

1.0 Purpose and Need

1.1 Introduction

The Coastal Watershed Restoration – Geomorphic Restoration Project Environmental Assessment (EA) has been developed in accordance with the 1969 National Environmental Policy Act (NEPA) for use by the National Park Service (NPS), other jurisdictional agencies, and the general public to deliberate the proposed restoration at three sites within the Drakes Estero watershed. The EA examines alternative means to restore natural hydrologic function at these locations and assesses the potential environmental effects of the implementation of each strategy. Following public and agency review and comment, the conclusions of the potential environmental effect in the EA would be used to inform the NPS planning process. This EA addresses topics required under the California Environmental Quality Act (CEQA) and is intended for adoption by California State agencies to meet their CEQA permitting requirements. The EA may identify the need for further environmental review or may lead to a decision that the project's impacts are adequately assessed in conformance with NEPA. The latter outcome is published in a Finding of No Significant Impact (FONSI) which would outline the parameters and mitigation for the implementation of the geomorphic restoration activities within as part of the Coastal Watershed Restoration.

This EA addresses two water impoundments and one road crossing site within the Drakes Estero Watershed. These sites are included as part of the Coastal Watershed Restoration Project, a National Park Service (NPS) Line-Item Construction Program funded project scheduled to be obligated in FY2005. Project areas include the Glenbrook Road Crossing, a non-conforming structure in the Philip Burton Wilderness, Muddy Hollow Dam and Limantour Beach Pond Dam, both constructed across portions of Estero de Limantour. The site locations are included as Figure 1-1. Environmental impacts of an additional six road crossing sites, also part of the Coastal Watershed Restoration, are evaluated in a separate compliance document, but are considered as part of the cumulative impacts analysis.

1.2 Project Need

In conjunction with NPS management objectives, the project is proposed to enhance or restore natural hydrologic and shoreline process and fish passage through these structures located in the downstream to estuarine portions of Glenbrook, Muddy Hollow, and Laguna Creek (Figure 1-1). Prior to acquisition of the land by the NPS, a network of roads and other infrastructure was constructed to support existing agricultural operations and planned residential development. Many of the existing road and drainage facilities were installed prior to park establishment. Since the Seashore was established, the NPS has continued to manage many of the remaining roads, drainage facilities, and other infrastructure. However, the NPS feels that many of these facilities are not compatible with land use designations (including Wilderness) within the Seashore. To this end, the NPS has been developing a number of projects aimed at removing dams, replacing culverts, and regrading ranch roads to facilitate natural process and conditions. The actions evaluated as part of this EA are a part of the Seashore's Coastal Watershed Restoration Program. The proposed project sites are located within or adjacent to the Philip Burton Wilderness Area of the Seashore. Proposed treatments at these locations is intended to restore natural hydrologic and ecological process while reducing or eliminating the long-term maintenance requirements associated with the existing earthen fill structures. A summary of project needs are identified below.

- The project is needed to restore natural hydrologic conditions and increase estuarine habitat at Point Reyes National Seashore. At each of these sites, construction across stream or estuarine habitat impedes natural process and is not consistent with long-term park and NPS management objectives. These sites impede or block access to watersheds that support, or have the potential to support federally threatened coastal California steelhead and coho salmon. Muddy Hollow Dam and Limantour Beach dam restrict tidal action from more than five acres of coastal marsh habitat. The Glenbrook crossing is a non-conforming structure within the Philip Burton Wilderness and is a barrier to fish passage.
- The project is needed to reduce the maintenance demands at Point Reyes National Seashore. The project addresses facilities within the Drakes Estero watershed that are in need of maintenance, but not considered integral to current park operations. These facilities are in need of major maintenance to stabilize structures, and in the long-term, would require regular maintenance. For example, the Bureau of Reclamation identified the Muddy Hollow Dam to be in "seriously deficient condition and consideration should be given to deactivating the dam and restoring the tidal pool area" (USBR 2001). With numerous high priority maintenance needs, it is likely the facilities would continue to deteriorate. This project is proposed to address long-term maintenance issues at this site, and includes alternatives that would reduce the overall operations and maintenance requirements for these facilities.
- The project is needed to eliminate the risk of catastrophic failure. Maintenance activities are necessary to prevent catastrophic failure at Glenbrook Crossing and Muddy Hollow Pond. The culvert at Glenbrook Crossing (within the Philip Burton Wilderness Area) is eroded and bowed, with water piping around the metal culvert. The outfall of the culvert is 11 feet above the bed of the creek, and is a total barrier to aquatic movement. Catastrophic failure is likely, and could result in large volumes of sediment entering the stream system and result in effects to natural resources. At Muddy Hollow Pond, more than 30 acre-feet of water are stored behind the dam facility. Catastrophic failure would result in loss of pond, estuarine, and upstream wetland habitat.

