the work.

11. Prior to the start of construction, a Service-approved biologist will conduct an Environmental Awareness Training. The training will educate all construction personnel regarding habitat, identification of special status species, and required practices before the start of construction. The training will include the general measures that are being implemented to conserve the species as they relate to the proposed project, the penalties for non-compliance, and the boundaries of the proposed project area. If new construction personnel are added to the project, the contractor will ensure that the personnel receive the mandatory training before starting work. A fact sheet or other supporting materials containing this information will be prepared and distributed to all construction personnel. Upon completion of training, construction personnel will sign a form stating that they attended the training and understand all the conservation and protection measures.

12. A “soft-start” policy shall be implemented in order to allow wildlife species to vacate the area prior to construction activities.

13. A litter control program will be instituted at the proposed project site. All construction personnel will ensure that their food scraps, paper wrappers, food containers, cans, bottles, and other trash from the project area are deposited in covered or closed trash

containers. The trash containers will be removed from the proposed project area at the end of each working day.

Avian Conservation Measures

14. In the event that western snowy plovers or California least terns nest on the small beach along the West Trail withing the proposed project area, nest protection measures (as described below) will be implemented. In addition, no night work (including artificial lighting) will be permitted within 300 ft (91.4 m) of the nest.

15. If construction work occurs adjacent to suitable nesting habitat (i.e., beach) between January 15 to September 15 (general nesting season in the proposed project area), a qualified biologist shall conduct pre-construction nest surveys (specifically for western snowy plovers and California least terns). The biologist shall conduct at a minimum a one-day pre-construction survey within the seven days prior to ground-disturbing activities. If ground disturbance work lapses for seven days or longer during the nesting season, a qualified biologist shall conduct a supplemental avian pre-construction survey before project work is reinitiated.

16. If active nests are detected within the construction footprint or up to 500 ft (152.4 m) from construction activities, the biologist shall flag a buffer around each nest (assuming property access). Construction activities shall avoid nest sites until the biologist determines that the young have fledged or nesting activity has ceased. If nests are documented outside of the construction (disturbance) footprint, but within 500 ft (152.4 m) of the construction area, buffers will be implemented as needed (buffer size dependent on species). In general, the buffer size would be determined on a case-by-case basis in consultation with the California Department of Fish and Wildlife and, if applicable, with the Service. Buffer sizes will take into account factors such as 1) noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity (including proposed temporary new sources of light in the proposed project area during night work); 2) distance and amount of vegetation or other screening between the construction site and the nest; and 3) sensitivity of individual nesting species and behaviors of the nesting birds. An absolute minimum buffer size of 30 ft (9.1 m) is recommended as a starting point of discussion for common species, with larger buffers expected for special status species and raptors.

17. If active nests are detected during the survey, the qualified biologist shall monitor all nests at least once per week to determine whether birds are being disturbed. Activities that might, in the opinion of the qualified biologist, disturb nesting activities (e.g., excessive noise), shall be prohibited within the buffer zone until such a determination is made. If signs of disturbance or distress are observed, the qualified biologist shall immediately implement adaptive measures to reduce disturbance. These measures may include, but are not limited to, increasing buffer size, halting disruptive construction activities in the vicinity of the nest until fledging is confirmed or nesting activity has ceased, placement of visual screens or sound dampening structures between the nest and construction activity, reducing speed limits, replacing and updating noisy equipment, queueing trucks to distribute idling noise, locating vehicle access points and loading and shipping facilities away from noise-sensitive receptors, reducing the number of noisy construction activities occurring simultaneously, and/or reorienting and/or relocating construction equipment to minimize noise at noise-sensitive receptors.

18. To minimize the potential for disturbance of marbled murrelets foraging in or traveling to/from Pillar Point Harbor during the dawn and dusk hours, temporary artificial lighting proposed during night work would be angled away from open water in Pillar Point Harbor.

Reptile/Amphibian Conservation Measures

19. There will be no use of plastic mesh erosion control materials, to prevent entanglement of California red-legged frogs or San Francisco garter snakes.

20. Pre-construction surveys for listed species will be conducted immediately prior to groundbreaking or ground disturbance activities (including grading or equipment staging) that occurs in California red-legged frog or San Francisco garter snake habitat or any activity that may result in take of these species. Surveys will be conducted by Service-approved biologists who will carefully search all obvious potential hiding spots for California red-legged frogs and San Francisco garter snakes, including but not limited to downed woody debris, culverts, riparian vegetation, and entrances to small mammal burrows. In the event that a listed animal is observed, construction will cease until the individual has moved out of the area of its own volition.

21. Before the onset of any construction activities, the construction manager and Service-approved biologist will discuss locations for equipment, personnel access, and materials staging to minimize disturbance to California red-legged frog and San Francisco garter snake habitat.

22. A Service-approved biologist will be onsite during all ground-disturbing activities (i.e., vegetation grubbing, excavation) within potential listed species habitat to ensure compliance with these avoidance measures. This includes monitoring during both daytime and nighttime work.

23. After ground disturbing activities are complete, the Service-approved biologist will train an individual to act as the on-site construction monitor. The construction monitor will have attended the Environmental Awareness Training described above. Both the Service-approved biologist and the construction monitor will have the authority to stop and/or redirect project activities to ensure protection of resources and compliance with all environmental permits and conditions of the proposed project. The Service-approved biologist and construction monitor will complete a daily log summarizing activities and environmental compliance.

24. The Service-approved biologist will have the authority to stop proposed project activities if any of the requirements resulting from consultation are not being fulfilled. If the biologist has presented a stop work order due to take or near-take of any of the listed species, the Service and the California Department of Fish and Wildlife will be notified within one working day via email or telephone.

