State of California - Department of Fish and Wildlife

2023 ENVIRONMENTAL DOCUMENT FILING FEE

CASH RECEIPT

DFW 753.5a (REV. 01/01/22) Previously DFG 753.5a

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RECEIPT NUMBER:
30 — 01/26/2023 — 0060

STATE CLEARINGHOUSE NUMBER *(If applicable)*

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY	LEAD AGENCY EMAIL	DATE
CITY OF NEWPORT BEACH		01/26/2023

COUNTY/STATE AGENCY OF FILING	DOCUMENT NUMBER
Orange	202385000064

PROJECT TITLE

BIG CANYON HABITAT RESTORATION-PHASE 3

PROJECT APPLICANT NAME	PROJECT APPLICANT EMAIL	PHONE NUMBER
CITY OF NEWPORT BEACH		(949) 644-3200

PROJECT APPLICANT ADDRESS	CITY	STATE	ZIP CODE
100 CIVIC CENTER DRIVE	NEWPORT BEACH	CA	92658

PROJECT APPLICANT *(Check appropriate box)*

☑ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity

CHECK APPLICABLE FEES:

☐ Environmental Impact Report (EIR)	$3,839.25	$	0.00
☐ Mitigated/Negative Declaration (MND)(ND)	$2,764.00	$	0.00
☐ Certified Regulatory Program (CRP) document - payment due directly to CDFW	$1,203.25	$	0.00

☑ Exempt from fee

- ☑ Notice of Exemption (attach)
- ☐ CDFW No Effect Determination (attach)

☐ Fee previously paid (attach previously issued cash receipt copy)

☐ Water Right Application or Petition Fee (State Water Resources Control Board only)	$850.00	$	0.00
☐ County documentary handling fee		$	0.00
☐ Other		$	

PAYMENT METHOD:

☐ Cash ☐ Credit ☐ Check ☐ Other **TOTAL RECEIVED** $ 0.00

SIGNATURE	AGENCY OF FILING PRINTED NAME AND TITLE
X	DEPUTY CLERK, CLAUDIA FRANCO

ORIGINAL - PROJECT APPLICANT | COPY - CDFW/ASB | COPY - LEAD AGENCY | COPY - COUNTY CLERK | DFW 753.5a (Rev. 01012022)

POSTED

JAN 26 2023

ORANGE COUNTY CLERK-RECORDER DEPARTMENT

BY: _____ DEPUTY

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder

NO FEE

$R00141711116$

202385000064 11:26 am 01/26/23

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Notice of Exemption

To:	From:
County Clerk County of Orange Public Services Division Santa Ana, CA 92702	City of Newport Planning Division 100 Civic Center Drive P.O. Box 1768 Newport Beach, CA 92658-8915 (949) 644-3200

Project Title: Big Canyon Habitat Restoration - Phase 3

Project Applicant: City of Newport Beach, 100 Civic Center Drive, Newport Beach, CA 92660

Attention: Makana Nova, Senior Planner

Project Location – Specific: 1950 Back Bay Drive, Newport Beach, CA 92660

Project Location – City: Newport Beach **Project Location – County:** Orange

30-01/26/2023-0060

Description of Nature, Purpose and Beneficiaries of Project: The Big Canyon Habitat Restoration - Phase 3 ("Project") area measures approximately 14.3 acres of the larger 60-acre Big Canyon Nature Park. The Project's scope is the last phase in this ongoing restoration effort of Big Canyon Nature Park. The Project involves removing the existing selenium impacted salt-water lake, eliminating invasive plants, and re-grading the site. The proposed grading will extend saltwater influence from the Back Bay into the Phase 3 site; the area will then be replanted with native plants to restore riparian and upland habitats. The Project restores historical salt marsh and establishes transitional wetlands that will allow for upslope migration and resiliency to long-term sea level rise (SLR).

The Project will further reduce selenium bioavailability found naturally within marine deposits in the watershed, maintain positive drainage during low flows, and address mosquito breeding habitat. The City will also incorporate fuel modification on the surrounding sloping parcels the City owns as part of the project scope to reduce fire risks to nearby homes.

Name of Public Agency Approving Project: City of Newport Beach

Name of Person or Agency Carrying out Project: Newport Bay Conservancy, City of Newport Beach, and California Department of Fish & Wildlife

Exempt Status: (check one):

- ☐ **Ministerial (Sec. 21080(b)(1); 15268);**
- ☐ **Declared Emergency (Sec. 21080(b)(3); 15269(a));**
- ☐ **Emergency Project (Sec. 21080(b)(4); 15269(b)(c));**
- ☐ **Categorical Exemption. State type and section number:** _____
- ☒ **Statutory Exemptions. State code number:** 21080.56

FILED

JAN 26 2023

ORANGE COUNTY CLERK-RECORDER DEPARTMENT

BY: _____ DEPUTY

Reasons why project is exempt: In accordance with Public Resources Code Section 21080.56, subsection(e), the project meets all the qualifying criteria in subdivisions (a) to (d), inclusive. The City of Newport Beach has determined that this Project will both (1) conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend and (2) restore or provide habitat for California native fish and wildlife. The project proposes to replace existing degraded habitat by restoring historic salt marsh and freshwater/riparian habitat. Salt marsh was filled in the 1950-60s as a result of dredged material placement in Big Canyon. By restoring salt marsh habitat, this will provide habitat for a variety of California wildlife that utilize this habitat. Upland Coastal Sage Scrub habitat enhancement will benefit the coastal California gnatcatcher (Polioptila californica californica), song sparrow (Melospiza melodia), California towhee (Melozone crissalis) and the wrentit (Chamaea fasciata), to name a few.