- The project is needed to increase sustainability, both operationally and ecologically within these small coastal watersheds. These facilities were constructed prior to park establishment and not sustainable, requiring maintenance actions in order that they remain a part of the environment. The project would remove these facilities in a controlled manner thereby improving natural process and sustainability of the park systems.

1.3 Project Purpose

The project addresses facilities constructed prior to establishment of Point Reyes National Seashore. These facilities are not integral to park operations but require repair or replacement in the short term, as well as long-term maintenance for them to remain. The primary goal of the proposed habitat restoration project is to reduce long-term maintenance requirements and increase ecological sustainability through the restoration of natural hydrologic and shoreline process to these sites within the Drakes Bay watershed.

The project approach is consistent with NPS management guidelines that require, “NPS managers will first consider relocating or redesigning facilities, rather than manipulating streams” (Section 4.6.6: NPS 2001). In addition, restoration of water resources and aquatic habitat have been identified as high priority objectives by the NPS in the PRNS General Management Plan (NPS 1980), the PRNS Resource Management Plan (NPS 1999), and the NPS Management Policies (NPS 2001).

Restoration of natural process is intended to result in more sustainable ecological systems based on physical and hydrologic stability. The management policies cited below are indicative of the approach and means by which restoration activities proposed through this program are conducted.

NPS Management Policies, Section 4.1.5, directs actions to restore natural systems in the national parks. The NPS is directed to:

“re-establish natural functions and processes in human-disturbed components of natural systems in parks unless otherwise directed by Congress.Impacts to natural systems resulting from human disturbances include the introduction of exotic species; the contamination of air, water, and soil; changes to hydrologic patterns and sediment transport; the acceleration of erosion and sedimentation; and the disruption of natural processes. The Service will seek to return human-disturbed areas to the natural conditions and processes characteristic of the ecological zone in which the damaged resources are situated. (NPS 2000, p. 30)

Section 4.4.2.4 of the NPS Management Policies addresses how parks should approach the management of natural landscapes:

“...management activities to restore human-altered landscapes may include removing constructed features, restoring natural topographic gradients, ...on sites from which previous development is being removed. ...Restoring natural processes and conditions to areas disturbed by natural activities.

Section 4.6.4 of the NPS Management Policies addresses protection and management of floodplains, specifically:

“the NPS will (1) manage for the preservation of floodplain values; (2) minimize potentially hazardous conditions associated with flooding...When it is not practicable to locate or relocate development...to a site outside and not affecting the floodplain the Service will... ensure that structures and facilities are designed to be consistent with the intent of the standards and criteria of the National Flood Insurance Program.”

Section 4.6.5 of the NPS Management Policies addresses the restoration of wetlands on NPS lands. Wetlands are present within each of the road crossing improvement locations.

“When natural wetland characteristics or functions [of wetlands] have been degraded or lost due to previous or on-going human actions, the Service will, to the extent practicable, restore them to predisturbance conditions.” (NPS 2000, p. 40)

Section 4.6.6 of the NPS Management Policies supports the project objective to restore natural hydrologic process.

“The Service will manage watersheds as complete hydrologic systems... The Service will achieve the protection of watershed and stream features ... by allowing natural fluvial processes to proceed unimpeded.”

As set forth in the 1962 legislation that created PRNS, protection of the unique coastal resources in the park is a primary purpose for its establishment

“...to save and preserve, for the purposes of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped” (PL 87-657).

An amendment to the legislation passed in 1976 (PL 94-544) provides the NPS with specific management goals for PRNS.

“...the property ... shall be administered ...without impairment of its natural values, in a manner which provides for such recreational, educational, historic preservation, interpretation, and scientific research opportunities as are consistent with, based upon, and supportive of the maximum protection, restoration, and preservation of the natural environment within the area.”

Section 4.8.1.1 of the NPS Management Policies addresses the management objective to restore natural shoreline process to this section of Drakes Bay.

“Natural shoreline processes (such as erosion, deposition, dune formation, overwash, inlet formation, and shoreline migration) will be allowed to continue without interference. Where human activities have altered the nature or rate of natural shoreline process, the Service will... investigate alternatives for mitigating the effects of such activities or structures, and for restoring natural conditions.”

The current PRNS General Management Plan (NPS 1980) and Statement for Management (NPS 1990) identify objectives for the management of natural and cultural resources. The PRNS Statement for Management sets the primary resource management objectives for PRNS as the identification, protection, perpetuation, and restoration of significant cultural and historic resources and of the diversity of natural ecosystems representative of the California coast (NPS 1993).