25. A Service-approved biologist shall survey the work site immediately prior to construction activities. If California red-legged frog adults, tadpoles, or eggs or San Francisco garter snakes are found, the approved biologist shall contact the Service to determine further steps as appropriate.

26. The site inspector will be trained by the Service-approved biologist and may act as the construction monitor during non-ground disturbing or lower risk portions of the proposed project. The inspector will be identified during the employee education program. The name and telephone number will be provided to the Service prior to the initiation of ground disturbance activities.

27. No pets will be permitted in the work area to avoid harassment, killing, or injuring of California red-legged frogs or San Francisco garter snake individuals. Because the work area occurs along a pedestrian trail on which dogs are permitted, it is understood that canine or feline pets may be present in the vicinity of the work area that do not belong to the construction workers.

28. No firearms may be discharged within the work area (except for Federal, State, or local law enforcement officers in the conduct of their duties).

29. Temporary artificial lighting proposed during night work would be angled away from California red-legged frog breeding habitat (i.e. freshwater portions of Pillar Point Marsh).

Habitats and Occurrences within the Action Area

The marbled murrelet breeds in inland areas with old growth forest about 5 miles northeast of the proposed project (Diversity Database 2021). There is no suitable nesting habitat for the species within the action area. However, there are numerous recent records of marbled murrelets in Pillar Point Harbor, and the species may forage in waters immediately adjacent to the action area (eBird 2021). Marbled murrelets are diving birds which forage for fish and invertebrates under water in nearshore marine habitats.

The western snowy plover is not known to nest in Pillar Point Harbor, and the closest known nesting site is 3.2 miles south of the action area at Half Moon Bay State Beach (Diversity Database 2021). However, the species has been observed at Pillar Point Harbor and may forage in the action area (eBird 2021). Western snowy plovers forage for invertebrates along the water line and in dry sand.

California least tern breeding colonies do not occur in or near the action area. There are a few, rare records of California least terns from Pillar Point Harbor, and the species may occasionally forage in waters immediately adjacent to the action area (eBird 2021). California least terns dive from the air to catch fish just below the surface.

The nearest occurrences of San Francisco garter snake were documented approximately 1.2 miles and 2.6 miles northeast of the action area (Diversity Database 2021). Potentially suitable habitat and prey base are present in the action area. However, no recent surveys for San Francisco garter snakes have been conducted within the action area, so current local abundance is unknown.

There are a few records of California red-legged frogs within the action area (Diversity Database 2021). Most recently, in August 2017, “at least four adults and 10’s to 100’s of tadpoles” were observed at the Half Moon Bay Airport within the action area (Diversity Database 2021). Although no protocol-level surveys were conducted for the proposed project, presence of California red-legged frogs within the freshwater portions of the marsh is assumed, and

individuals could disperse into nearby upland habitat. Since amphibians are not tolerant of elevated salinity, presence in brackish or salt marsh or along the immediate shoreline in the salt spray zone is unlikely.

Conclusion

The Service concurs with your determination that the proposed project may affect, but is not likely to adversely affect the marbled murrelet. We have determined that effects to this species are insignificant and discountable because: 1) the marbled murrelet does not breed in the action area; and 2) foraging marbled murrelets are expected to avoid the project area and activities and feed in nearby areas.

The Service concurs with your determination that the proposed project may affect, but is not likely to adversely affect the western snowy plover and California least tern. We have determined that effects to this species are insignificant and discountable because: 1) the western snowy plover and California least tern are not known to breed in the action area; 2) foraging western snowy plovers are expected to avoid the project area and activities and feed in nearby locations; 3) the work is restorative in nature; and 4) pre-construction surveys will ensure that any western snowy plover or California least tern nests in the action area are undisturbed.

The Service concurs with your determination that the proposed project may affect, but is not likely to adversely affect the San Francisco garter snake and California red-legged frog. We have determined that effects to these species will be insignificant and discountable because: 1) San Francisco garter snakes and California red-legged frogs are unlikely to be present in the saline environments within the project site; and 2) the implementation of the proposed conservation measures, such as environmental awareness training, pre-construction surveys, and biological monitoring of construction activities will reduce the likelihood that take of San Francisco garter snakes or California red-legged frogs will occur.

This concludes the Service's review of the proposed project. No further coordination with the Service under the Act is necessary at this time. Please note, however, this letter does not authorize take of listed species. As provided in 50 CFR §402.14, initiation of formal consultation is required where there is discretionary federal involvement or control over the action (or is authorized by law) and if: 1) new information reveals the effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this review; 2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this review; or 3) a new species is listed or critical habitat designated that may be affected by the action.

If you have any questions regarding this letter, please contact Stephanie Levins, Fish and Wildlife Biologist (stephanie_levins@fws.gov) or Ryan Olah, Coast Bay Division Chief (ryan_olah@fws.gov), at the letterhead address or at (916) 414-6620.

Sincerely,

Ryan Olah
Coast Bay Division Chief

LITERATURE CITED

[Diversity Database] California Natural Diversity Database. 2021. RareFind 5 [Internet]. Occurrence Reports for *Brackyramphus marmoratus*, *Charadrius nivosus nivosus*, *Sternula antillarum browni*, *Thamnophis sirtalis tetrataenia*, and *Rana draytonii*. California Department of Fish and Wildlife, California. (Accessed January 19, 2021).

eBird. 2021. An online database of bird distribution and abundance [Internet]. Cornell Lab of Ornithology, Ithaca, New York. (Accessed January 22, 2021).