Big Canyon Nature Park is used by residents and visitors for passive recreation. This is an important destination for thousands of children participating in the Orange County Department of Education Inside the Outdoors program. Inside the Outdoors provides watershed educational activities for grade school children throughout the county including disadvantage communities. As the largest undeveloped canyon adjacent to Newport Bay, it has the potential to become an integral part of the Upper Newport Bay State Ecological Preserve and to provide unique opportunities for the public to learn about the diversity of biological resources and environmental protection within a short walking distance. Along with the restoration of a mosaic of coastal riparian, alkaline marsh, salt marsh, transitional habitat and coastal sage scrub, the existing and planned construction and operation and maintenance roads will provide incidental public benefits serving an ancillary function as trails around the perimeter of the restoration that will provide an enhanced experience of the different ecotones in a coastal watershed.

The City has obtained a concurrence letter from the Director of CDFW that the exemption applies to the Project, in accordance with Section 21080.56(e), see attached.

Lead Agency
Contact Person/Title: Makana Nova, Senior Planner **Contact Phone No./Ext:** 949-644-3249

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐Yes ☐ No

Signature: _____ **Title:** Senior Planner **Date:** 01-25-2023

☒Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code. 04/04/2019

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JAN 26 2023
ORANGE COUNTY CLERK-RECORDER DEPARTMENT
BY: _____ DEPUTY

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BY: _____ DEPUTY

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Director's Office
Post Office Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

May 4, 2022

Makana Nova, Senior Planner
Planning Division
Community Development Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

California Environmental Quality Act Statutory Exemption for Restoration Projects, Big Canyon Coastal Habitat Restoration and Resiliency Project – Phase 3 (Request No. 21080.56-2022-003-R5)

Dear Ms. Nova:

I am pleased to inform you as the Director of the California Department of Fish and Wildlife (CDFW) that I concur with the Lead Agency determination by the City of Newport Beach that the Big Canyon Coastal Habitat Restoration and Resiliency Project – Phase 3 (Project) qualifies as a statutorily exempt restoration project under the California Environmental Quality Act (CEQA). (Pub. Resources Code, § 21080.56, subd. (e).) My concurrence as the CDFW Director is based on CDFW's independent review of the City of Newport Beach's request for concurrence, which CDFW received on March 24, 2022. In my opinion, informed by the best available science and described in the separate CDFW Concurrence, the Project meets all the qualifying criteria in Public Resources Code section 21080.56, subdivisions (a) to (d), inclusive.

This concurrence signifies the continued commitment by CDFW and its partners in advancing the "Cutting the Green Tape" initiative, which is a collaborative effort to increase the pace and scale of restoration projects in California in a way that protects the environment and results in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery. CDFW stands ready to continue this effort in coordination with the City of Newport Beach.

CDFW's Concurrence will be posted on our website as provided by Public Resources Code section 21080.56. If you have any related questions, please contact Brad Henderson, Cutting the Green Tape Program Manager, at (530) 351-5948, or by email at Brad.Henderson@wildlife.ca.gov.

Sincerely,

Charlton H. Bonham
Director

ec: Valerie Termini
Chief Deputy Director
California Department of Fish and Wildlife

Wendy Bogdan
General Counsel
Office of the General Counsel
California Department of Fish and Wildlife

Julie Vance
Acting Deputy Director
Ecosystem Conservation Division
California Department of Fish and Wildlife

Ed Pert
Regional Manager
South Coast Region (Region 5)
California Department of Fish and Wildlife

Christian Romberger
Senior Environmental Scientist
South Coast Region (Region 5)
California Department of Fish and Wildlife

Brad Henderson
Environmental Program Manager
Watershed Restoration Grants Branch
California Department of Fish and Wildlife

Alys Arenas
Restoration Manager
Newport Bay Conservancy

State of California – Department of Fish and Wildlife
CEQA RESTORATION STATUTORY EXEMPTION REQUEST FORM
DFW 21080.56 (New 01/27/22) Page 1

CEQA STATUTORY EXEMPTION FOR RESTORATION PROJECTS (SERP) CONCURRENCE REQUEST

Completion and submission of this form is voluntary. This form may be submitted to request concurrence from the Director of Fish and Wildlife pursuant to Public Resources Code section 21080.56.

Submit this form (pdf) and all attachments via the Department's Environmental Permit Information Management System (EPIMS) Document Repository.

1. LEAD AGENCY

Lead Agency Name:	City of Newport Beach
Contact Person Name	Makana Nova, Senior Planner
Street Address:	100 Civic Center Drive
City, State, Zip:	Newport Beach, CA 92660
Contact Person's Telephone:	949.644.3249
Contact Person's E-mail:	mnova@newportbeachca.gov

POSTED
JAN 26 2023
ORANGE COUNTY CLERK-RECORDER DEPARTMENT
BY: _____ DEPUTY

2. PROJECT PROPONENT

☐ **Check Box and Skip to Number 3 if Same as Lead Agency**

Business/Agency/Organization	Newport Bay Conservancy
Contact Person's Name:	Alys Arenas
Street Address:	P.O. Box 10804
City, State, Zip:	Newport Beach, CA 92658
Contact Person's Telephone:	951.202.8945
Contact Person's E-mail:	alys.arenas@newportbay.org

FILED
JAN 26 2023
ORANGE COUNTY CLERK-RECORDER DEPARTMENT
BY: _____ DEPUTY

3. PROJECT INFORMATION

A. Project Name:	Big Canyon Phase 3 Restoration Project
B. Estimated Project Start/End Dates:	Start: Fall 2023; End Fall 2024

C. Provide a brief description of project location, size, and funding sources. Please cite supporting documents and provide as an attachment.