The objectives of the Coastal Watershed Restoration Geomorphic Restoration Project are:

- To reduce or remove the long term operations and maintenance requirements associated with each of these park facilities.
- To increase ecological sustainability through the removal of structures that impede or restrict natural hydrologic, estuarine, and shoreline process within the Drakes Estero/Estero de Limantour watershed.
- To address the non-conforming Glenbrook road crossing structure located within the Philip Burton Wilderness and create a sustainable wilderness trail to maintain visitor access through the site.
- To address deficiencies and impacts to natural hydrologic and estuarine process associated with the Muddy Hollow Dam within Estero de Limantour, and create a sustainable visitor access through the site.
- To replace the Limantour Beach Pond Dam and associated fill with a structure that remains a gateway to Limantour Beach, while allowing for the restoration of natural hydrologic and shoreline process within Estero de Limantour.

1.4 Projects considered in Cumulative Impacts Analysis

A cumulative effect is “...the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions.” Cumulative effects may be the result of multiple, individually minor actions that aggregate to produce an adverse result over a period of time (40 CFR Sec. 1508.27), and a significant impact may exist if an action is related to other actions that have individually insignificant but cumulatively significant impacts (40 CFR Sec. 1508.27[b][7])

NEPA requires lead agencies to analyze the potential of their proposed actions to contribute to any cumulative effects identified in the project region. Because *cumulative effect* refers by definition to a combined effect, there is no cumulative effect on a resource unless more than one action affects that resource, or a single action or activity results in repeated but discrete effects on the resource. Accordingly, the first step in analyzing cumulative effects is to identify the resources that have the potential to be affected by more than one action or activity during the timeframe analyzed. Once the cumulative effects have been identified, a proposed action’s potential to contribute to each can be evaluated.

This EA used the “list” approach, in which the additive effects of specific actions proposed for an area are considered as a whole. For most resources, cumulative effects analysis addressed the Drake’s Estero/Drake’s Bay watershed, with the exception of effects on air quality, which were analyzed for the watershed and adjacent downwind portions of the SFBAAB, and effects on traffic, which were analyzed for the whole of Marin County. The analysis included actions slated for implementation within the next 5 years (through 2009). These actions are listed in Table 1-1.

Table 1-1. Actions Included in Cumulative Effects Analysis

Action	Overview
Coastal Watershed Restoration, Drake's Estero Road Crossing Improvements	This action includes the replacement or enhancement of road crossing facilities to accommodate natural hydrologic process and fish passage at six sites within the Drake's Estero watershed. It is in the planning phases, with EAs slated for public release in fall 2004. Implementation, anticipated for summer 2005, would require state and federal permits similar to those required for the proposed action analyzed in this EA.
Horseshoe Pond Restoration to Coastal Lagoon	This action involves the removal of spillway and dam materials to restore natural hydrologic and shoreline process to a 35-acre area immediately west of the mouth of Drake's Estero. It would also restore or enhance the access road, borrow quarry, and former waste lagoon to more natural conditions. With appropriate compliance complete, the project was implemented in fall 2004.
Glenbrook Dam and Quarry Restoration Project	This action involves the removal of dam remains and restoration of the borrow areas at the mouth of Glenbrook Creek in the Estero de Limantour. Implementation is scheduled to be complete by fall 2005. It would require a number of state and federal permits as well as minimum tool clearance for operations within a designated wilderness area.
Giacomini Wetlands Restoration Project	PRNS and Golden Gate National Recreation Area (GGNRA) are conducting a large-scale wetland restoration project at the southern end of Tomales Bay. This project would restore natural hydrologic and ecological processes and functions to the historic tidal marsh, which was diked in the 1940s for operation of a dairy ranch. The project is currently in the alternatives development phase. A draft EIS/Environmental Impact Report (EIR) is scheduled for 2005, with possible implementation of a portion of the project in late 2006.
Dune Restoration Project	This action involves the removal of nonnative European beach grass from the dune areas within the Seashore. Removal methods and restoration strategies are currently being tested near Abbott's Lagoon and would be employed at a larger scale under a line-item construction project planned for FY 2007.
Fire Management Program	NPS has completed a Fire Management Plan for the Seashore and is conducting environmental analysis of program alternatives. The preferred alternative would result in prescribed fire and mechanical treatment on no more than 3,000 acres per year within identified park fire management units (FMUs). While 27% of the Drake's Bay/Drake's Estero watershed is included in active treatment FMUs under the Plan, NPS does not anticipate treatment on more than 10% of any one watershed within Drake's Bay in any given year. The draft environmental impact statement for the Fire Management Plan is now in public review, with comments expected by June 2004. NPS anticipates implementation beginning in FY2005.

NPS is also in the process of revising the General Management Plan for Point Reyes National Seashore. This is a long-term strategic planning document that would establish management direction in the park for the next 10–20 years. Public scoping has been conducted and NPS expects the planning process to be completed by FY 2006 or 2007. Because management planning is still in the early stages, details are considered outside the scope of “reasonably foreseeable” actions that NEPA requires lead agencies to address in the analysis of cumulative effects. However, it is reasonable to assume that all programs and actions implemented under a revised General Management Plan would be consistent with the mission and vision captured in

this EA, and would include environmental safeguards similar to those incorporated in the actions explicitly analyzed.

1.5 Issues raised during project scoping

Public Scoping

Project scoping was conducted between February 18, 2003 and March 21, 2003. The public scoping document was mailed to the park public outreach mailing list including more than 200 recipients. Four comment letters were received.

Potential impact topics that were identified through the public scoping are described below.

Ecological Restoration

Concern was expressed over restoration at Muddy Hollow Pond, in particular the intent of removing a feature heavily used by birds, for the benefit of other species such as steelhead. The potential impacts associated with restoration of natural process, and associated affects to existing habitat are evaluated as part of the EA.

Recreational Use

Muddy Hollow Pond is a large pond area easily accessible from the Limantour Parking area and is a recreational resource often used by bird watchers and docent led bird watching groups. The pond is one of many within the Seashore providing large areas of open water habitat for diving ducks and other birds to rest and forage during the migration seasons. Recreational use is evaluated as part of the EA.

A trail network runs adjacent to the south side of Muddy Hollow Pond (Muddy Hollow Trail) and across the dam (Estero Trail). Comments noted that similar trail access to/from this area should be maintained. Recreational use and trail access are evaluated as part of the EA.

Wildlife - Birds

Muddy Hollow Pond provides habitat for a wide variety of bird and aquatic species, including, according to a local bird expert, over 20 duck species grebes, coots, American bitterns, Soras, and Virginia rails. Surrounding the edge of the pond are willow and alder that support numerous neotropical migrants along the pond edge. The habitat and use of the Muddy Hollow Pond area is evaluated as part of this EA.

Internal Scoping

The NPS has conducted public scoping (described in Section 1.5.1) as well as conducting internal staff scoping that served as the basis for the scope of the EA. In internal scoping, the NPS examines potential environmental issues relevant to the proposal that are raised by NPS staff. Those issues with potential for effect are addressed in this EA (See Section 1.6 for brief description).

1.6 Impact Topics addressed in the EA

One reason for preparing an EA is when additional analysis and public input is needed to know whether the potential for significant impact exists (DO12 Handbook, p.70). The following impact topics were determined through scoping to have the potential for significant impact on the environment. The following impact topics will be addressed in the EA.

Air Quality. Construction activities would increase short-term production of pollutants from the use of construction equipment for the period of operation. Visible dust would also be generated as earthen dam and road-crossing facilities are removed. Pollutants and dust generated would quickly disperse due to coastal winds. The project effect on air quality would be short-term, negligible and adverse but would not result in an impairment of NPS resources. There is no potential for significant effect. Because this topic is necessary for CEQA compliance, the topic will be included in the EA.

Geology, Geologic Hazards and soils. Project implementation would involve the use of heavy equipment to remove earthen structures from wetland, estuarine, riparian and stream habitat. Restoration activities would include recontouring and revegetation of former road and quarry areas and restoration of natural process through these previously disturbed and altered areas. Project actions could result in increased erosion and changes in the existing topography. The effect of project actions on site soils, geohazard, and topographic features will be addressed in the EA.

Water Resources and Hydrology. The project proposes to restore natural hydrologic and shoreline process at each of the project locations. Impact issues to be evaluated in the EA Water Quality, Quantity, stream flow characteristics, Marine or estuarine resources. Projects that may result in impacts to water quality are required to obtain permits through the Regional Water Quality Control Board under Section 401 of the Clean Water Act. Manipulation of the system may result in impacts to wetlands within the project area. The effect of the project on water quality will be evaluated in the EA.

Floodplains or Wetlands. The US Army Corps of Engineers has determined that the project area occurs within wetlands under jurisdiction granted to the Corps through Section 404 of the Clean Water Act. None of the waters are considered to be within the Corps jurisdiction as defined for the Rivers and Harbors Act - Section 10. The project would result in excavation of and change to existing wetland resources. The NPS will apply to the US Army Corps for a permit to discharge under Nationwide Permit 27. This permit pertains to restoration actions on federal lands or requiring federal permits. Effects to wetlands will be evaluated in the EA.

Rare or Unusual Vegetation. The project sites are located within sensitive riparian and estuarine habitat within the Seashore. As with any restoration project of this type, there would be ground and vegetation disturbance associated with the restoration project. This topic will be included as part of the vegetation section of the EA.