The Big Canyon Coastal Habitat Restoration and Resiliency Project – Phase 3 (Project) is the final phase of this multi-phase habitat restoration project in the Big Canyon Nature Park. The Project is situated within the United States Geological Survey (USGS) 7.5' series Newport Beach Quadrangle, Orange County, Township 6 South, Range 10 West, Section 24. NAD83 Lat/Long is: 33.630890, -117.880724. The address assigned to the Phase 3 Project by the City of Newport Beach is 1950 Back Bay Dr, Newport Beach, CA 92660.

The 60-acre Big Canyon Nature Park is located at the downstream end of the Big Canyon Watershed in the City of Newport Beach (City), Orange County, California. Big Canyon Creek drains the 1,300-acre Big Canyon Watershed (**Figure 1**) in the City of Newport Beach directly into the Upper Newport Bay (UNB) State Marine

Conservation Area (SMCA) and Ecological Reserve (UNBER). Big Canyon Creek winds through Big Canyon in a general southeast to northwest direction and discharges into UNB. Big Canyon Nature Park is the only remaining natural, undeveloped portion of the Big Canyon watershed and the only significant remaining natural canyon on the east side of UNB. Big Canyon Nature Park, located between Jamboree Road and Back Bay Drive, has been degraded by numerous well documented impacts and requires habitat restoration and enhancement to improve the site's biological productivity and ecological function. Land uses in the vicinity include Upper Newport Bay (UNB) State Marine Conservation Area (SMCA) and Ecological Reserve to the west, the restored section of Big Canyon to the east and residential and commercial development to the north and south.

The Newport Bay conservancy (NBC) is the project proponent, and they have a standing record of successfully soliciting and being awarded funding for the Big Canyon Restoration Project through a variety of grant funding sources. Currently, NBC has an active grant with the Ocean Protection Council (OPC) for $779,000. An additional $30,000 was also received from a corporate donor for planning and design for Phase 3. This OPC grant will fund 100% restoration design construction drawings and specifications, environmental review, and permitting. Previously, the State Coastal Conservancy (SCC) had awarded NBC $640,000 for the design, planning, and permitting of the previous phase of the project (Phase 2A). Implementation funding for Phase 2A was awarded from USFWS/SCC ($1,049,991.00), CDFW ($638,740.00) and OPC ($68K of active grant). NBC has reached out to the following agencies for potential implementation funding: Wildlife Conservation Board (WCB), OPC, CDFW and USFWS/SCC. All agencies have expressed interest in supporting the project implementation but have asked to submit proposals and/or applications once 30% design and CEQA are complete. NBC has been in communication with these agencies to provide briefings on the project's progress and receive updates on potential future grant funding for implementation. NBC is confident in the ability to obtain funding for implementation of Phase 3.

D. Provide a project summary and expected environmental benefits (i.e., acres or stream-miles restored/enhanced, species benefitted, etc.). Please cite supporting documents and provide as an attachment.

Project Summary

The Big Canyon Coastal Habitat Restoration and Resiliency Project – Phase 3 (Project) is the final phase of this multi-phase water quality, restoration, and adaptation project in the Big Canyon Nature Park. Big Canyon Nature Park has been degraded by numerous well documented impacts and requires habitat restoration and enhancement to improve the site's biological productivity and ecological function. Big Canyon Nature Park has been subjected to the effects of water quality degradation from upstream development and selenium-laden groundwater seepage, historical land disturbance from grazing and agricultural activities, year-round dry weather flows due to watershed urbanization, increased habitat degradation from invasive plants and insects, and dredge and fill materials placed within the lower canyon marsh plain and riparian areas. Without future intervention, these impacts will continue to degrade the remaining habitats and impact the listed species that have been identified by previous and recent surveys.

The restoration of Phase 3 will restore approximately 14.3 acres of degraded habitat (within the 29-acre project area) impacted by dredged material placement, non-native Brazilian pepper trees, and selenium impacted dry weather flows.

Overall, the objectives and components of the preliminary design include:

- Restore historical salt marsh through grading that extends tidal influence into northern portion of project area
- Creating Transitional Freshwater Wetlands including Wet Alkaline Marsh Habitat in the central portion of the project area
- Placement of soils and restoration of degraded upland in the southern portion of the project area
- Removing non-native vegetation throughout the project area
- Removing human-made berm that bifurcates the freshwater flow and restore historical salt marsh in the central portion of the project area
- Increase tidal extent and range through focused dredging in the tidal channel at the northwestern extent of the project area
- Manage dry weather flows and create a continuous riparian corridor that transitions to tidal wetland by realigning freshwater channel to flow through the southern side of the project area
- Restoring and Enhancing Riparian Habitat throughout the project area
- Improving Resiliency of Restored and Enhanced Riparian Habitat throughout the project area
- Grading to support marsh transitional habitat to adapt to sea-level rise throughout the project area
- Addressing vector concerns by removing Mosquito Breeding Habitat throughout the project area
- Improve the site's natural hydrology to reduce the Accumulation and Bioavailability of Selenium from Ponded Dry Weather Flows
- Encouraging Public Participation and Provide Education
- Maintaining Existing Recreational Opportunities

Phase 3 restoration consists of several components, including restoration of historical salt marsh and establishment of transitional wetlands that will allow for upslope migration and resiliency to long-term sea level rise (SLR). Big Canyon Nature Park provides a valuable resource in Upper Newport Bay (UNB) as an opportunity to establish these transitional zones as SLR alters the habitat within the Upper Newport Bay Ecological Reserve (UNBER). The Project proposes to extend the saltwater influence into the Project limits, resulting in the restoration of tidal marsh, which also further reduces selenium bioavailability found naturally within marine deposits in the watershed. Big Canyon Phase 3 provides an opportunity to support salt marsh areas with future sea-level rise to improve the overall resiliency of salt marsh in Upper Newport Bay. The invasive Brazilian pepper trees (*Schinus terebinthifolia*) will be removed as part of the salt marsh restoration.