Species of Special Concern. The project area has been documented to support a variety of special status plant and animal species. Based on site surveys and document review, the NPS has determined that the project could result in measurable impacts to the following species identified in Table 1-2 (below).

Table 1-2 Federally-listed Threatened and Endangered species analyzed as part of the Coastal Watershed Restoration – Geomorphic Restoration EA.

Common Name	Scientific Name	Listing Status
Myrtle's silverspot butterfly	<i>Speyeria zerene myrtleae</i>	E
California red-legged frog	<i>Rana aurora draytonii</i>	T
California red-legged frog Critical Habitat		
California Brown Pelican	<i>Pelecanus occidentalis californicus</i>	E
Western snowy plover	<i>Charadrius alexandrinus nivosus</i>	T
Central California coast steelhead	<i>Oncorhynchus mykiss</i>	T
Magnuson-Stevens Fishery Conservation and Management Act - Essential Fish Habitat		
a/ Listing status: E = Endangered , T= Threatened		

Additional data and consultation with the US Fish and Wildlife Service, the agency that enforces the federal Endangered Species Act, is necessary to determine whether the proposed restoration project could have a significant impact on the California red-legged frog, protected by the federal Endangered Species Act. A biological assessment for the project will include analysis of federally endangered or threatened species identified within the project area.

The potential effect to other federally or locally listed species in the Point Reyes area is considered to be negligible or minor. The discussion of effects to species of special concern, including the three species for which more information is needed, will be addressed in the EA.

Unique or Important Fish or Wildlife Habitat. The project watersheds support federally protected species. Evaluation of unique or important habitat would be conducted in conjunction with the Species of special concern section. The riparian corridors throughout Point Reyes National Seashore are documented as an important resource for migratory neotropical bird breeding and habitat. Each of the project planning area locations include riparian habitat and impacts to neotropical migratory birds and their habitat are considered. Habitat is evaluated as part of the Biological Resources topic.

Introduce or Promote Non-Native Species (plant or animal). As with any restoration project, there would be ground disturbance that could promote non-native species to the site. The project area occurs on previously disturbed areas with a mix of native shrubs and trees with non-native grasses. Project impacts on non-native species will be addressed under the impact topic of Biological Resources.

Recreational Resources, including supply, demand, visitation, activities. Visitor use would be affected in the short term by construction activities at the three project locations. The planning process would take into account, and plan for the maintenance and connection existing trail facilities. Recreational Use and Traffic impacts are evaluated as part of this EA.

Visitor experience and aesthetic resources. Visitor use would be affected in the short term by construction activities at the three project locations. The planning process would take into account, and plan for the maintenance and connection existing trail facilities. These topics are analyzed under visual resources and recreational use within the project EA.

Soundscapes. Construction activities would increase short term noise impacts in the area. Wind and water noise generate a high ambient noise level in this area and, in conjunction with barriers posed by topography, would attenuate high noise outside the project vicinity. These construction sounds would last only during the periods of construction. Pending results of geotechnical analysis, there may be the requirement for placement and pounding of pilings which could entail repetitive sounds potentially effecting sensitive noise receptors. The effect on the NPS soundscape will be evaluated as part of this EA.

Cultural Resources, including Cultural Landscapes, Ethnographic Resources. Through internal scoping, it was determined that the project area includes an archaeological resource site near the Limantour Beach Pond. Through the project planning process, the NPS has worked with the Federated Indians of Graton Rancheria and the Anthropological Studies Center of Sonoma State University to document the resources at the site. The project was formulated in consideration of the cultural resources identified in the site surveys. This impact topic will be further addressed in the EA.

Tribal land use, sacred sites. An archeological site was rediscovered during project planning for this project. The location of the archeological site was considered in redesigning the proposed action and limits of site disturbance during implementation. The results of the cultural resources study defined restoration boundaries in consultation with a representative of the Federated Indians of Graton Rancheria. Potential impacts to such sensitive resource area would be addressed in the EA as part of the impact assessment to cultural resources.

Other agency or tribal land use plans or policies. The results of the planning study defined restoration boundaries in consultation with a representative of the Federated Indians of Graton Rancheria. The NPS would remain in contact with representatives of FIGR regarding how to monitor resources during site excavation work at specific locations. Potential impacts to such sensitive resource area would be addressed in the EA as part of the impact assessment to cultural resources.

Unique Ecosystems, biosphere reserves, World Heritage Sites. The project area is along the coastal margin within the Golden Gate Biosphere Reserve. The project is proposed in recognition of this unique ecosystem and would improve natural hydrologic and ecological function to the area. Some of the project sites, particularly Glenbrook Crossing and the trail reroute section of the Muddy Hollow Pond site are located within the Philip Burton Wilderness. Evaluation of these alternatives in the context of Wilderness is conducted as part of this project EA.