Phase 3 also includes the modification to the terminus of Big Canyon Creek to maintain positive drainage during low flows to reduce the accumulation of selenium in the soil and vegetation and address mosquito breeding habitat. The freshwater channel re-alignment will establish a riparian corridor that integrates with upstream restored corridor in Phases 1 and 2. The freshwater channel will also convey dry weather flows away from the planned intertidal salt marsh habitat to maintain the required salinity levels to establish the salt marsh vegetation. Storm flows will still inundate the full marsh plain to maintain the full extent of the existing wetlands. Periodic freshwater inundation of the salt marsh during storm event provides natural hydrology processes that occur in these systems. The Project achieves no net loss of wetlands.

Existing access roads and trails that are not impacted by the planned grading efforts will remain. On the northern side of the site, a construction and long-term operations and management (O&M) access road will be graded outside planned wetland restoration to connect with existing access roads.

Project construction is anticipated to commence in Fall 2023 with substantial completion by Fall 2024, followed by a five-year plant and habitat establishment and maintenance period. The project is led by the Newport Bay Conservancy (NBC) with collaboration with CDFW and the City of Newport Beach (City). NBC has successfully completed Phase 2A and collaborated with the City on the successful completion of Phase 1.

Environmental Benefits

Overall, upon completion the Project will restore/enhance/create approximately 0.3 acres of low marsh, 0.8 acres of mid marsh, 1.7 acres of high marsh, and 7.3 acres of transitional freshwater wetland habitat restored on site. Inaddition, 4.2 acres of upland scrub habitat will be restored/enhanced for a total of approximately 14.3 acres of restoration.The distribution of these proposed habitat types are shown on the Habitat Restoration Design map included as Figure 3 in the attached Appendix A, Project's Biological Technical Report (Trestles, 2022). This restoration work will take place within the approximately 29-acre Project Area.

Through this restoration project, additional habitat that can support a variety of specials status flora and fauna will be created. Some of the special status faunal species that would be benefit from this restoration project include the California gnatcatcher (*Polioptila californica*), the least Bell's vireo (*Vireo bellii pusillus*), and the light-footed Ridgway's rail (*Rallus longirostris levipes*). Additional common and special status species that will benefit from the project can be found in sections 4C of this application.

Native Plant communities will also benefit from the Project due to the removal and restoration of the upstream portions of the site that are currently dominated by pepper trees. Shot hole borer have also invaded many of the upland tree species, primarily the Brazilian pepper trees and will be addressed to attempt to contain this outbreak. This will be done through mulching the non-native trees and solarizing the mulch for several months. This technique has proven effective in Phase 1 and 2 of the project.

The newly established salt marsh will support species of plant including common pickleweed (*Salicornia pacifica*), alkali heath (*Frankenia salina*), salt marsh rosemary (*Limonium californicum*), saltwort (*Batis maritima*), and Parish's glasswort (*Arthrocnemum subterminale*). Once the pepper trees are removed riparian woodland characterized by a mosaic of native tree species that will include several species of willow, western sycamore, Fremont's cottonwood, Mexican elderberry, white alder, and coast live oak will be planted and cared for. This woodland will be supported by anunderstory of native mulefat scrub and an herbaceous vegetation stratum composed of rushes, grasses, and sedges.

While much of the project area could likely be defined as Environmental Sensitive Habitat Areas (ESHA) as defined by the California Coastal Act, this restoration project is specifically designed to enhance these areas and create more biologically productive EHSA. This restoration project will provide a functional lift to the ecological communities that connect two recent restored upstream ESHA areas (Phase 1 & 2) with a highly productive ESHA downstream in the UNB Marine Protected Area.

More details about this project can be found in the attached Appendix B, Project Description and Project's Biological Technical Report (Trestles, 2022).

Current Vegetation Alliances Present on Site

Based on a survey performed in August 2021, the Project Area currently supports seventeen vegetation alliances and open water/tidal habitats, as well as disturbed and developed areas. Wetland vegetation alliances or habitat types include: Alkali Meadow (0.84 acres), California Bulrush Marsh (0.13 acres), California Cordgrass Marsh (0.21 acres), Freshwater Marsh (4.22 acres), Intertidal Mudflat (0.40 acres), Arroyo Willow/Peppertree Grove (6.91 acres), Willow Riparian (0.25 acres), Mulefat/Coyote Brush Scrub (0.14 acres), Open Water (2.09 acres) and Pickleweed Mat (2.04 acres). Upland/transitional habitats include: Alkali Heath/Menzies' Goldenbush Scrub (0.55 acres), California Brittlebush/California Sagebrush Scrub (1.93 acres), California Sagebrush Scrub (0.69 acres), Coyote Brush/California Sagebrush Scrub (1.11 acres), Disturbed California Sagebrush/ Saltbush Scrub (0.20 acres), Disturbed Menzies' Goldenbush Scrub (2.61 acres), and Fourwing/Swamp Saltbush Scrub (2.36 acres) (Figure 4 of the Biological Technical Report).

E. CDFW recommends that lead agencies meet and confer with tribes, representatives of any affected local agencies, and other stakeholders prior to submitting a SERP request to CDFW. Please provide a summary of project consultation with tribes, agencies, and other stakeholders and submit documentation as an attachment.

As part of the Native American outreach effort for Phase 2 and future Phase 3, the cultural resource consultant (ESA) contacted the NAHC on March 18, 2018, to request a search of the SLF. In a letter response dated March 20, 2018, the NAHC indicated that "sites have been located within several of the quadrangles" provided and they may be impacted by the Project. No specific information regarding the types of resources or their locations was provided; however, the NAHC indicated that the Juaneño Band of Mission Indians – Acjachemen Nation should be contacted. This was done as part of the AB 52 outreach discussed below and further detailed in the attached Appendix C, Phase 3 Cultural Resource Assessment Report (Burns & McDonnell, January 2022).