1.7 Impact Topics dismissed from further assessment

The following impacts have very low or negligible potential for adverse effect to the environment. The supporting information for these impact topics was assessed through the project environmental screening form and are summarized here.

Socioeconomics, including employment, occupation, income changes, infrastructure, urban quality, Gateway Community. The project would not effect socioeconomic resources within the local area or region. The restoration activities would not change the natural or wilderness area status currently assigned to these areas. This topic will not be addressed in the EA.

Minority and low income populations, ethnography, size, migration patterns, etc. The proposed actions are resource focused and would not result in changes to recreational or agricultural uses in PRNS. The project would not disproportionately affect minority or low income user groups. This topic will not be addressed in the EA.

Energy resources. The action alternatives involve use of heavy equipment for one construction season. The proposed project does not involve the sustained use of energy supplies. The action alternatives would have a short-term, negligible adverse affect on energy resources. This topic will not be further addressed in the EA.

Land use, including occupancy, income, values, ownership, type of use. The project locations are located in the Limantour area of Point Reyes National Seashore. Historically these areas were agricultural, however since establishment of the park the area has been managed as natural area or Wilderness. Land use will remain the same.

Long-term management of resources or land/resource productivity. The project is consistent with long-term general management plans for the Point Reyes National Seashore and the Limantour area. This topic will not be further addressed in the EA.

Prime and Unique Farmlands To ensure compliance with the Farmland Policy Act (FPPA; PL97-98; 7 USC 4201 et. seq.), the Council on Environmental Quality requires consideration of impacts to prime and unique farmland as a result of federal action. Prime and unique farmlands are defined by the US Department of Agriculture and are determined by the Natural Resource Conservation Service. The project area does not occur within any areas defined by the NRCS as prime and unique farmland, and therefore this issue is dismissed from further analysis.

1.8 Environmental Compliance Requirements

Laws, Regulations, and Policies

This section describes key legislation that form the legal context and important NPS policies that direct NPS actions relevant to the Coastal Watershed Restoration – Geomorphic Restoration Project Environmental Assessment. Legislation specific to PRNS and NPS Management Policies relevant to the proposed project were discussed in Chapter 1, Section 1.3, Project Purpose.

National Park Service Legislation and Policy

National Park Service Organic Act of August 25, 1916, PL 64-235, 16 USC §1 et seq. As amended. On August 15, 1916, Congress created the National Park Service with the National Park Service Organic Act. This act, as reaffirmed and amended in 1970 and 1978, establishes a broad framework of policy for the administration of national parks:

"The Service thus established shall promote and regulate the use of the Federal areas known as National Parks, Monuments, and Reservations... by such means and measures as to conform to the fundamental purpose of the said Parks, Monuments, and Reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such

manner and by such means as will leave them unimpaired for the enjoyment of future generations."

The National Parks Omnibus Management Act of 1998 (SB 1693) provides for improved management and increased accountability for National Park Service programs. Specifically, Title I, Sec. 101 states, "Recognizing the ever increasing societal pressures being placed upon America's unique natural and cultural resources contained in the National Park System, the Secretary shall continually improve the ability of the National Park Service to provide state-of-the-art management, protection, and interpretation of and research on the resources of the National Park System." In Title II, Sec 201, the stated purposes of the National Park System resource inventory and management programs are to 1) more effectively achieve the mission of the NPS, 2) enhance the management and protection of national park resources by providing clear authority and direction for the conduct of scientific studies and to use the information gathered for management purposes, 3) ensure appropriate documentation of resource conditions in the National Park System, and 4) encourage others to use the National Park System for study to the benefit of park management as well as broader scientific value where consistent with the Organic Act.

Point Reyes Wilderness Area (PL 94-567) established the Point Reyes Wilderness Area in 1976. In 1985 (PL 99-68), Congress designated the Point Reyes wilderness area as the Philip Burton Wilderness in recognition of this congressman's dedication to the protection of the nation's resources and role in the establishment of national parks in the San Francisco Bay Area. Areas that had been designated as potential wilderness (Muddy Hollow, Limantour, and Abbotts Lagoon) were changed to full wilderness status through notice in the Federal Register on November 18, 1999. The Glenbrook Crossing project area and Muddy Hollow Pond Project area trail reroute are within designated wilderness.

National Park Service Management Policies, 2001. This document contains Service-wide policies of the NPS. Adherence to policy is mandatory unless specifically waived or modified by the Secretary, the Assistant Secretary, or the Director of NPS. In addition to sections cited in Chapter 1, Section 3 of this EA, other sections relevant to the proposed actions are Section: 4.4.2.4 - Management of Natural Landscapes; 4.6.4 – Floodplains; 4.6.6 – Watershed and Stream Processes; 4.8.1.1 – Shorelines and Barrier Islands; and 9.5 - Dams and Reservoirs.