Pursuant to AB 52, the City sent letters to the three contacts on the City's AB 52 consultation list. The letters described the Project, provided a Project map, and invited the individuals to consult on the Project. Individuals contacted included: Mr. Andrew Salas, Chairperson of the Gabrieleño Band of Mission Indians – Kizh Nation, by letter dated March 16, 2018; Ms. Joyce Stanfield Perry, Tribal Manager of the Juaneño Band of Mission Indians, Acjachemen Nation, by letter dated March 19, 2018; and Mr. Anthony Morales, Chairperson of the San Gabriel Band of Mission Indians, by letter dated March 19, 2018. One response was received.

By letter dated March 29, 2018, Mr. Andrew Salas of the Gabrieleño Band of Mission Indians – Kizh Nation requested consultation pursuant to Public Resources Code 21090.3.1, indicating that the Project occurs within the tribe's ancestral territory. Mr. Salas provided the City with documentation supporting this. As part of consultation, the tribe also requested a field visit to the Project site. On May 17, 2018, Robert Stein with the City, Mr. Salas and Matt Teutimez with the Gabrieleño Band of Mission Indians – Kizh Nation, and representatives from ESA conducted a walkover of the Project site. Mr. Salas indicated that while permanent encampments were not likely to occur within the canyon, there may have been temporary day camps in the Project area. Mr. Salas further indicated that monitoring during Phase 2 and Phase 3 construction activities would be sufficient for protecting any cultural resources that might be encountered during Project implementation. Both archaeological and Native American monitoring are planned for as part of the project's implementation.

In addition, prior to the City's tribal outreach efforts, Mr. Salas provided the City with documentation concerning the extent of the tribe's traditional territory, which encompasses the Project area, and the proper name for the tribe, which should be the Kizh. Some of this information was provided during implementation of Phase 1 of the Project but pertains to all phases. Mr. Salas also provided a list of known ethnographic villages in the area. These are discussed in the Ethnographic Setting section of the attached Phase 3 Cultural Resource Assessment Report, January 2022.

As a result of Native American outreach and consultation, no tribal cultural resources have been identified within the Project area. Consultation pursuant to AB 52 is ongoing and NBC will continue to coordinate with involved tribal representatives. NBC has been in communication with Mr. Salas on the Phase 3 project and has requested review of this cultural resources report. Meetings are being planned with Mr. Salas to go through the report and any comments and recommendations will be incorporated.

This project will directly benefit the residents of the City of Newport Beach and the constituents that use City facilities throughout the greater Big Canyon watershed. The City and CDFW are landowners of the project site. CDFW is the entity that directly manages the adjacent Marine Protected Area, the Upper Newport Bay Ecological Reserve. NBC has a history of supporting restoration projects in Big Canyon. NBC has a mission to protect and preserve the Upper Newport Bay thorough restoration, education, research, and advocacy. In partnership with the City, NBC has successfully managed, soliciting funding, and implemented restoration projects in Big Canyon. The Newport Aquatic Center (NAC) will also directly benefit from this project from a water quality perspective. The NAC hosts water-based recreations programs, in partnership with NBC, on the bay that will benefit from improved water quality conditions. The following stakeholders, which sit on the Technical Advisory Committee, also support this project: U.S. Fish and Wildlife Service, State Coastal Conservancy, Ocean Protection Council, WCB, OC Vector Control, Army Corps of Engineers, the Irvine Ranch Conservancy, UC Irvine, OC California Native Plant Society, Sea & Sage Audubon, and the Santa Ana Regional Water Quality Control Board.

4. REQUIRED DETERMINATIONS

Provide a full description for each determination below:
A. The project is exclusively one or both of the following: (1) a project to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend, or (2) a project to restore or provide habitat for California native fish and wildlife. Please cite supporting documents and provide as an attachment.
The City of Newport Beach has determined that this Project will both (1) conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend and (2) restore or provide habitat for California native fish and wildlife. The project proposes to replace existing degraded habitat by restoring historic salt marsh and freshwater/riparian habitat. Salt marsh was filled in the 1950-60s as a result of dredged material placement in Big Canyon. By restoring salt marsh habitat, this will provide habitat for a variety of California wildlife that utilize this habitat including, but not limited to, the Light-footed Ridway's Rail (*Rallus longirostris levipes*), osprey (*Pandion haliaetus*), white-tailed kite (*Elanus leucurus),* great blue heron (Ardea Herodias), white-faced ibis (*Plegadis chihi*), and snowy egret (*Egretta thula*). Restoration of freshwater riparian and alkaline meadow habitat will provide habitat and assist in the recovery of the least Bell's vireo (*Vireo bellii pusillus*). An array of other California wildlife will benefit from the restoration of this habitat including, but not limited to, the yellow warbler (*Setophaga petechia*), yellow-breasted chat (*Icteria virens*), Mastiff bat (*Eumops perotis*), Western red bat (*Lasiurus blossevillii*), and yellow-rumped warbler (*Setophaga coronata*). Upland Coastal Sage Scrub habitatenhancement will benefit the coastal California gnatcatcher (*Polioptila californica californica*), song sparrow (*Melospiza melodia*), California towhee (*Melozone crissalis*) and the wrentit (*Chamaea fasciata*), to name a few. See the attached Biological Technical Report (Trestles 2022), as well as technical appendices, for a list of California wildlife that are found within Big Canyon that would benefit from the project implementation.

B. An eligible project may have incidental public benefits, such as public access and recreation. Please cite supporting documents and provide as an attachment.

The City of Newport Beach has determined that this project may have incidental public benefits resulting from the need for establishing dirt and/or gravel roads to allow for restoration construction equipment access the site. These access roads will be kept in place for ongoing project maintenance but will also be open to the public as walking trails around the perimeter of the restoration site. The location of these incidental public benefits are shown on the Conceptual Access Plan (Appendix D, Sheet 5), Existing access roads and trails that are not impacted by the planned grading efforts will remain.

Big Canyon Nature Park is used by residents and visitors for passive recreation. This is an important destination for thousands of children participating in the Orange County Department of Education Inside the Outdoors program. Inside the Outdoors provides watershed educational activities for grade school children throughout the county including disadvantage communities. As the largest undeveloped canyon adjacent to Newport Bay, it has the potential to become an integral part of the Upper Newport Bay State Ecological Preserve and to provide unique opportunities for the public to learn about the diversity of biological resources and environmental protection within a short walking distance. Along with the restoration of a mosaic of coastal riparian, alkaline marsh, salt marsh, transitional habitat and coastal sage scrub, the existing and planned construction and operation and maintenance roads will provide incidental public benefits serving an ancillary function as trails around the perimeter of the restoration that will provide an enhanced experience of the different ecotones in a coastal watershed.

The Project will provide direct benefits to students from nearby disadvantaged communities. The restoration is designed to be an important educational resource for teachers bringing students to Upper Newport Bay. NBC fosters relationships with multiple southern California schools to provide ongoing educational and stewardship opportunities for over 3,000 students annually. UNB, and the trails in Big Canyon are a regular destination for Early College High School and Back Bay High School students to provide ongoing monitoring and maintenance of the Project site through hands on learning. Education programs are aligned with California Science and Social Science standards and provides a feet-on-the-ground program for over three thousand students every year for students in Orange County, including disadvantaged communities. The restoration is being designed by ecologists to provide a spectrum of integrated habitats to facilitate the educational experience of students visiting Upper Newport Bay. Two programs offered by NBC, in partnership with the Orange County Department of Education and the City of Newport Beach, include Inside the Outdoors for 4th grade students (https://ocde.us/ito/Pages/Upper-Newport-Bay.aspx) and the Fostering interest in Nature (FiiN) program for 5th grade students (https://www.newportbeachca.gov/government/departments/recreation-senior-services/marine-protection-tidepools). Both programs serve Title 1 schools in Orange County and include educational hikes, experiments and exploring through Big Canyon. Working with local Native American tribes, educational opportunities will be realized that include information kiosks and signage about the Native American culture and how local vegetation and natural resources were used by these communities. Specific site cultural resources will not be identified to protect these resources. The Newport Bay Conservancy has provided environmental education programs for over 40 years and serves over 50,000 people each year. NBC provides volunteer

support for programs at the Interpretive Center and the Back Bay Science Center that leads tours and interactive learning with school-aged children from throughout the region including disadvantaged communities.

C. The project does both of the following: (1) results in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery; and (2) Includes procedures and ongoing management for the protection of the environment. Please cite supporting documents and provide as an attachment.

Long Term Net Benefits to Climate Resiliency:

The City of Newport Beach has determined that this project will provide long-term net benefits to Climate Resiliency. Long-term sea level rise will increase the extent and inundation of tidal flows in the Upper Newport Bay (UNB). Big Canyon Nature Park provides a valuable resource in UNB as an opportunity to establish transitional zones as SLR alters the habitat within the UNB. The transitional habitat provided in the Phase 3 project restoration willprovide for climate resiliency. As tidal extent and inundation increases, the transitional zones allow for the migration of salt marsh vegetation and habitat. By providing for these transition zones between planned salt marsh and freshwater wetlands in the Phase 3 design, the project provides an opportunity to support salt marshareas with future sea-level rise to improve the overall resiliency of salt marsh in Upper Newport Bay. This design resiliency is demonstrated in the Appendix B, Project Description (attached) as shown on figures of the planned salt marsh and freshwater wetland that will be restored after construction and the predicted habitats based on SLR projections. These predicted habitats and SLR projections are from the selected alternative that was presented in the Feasibility Study (ESA, 2020) that is the basis for the 30% Design.

More detailed information on climate resiliency is provided in the attached Appendix E, Coastal Hazards Analysis Report (Burns & McDonnell, 2022).

Long Term Net Benefits to Biodiversity:

The City of Newport Beach has determined that this project will provide long-term net benefits to Biodiversity. Currently large portions of the habitats in the Project area have either been invaded by non-native plant species or are dominated by monotypic stand of native vegetation. Where non-native species like Brazilian pepper trees (*Schinis terebinthifolia*) or swamp atriplex (*Atriplex amnicola*) have invaded, the biodiversity of native plant and animal populations has been affected. This project will target these non-native plant populations and control them as part of the grading plan and create a hydrological setting that will support a more balanced assemblage of native vegetation that is resilient to dominance by non-native plant species. These diverse plant communities will then support a greater diversity of native wildlife species up and down the trophic levels.

Specifically, much of the downstream area dominated by pepper trees will be converted to intertidal salt marsh which is well known to be a highly biologically productive ecosystem that supports a diversity of marine communities. The upstream portions of the site dominated by pepper trees will be restored to a riparian woodland characterized by a mosaic of native tree species that will include several species of willow, western sycamore, Fremont's cottonwood, Mexican elderberry, white alder, and coast live oak. This woodland will be supported by an understory of mulefat scrub and an herbaceous vegetation stratum composed of rushes, grasses, and sedges. This layering of canopies does not currently exist in the pepper tree groves and therefore the site does not support bird species like the least Bell's vireo (*Vireo bellii pusillus*) that thrive in these conditions.