Federal Environmental Legislation and Regulations

National Environmental Policy Act (NEPA) of 1970. PL 91-190, 83 Stat. 852, 42 USC §4341 et seq. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. Regulations implementing NEPA are set forth by the Council on Environmental Quality. This document has been prepared following NPS Directors Order 12 meeting Department of Interior and National Park Service standards.

Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR Parts 1500-1508). The Council on Environmental Quality regulations for implementing the National Environmental Policy Act (NEPA) establishes the process by which federal agencies fulfill their obligations under the NEPA process. The Council on Environmental Quality regulations ascertains the requirements for environmental assessments and environmental impact statements that document the NEPA process. The Council on Environmental Quality regulations also define such key terms as "cumulative impact," "mitigation" and "significantly" to ensure consistent application of these terms in environmental documents. This environmental analysis was prepared as directed in the Council on Environmental Quality regulations.

Clean Air Act, as amended, PL Chapter 360, 69 Stat. 322, 42 USC §7401 et seq. Section 118 of the Clean Air Act requires all federal facilities to comply with existing federal, state, and local air pollution control laws and regulations.

Federal Water Pollution Control Act (Clean Water Act) and subsequent amendments of 1977 (33 USC 1251 et seq.). The Clean Water Act provides for the restoration and maintenance of the physical, chemical, and biological integrity of the nation's waters. Section 404 of the act prohibits the discharge of fill material into navigable water of the United States, including wetlands, except as permitted under separate regulations by the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency. The project will be conducted within jurisdictional wetlands as confirmed by the US Army Corps of Engineers August 13, 2002. The project will require 404 permits through the Corps, and 401 certification through the San Francisco Regional Water Quality Control Board. Application for these permits will be submitted subsequent to the Environmental Assessment.

Rivers and Harbors Act (1899) Predating the Clean Water Act, the jurisdiction of the US Army Corps was limited to waters subject to Section 10 of the Rivers and Harbors Act (1899). The Corps continues to oversee Section 10 jurisdictional waters, which are navigable waters that are subject to the ebb & flow of the tide, and/or those that are presently used, have been used in the past, or could be used for interstate transport or foreign commerce. Section 10 jurisdiction extends to mean high water (MHW) and includes tidal areas presently subject to tidal influence, as well as unfilled areas currently behind levees that were historically below MHW. Section 10 jurisdiction also extends upstream to the ordinary high water (OHW) of non-tidal waters designated as navigable waters of the United States. The US Army Corps regulates and permits Section 10 in addition to CWA Section 404. The US Army Corps of Engineers jurisdictional delineation (August 13, 2002) confirmed that the project is outside of waters regulated under Section 10.

Coastal Zone Management Act. This act protects coastal environments. While this act transferred regulatory authority to the States and excluded federal installations from the definition of the "coastal zone," it requires that federal actions be consistent with state coastal management plans. Activities taking place within the coastal zone under the definition established by the California Coastal Management Plan require a federal consistency determination. This project will require federal consistency review by the California Coastal Commission. Consistency determination and request for state concurrence will be conducted in conjunction with review of this Environmental Assessment.

Endangered Species Act of 1973, as amended, PL 93-205, 87 Stat. 884, 16 USC §1531 et seq. The Endangered Species Act protects threatened and endangered species from unauthorized "take", and directs federal agencies to ensure that their actions do not jeopardize the continued existence of listed species. Section 7 of the act defines federal agency responsibilities for consultation with the U.S. Fish and Wildlife Service, or the National Marine Fisheries Service for fish and marine mammal species. Consultation requires preparation of a Biological Assessment to identify any threatened or endangered species that is likely to be affected by the proposed action. The National Park Service has initiated consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries regarding this project.

Wilderness Act of 1964 (P.L. 88-577). Established a National Wilderness Preservation System, allowing Congress to designate wilderness areas for preservation and protection of their natural condition. "The areas shall be administered... in such a manner as will leave them unimpaired for future use and enjoyment as wilderness." Wilderness is defined in the act as "an area where the earth and community of life are untrammelled by man, where man himself is a visitor who does not remain." The Glenbrook Crossing project area and Muddy Hollow Pond Project area trail reroute are within designated wilderness.

Cultural Resources Legislation

Antiquities Act of 1906, PL 59-209, 34 Stat. 225, 16 USC §432 and 43 CFR 3. This act provides for the protection of historic or prehistoric remains, "or any antiquity," on federal lands. It protects historic monuments and ruins on public lands. It was superseded by the Archeological Resources Protection Act (1979) as an alternative federal tool for prosecution of antiquities violations in the National Park System.