Another example is found in upland areas that have become invaded by swamp atriplex. These uplands will be selectively filled and regraded in order to eliminate the non-native plant infestation and promote the

establishment of a diverse assemblage of Diegan coastal sage scrub which will expand potential breeding habitat for the threatened California gnatcatcher (*Polioptilla californica*).

The same approach to creating a long-term net benefit to biodiversity will be taken in areas that are currently dominated by monotypic stands of native vegetations. For instance, the existing freshwater marsh is composed almost exclusively of dense stands of cattails (*Typha* spp.). This restoration project will regrade the stream so that water is focused through a narrower channel that will not pond. This will create intermittently saturated wetland soils that can support a diverse willow woodland habitat in areas currently dominated by cattails. This will also create riparian benches that can support alkali and brackish marsh habitat which can support certain sensitive species like southwestern spiny rush (*Juncus acutus*) which in turn provides potential breeding habitat for the endangered light-footed Ridgway's rail (*Rallus obsoletus*).

Additional species that will benefit from the Project include an array of wildlife species such as California least tern (*Sterna antillarum browni*), elegant tern (*Thalasseus elegans*), tiger beetle (*Cicindela* spp.), Belding's savannah sparrow (*Passerculus sandwichensis beldingi*), salt marsh wandering skipper (*Panoquina errans*), western fence lizard (*Sceloporus occidentalis*), coyote (*Canis latrans*), Botta's pocket gopher (*Thomomys bottae*), desert woodrat (*Neotoma lepida*), California ground squirrel (*Spermophilus (Otospermophilus) beecheyi*), bushtit (*Psaltriparus minimus*), song sparrow (*Melospiza melodia*), spotted towhee (*Pipilo maculatus*), common yellowthroat (*Geothlypis trichas*), Allen's hummingbird (*Selasphorus sasin*), turkey vulture (*Cathartes aura*), red-shouldered hawk (*Buteo lineatus*), white-tailed kite (*Elanus leucurus*), and osprey (*Pandion haliaetus*). More information can be found in the Project's Biological Technical Report (Appendix A).

Long Term Net Benefits to Sensitive Species Recovery:

The City of Newport Beach has determined that this project will provide long-term net benefits to Sensitive Species Recovery. Restoration of salt marsh habitat would benefit the following salt-marsh dependent sensitive species:

- Light-footed Ridgway's Rail (*Rallus obsoletus*) [SE/FE]
- Belding's savannah sparrow (*Passerculus sandwichensis beldingi*) [SE]
- Southern tarplant (*Centromadia parryii* ssp. *australis*) [CRPR 1B.1]
- Salt marsh bird's beak (*Chloropyron maritimum* ssp. *maritimum*) [CE, FE, CRPR 1B.1]
- Estuary seablite (*Suaeda esteroa*) [CRPR 1B.2]
- Woolly seablite (*Suaeda taxifolia*) [CRPR 4.2]
- California boxthorn (*Lycium californicum*) [CRPR 4.2]

Restoration of riparian habitat would benefit the following riparian-dependent sensitive species:

- California gnatcatcher (*Polioptila californica*) [FT/SC]
- Yellow warbler (*Setophaga petechia*) [BCC/SC]
- Least Bell's vireo (*Vireo bellii pusillus*) [FE/SE]
- Southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*) [CRPR 4.2]

Limited habitat exists for any of these species under existing conditions. Following project completion, habitat for these various sensitive species would be created, allowing for establishment of rare plants in and around the restored habitat, as well as creating habitat for either nesting or foraging for the sensitive avian species.

Removal of swamp saltbush in adjacent upland areas would also improve habitat for the coastal California gnatcatcher (*Polioptila californica californica*) [FE/SSC]. Brief descriptions of the special status plant species are provided below. More information can be found in the Project's Biological Technical Report.

Salt marsh bird's beak (*Chloropyron maritimum* ssp. *maritimum*) is a hemiparasitic annual herb listed as federally- and state-endangered and designated as a CRPR 1B.2. It is known to exist in just 8 locations in the United States including Upper Newport Bay. Numerous occurrences of this species were documented by Tidal Influence in 2018 near the drainages from Big Canyon and the presence of those occurrences were confirmed during the survey performed on June 24th, 2021. This species is found relatively extensively along the edges of both tidal channels that extend from the Big Canyon outfalls and is often intermixed with *Suaeda esteroa*.

Southern tarplant (*Centromadia parryi* ssp. *australis*): Southern tarplant is an annual herb designated as a CRPR 1B.1. This species was observed within the project boundary and was found mostly along the edges of roads and trails. Several narrow occurrences are located along the edges of Back Bay Drive, while the other major grouping of occurrences is along the main trail that leads from the parking lot along the south edge of theexisting cattail marsh. One occurrence was also documented in the Phase 2 restoration area that overlaps withthe Phase 3 project boundary.

California boxthorn (*Lycium californicum*): California boxthorn is a perennial shrub designated as a CRPR 4.2. Three individuals of this species were documented within the project boundary. One individual is located on the tidal marsh side of Back Bay Drive in the upland transition zone, another was found intermixed with saltbush scrub along the main trail, and the final individual is located on the bluff just above the Phase 2 restoration area.

Estuary seablite (*Suaeda esteroa*): Estuary seablite is a perennial shrub designated as a CRPR 1B.2. This species is ubiquitous throughout the mid-marsh zone of Upper Newport Bay and therefore was found extensively within the portions of the project area that overlap with tidal marsh habitat. This species dominates the plant community that is found along the edge of the tidal channel that connects to the northernmost drainagefrom Big Canyon.

Southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*): Southwestern spiny rush is a perennial grass-like herb designated as CRPR 4.2. The densest of these occurrences are found aiong the edges of Back Bay Drive mostly around a small ditch that runs parallel along the east side of the road. One individual is found on the west side of Back Bay Drive in the upland transition zone. Another grouping of individuals is found at the northwestern edge of the arroyo willow/pepper tree woodland along the trail that runs between the bluff and the woodland. Lastly, this species was planted extensively as part of the Phase 2 restoration project and is found in abundancewhere the project boundary overlaps with these plantings.