Archeological Resources Protection Act of 1979, PL 96-95, 93 Stat. 712, 16 USC §470aa et seq. and 43 CFR 7, subparts A and B, 36 CFR. This act secures the protection of archeological resources on public or Indian lands and fosters increased cooperation and exchange of information between private, government, and the professional community in order to facilitate the enforcement and education of present and future generations. It regulates excavation and collection on public and Indian lands. It requires notification of Indian tribes who may consider a site of religious or cultural importance prior to issuing a permit. The act was amended in 1988 to require the development of plans for surveying public lands for archeological resources and systems for reporting incidents of suspected violations.

National Historic Preservation Act of 1966, as amended, PL 89-665, 80 Stat. 915, 16 USC §470 et seq. and 36 CFR 18, 60, 61, 63, 68, 79, 800. The National Historic Preservation Act requires agencies to take into account the effects of their actions on properties listed in or eligible for listing in the National Register of Historic Places. The Advisory Council on Historic Preservation has developed implementing regulations (36 CFR 800), which allow agencies to develop agreements for consideration of these historic properties. The NPS, in consultation with the Advisory Council, the California State Historic Preservation Officer (SHPO), American Indian tribes and the public, has developed a Programmatic Agreement for operations and maintenance activities on historic structures. This 1995 Programmatic Agreement (available on the web at <http://www.achp.gov/npspa1.html>) provides a process for compliance with National Historic Preservation Act, and includes stipulations for identification, evaluation, treatment, and mitigation of adverse effects for actions affecting historic properties.

American Indian Religious Freedom Act, PL 95-341, 92 Stat. 469, 42 USC §1996. This act declares policy to protect and preserve the inherent and constitutional right of the American Indian, Eskimo, Aleut, and Native Hawaiian people to believe, express, and exercise their traditional religions. It provides that religious concerns should be accommodated or addressed under NEPA or other appropriate statutes.

Executive Orders

Executive Orders are issued by the Office of the President and apply to all Federal agencies.

Executive Order 11593: Protection and Enhancement of the Cultural Environment. This Executive Order instructs all federal agencies to support the preservation of cultural properties. It directs them to identify and nominate cultural properties under their jurisdiction to the National Register of Historic Places and to "exercise caution... to assure that any federally owned property that might qualify for nomination is not inadvertently transferred, sold, demolished, or substantially altered."

Executive Order 11988: Floodplain Management. This Executive Order requires federal agencies to avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains, and to avoid development in floodplains whenever there is a practical

alternative. If a proposed action is found to be in the applicable regulatory floodplain, the agency shall prepare a floodplain assessment, known as a Statement of Findings (Directors Order 77-2).

Executive Order 11990: Protection of Wetlands. This Executive Order established the protection of wetlands and riparian systems as the official policy of the federal government. It requires all federal agencies to consider wetland protection as an important part of their policies and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. If a proposed action is found to be in the applicable regulatory wetland, the agency shall prepare a wetland assessment, known as a Statement of Findings (Directors Order 77-1).

Executive Order No. 13112: Invasive Species. This Executive Order prevents the introduction of invasive species and directs federal agencies to not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species. Actions proposed in the project include measures to prevent the introduction and spread of invasive species.

Relationship to Other Plans and Policies

Marin County Local Coastal Program, Unit 1 (LCP)(1980) supports and encourages the enhancement of public recreational opportunities. Referring to PRNS and GGNRA, the LCP states “public access to these lands seems to be assured.” The LCP assumes that a major portion of the access and visitor services needs within Unit I would and can be successfully integrated into federal park development and management programs. The Seashore has determined that the project is within the Coastal Zone and will require federal consistency review by the California Coastal Commission.

Marin County Community Plan. PRNS and the GGNRA North District are part of the Marin County Coastal Recreation Corridor. The Countywide Plan recommends that PRNS and GGNRA lands are retained in their natural state to the greatest extent possible, and that recreation uses be low intensity. The County Community Plan is currently undergoing a revision.

Resources Management Plan. The Resources Management Plan (RMP) for the park was updated in 1999. The RMP presents an inventory and description of natural and cultural resources; describes and evaluates the current resources management program; and prescribes an action program based on legislative mandates, NPS policies, and provisions of related planning documents. The Coastal Watershed Restoration Project is identified in the RMP.

PRNS General Management Plan Update. The planning process to update the 1980 PRNS General Management Plan (GMP) is in progress; scoping for the GMP update has been conducted. The process is expected to take 4-5 years. The Coastal Watershed Restoration is consistent with the mission and objectives of the NPS and the existing GMP. The NPS continues to implement the goals of the 1980 GMP and the direction and guidance it provides, while updating specific actions, such as the Coastal Watershed Restoration, through the NEPA and planning processes in conformance with NPS policies.

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