Woolly seablite (*Suaeda taxifolia*) is a perennial shrub designated as a CRPR 4.2. Two naturally existing occurrences of this species were documented in the upland transition zone in close proximity to *J. acutus* and *L. californicum*. This species was also extensively planted as part of the Phase 2 restoration project and is found in abundance where the project boundary overlaps with these plantings.

Procedures and Ongoing Management for the Protection of the Environment:

Ongoing Monitoring, Maintenance and Adaptive Management

Monitoring

Implementation of the Project would require a biological monitoring program to ensure the revegetation is successful and the wetland functions and services are achieved and maintained into the future. The program would include pre- and post-construction monitoring, as well as monitoring for longer-term habitat functions. Monitoring objectives would focus on ensuring compliance with project features and measures, particularly with respect to biological resources. After construction is completed, ongoing monitoring would be focused on the restoration component and designed to document achievement of project goals and objectives, including habitat improvements for plants and wildlife, success of revegetation efforts, and use of the site by sensitive species.

The applicant will prepare a Habitat Restoration Plan (HRP) as part of the final design package, which would govern restoration measures and the collection of monitoring data to assess the effectiveness toward the various goals and objectives of the program. The habitat monitoring program, to be described in more detail in the HRP, would provide an implementation plan to ensure the successful restoration of wetlands. The program would include a restoration work plan with recommended methodologies for site preparation, seeding/planting, irrigation, etc.; a maintenance plan; specific monitoring and reporting requirements, including site performance standards, and a description of long-term management of the restoration areas described in the attached Biological Technical Report. This document would also be used to inform potential future adaptive management decisions and actions. The post-construction monitoring phase would identify a post implementation timeframe that would focus on meeting restoration permit conditions and/or success criteria. Once those criteria are met, monitoring and management would shift over to the long-term program focused on adaptive management discussed below.

Maintenance and Adaptive Management

The HRP would include both the anticipated maintenance regime and an adaptive management plan. Long-term monitoring would be an integral part of an adaptive management program established to guide maintenance strategies into the future. The adaptive management plan would identify remedial measures that may be implemented if success criteria put in place as part of the project or permit conditions are not met or if conditions change during long-term monitoring and need to be addressed. Some of these actions may include, but are not limited to, replanting of riparian, salt marsh and transitional habitats, control of invasive pests, and amendment of soils. Detailed plans would be developed as part of consultation with permitting and natural resource agencies during the permitting approval process; however, it is anticipated that the long-term management plan would be a living document and would be updated regularly, as necessary. General components associated with the adaptive management strategy are described below.

1. **Site Grading.** Site grading will occur outside of nesting season (September 1 to January 31).

2. **Replacement Planting.** Planted material that fails to become established would be replaced with similar plantspecies. Replacement vegetation would be installed between October 1 and March 31, to the extent possible.

3. **Biological Monitoring and Maintenance of Habitat Quality.** Regular biological monitoring would be conducted to ensure that the habitat meet biological goals. These activities would include:

   a. Monitoring of plant establishment and cover, per an approved Habitat Restoration Plan, and
   b. Control of nonnative invasive plant species by mechanical and chemical means as appropriate.
   c. Monitoring and management of emergent freshwater vegetation (e.g. cattails) to maintain freshwater flowrates and eliminate ponding.

D. The project does not include any construction activities, except for construction activities solely related to habitat restoration. Please cite supporting documents and provide as an attachment.

As lead agency, the City of Newport Beach has determined that all work is related to habitat restoration. All proposed work is related to habitat restoration, site access, and incidental public benefits. No building structures are proposed as part of this project. Habitat restoration grading activities would commence with the installation of construction stormwater pollution prevention BMPs in accordance with the project Stormwater Pollution Prevention Plan (SWPPP). Following the installation of stormwater BMPs, project construction work would occur in phases for a duration of five to six months. The following schedule presents the construction phases, the activities to be completed under each phase, and the duration of the activities. Several activities willrun concurrently to achieve the overall construction schedule of approximately five months.

Clearing and grubbing activities with the construction of the access roads will initiate the construction after the erosion and sediment controls are installed. Grading will then occur to establish the salt marsh and transitional habitats within Phase 3. Focus dredging of the tidal channel will occur during site grading. Placement of soil from the salt marsh grading to the upland area will be conducted during the grading activities. The total earthwork cut volume is anticipated to be approximately 37,000 cubic yards. Earthwork fill will be placed in the marsh pond area once the vegetation has been removed. Additional placement areas are anticipated in upland areas along the northern perimeters of Phase 3 and the area to the south as shown on Figure 9. No material is anticipated for off-haul.

As per the attached 30% design documentation, all construction activity will be solely related to habitat restoration.

5. CERTIFICATION

I certify that I have the authority to determine whether a project is exempt pursuant to CEQA Guidelines section 15025(a)(1), and this project meets all the requirements described in Public Resources Code section 21080.56, and that I have submitted all the determinations required therein necessary to obtain the concurrence of the Director of Fish and Wildlife.

Makana Nova
Senior Planner, AICP

Date: March 4, 2022

Lead Agency Signature
Printed Name and Title: Makana Nova, Senior Planner

Appendices (In order of reference)

A. Biological Technical Report
B. Project Description
C. Cultural Resource Assessment
D. Project Plans (30% Design) including Conceptual Public Access
E. Coastal Hazards Analysis Report

Pending Supporting Studies

Selenium Report

WQMP/SPPP

Weed Control Eradication Plan

Habitat Restoration Plan