United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Francisco Bay-Delta Fish and Wildlife Office
U.S. Fish and Wildlife Service
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In Reply Refer To:
2024-0105961-S7-001

October 24, 2024

Sarah Firestone
Regulatory Division
Department of the Army
San Francisco District
U.S. Army Corps of Engineers
450 Golden Gate Avenue
San Francisco, California 94102

Subject: Informal Section 7 Consultation on the San Francisco International Airport Regional General Permit for the Shoreline Protection System Maintenance Program, San Francisco County, California (U.S. Army Corps of Engineers File Number SPN-2022-00353)

Dear Sarah Firestone:

This letter is in response to the U.S. Army Corps of Engineers (Corps) June 18, 2024, and August 29, 2024, requests for informal consultation with the U.S. Fish and Wildlife Service (Service) on the potential effects of the proposed San Francisco International Airport (SFO) Regional General Permit (RGP) for the Shoreline Protection System Maintenance Program (proposed project) in the City of San Francisco, San Francisco County, California. The Corps has requested concurrence on their determination that the proposed project may affect but is not likely to adversely affect the federally endangered California Ridgway's rail (*Rallus obsoletus obsoletus*), salt marsh harvest mouse (*Reithrodontomys raviventris*), California least tern (*Sternula antillarum browni*), and San Francisco Bay-Delta distinct population segment (DPS) of the longfin smelt (*Spirinchus thaleichthys*), and the federally threatened western snowy plover (*Charadrius nivosus nivosus*). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*.) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

In reviewing this proposed project, the Service has relied upon: (1) the Corps' June 18, 2024, and August 29, 2024 emails requesting informal consultation and conference for the then proposed longfin smelt; (2) the May 2023, *Biological Assessment San Francisco International Airport Shoreline Protection System Maintenance Program*; (3) the June 13, 2024, Memorandum SFO Shoreline Protection System Maintenance Program Addendum to Biological Assessment; (4) emails from SFO to the Service; and (5) other information available to the Service.

Proposed Project Description

The proposed RGP would authorize the maintenance of the shoreline protection system (SPS) around the perimeter of SFO bordering the San Francisco Bay. The three types of repair and maintenance activities are:

1. SPS Rip-rap Replacement

   Replacement of clean rip-rap to protect and maintain the SPS where rip-rap has been displaced/dislodged by tidal action or subsidence.

   - Proposed RGP Project Limits: up to 0.2 acre, 300 linear feet, 200 cubic yards.
   - Proposed RGP Program Limits: 2.0 acres, 2,000 linear feet, 1,500 cubic yards.

2. SPS Erosion Repair

   Erosion repair activities include placement of clean fill material to backfill depressions that have exposed and/or potentially compromised the SPS structure. Clean fill material will be placed to promote surface runoff from the SPS structure, reduce potential for future erosion, and provide suitable structural integrity. Erosion repair may include placement of geotextile fabric and rip-rap in concert with the clean fill material to enable a more robust corrective action to a deficiency that has exposed the SPS.

   - Proposed RGP Project Limits: up to 0.1 acre, 200 linear feet, 50 cubic yards.
   - Proposed RGP Program Limits: 2.0 acres, 1,500 linear feet, 600 cubic yards.

3. SPS Vegetation and Storm Debris Removal

   Hand or mechanical removal of vegetation and storm debris at various locations along the SPS to maintain SPS integrity. Vegetation management activities will occur on the SPS structure.

   - Proposed RGP Project Limits: up to 300 linear feet of vegetation or debris removal if done with mechanized equipment. No limits if non-mechanized, no earth moving, but must report quantity of removal.
   - Proposed RGP Program Limits: no limits.

All maintenance and repair activities would consist entirely of in-kind repair and replacement of existing SPS infrastructure in discrete locations and would be designed to minimize the footprint of disturbance on the shoreline. The proposed activities would not increase or expand shoreline hardscape or armoring within waters of the U.S. Prior to the initiation of maintenance activities, the work would be evaluated by SFO for soil conditions, scour velocities (if applicable), slope stability, form/position, and other potentially active hydrogeomorphic conditions. Consideration

of the cause of the destabilization would be documented and inform the treatment approach. All maintenance activities would occur only during low tide (i.e., outside the water column). Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the proposed project. Any invasive plant species removed during maintenance shall be handled and disposed of in such a manner as to prevent further spread of the invasive species.

Conservation Measures

Water Quality and Habitat Protection

1. All debris will be hauled off site, processed, and properly disposed of. Any timber piles that are removed as part of storm debris removal and that have been treated with creosote, or that contain other potentially hazardous materials, will be handled properly and disposed of at a facility permitted to handle hazardous waste.

2. All construction waste will be collected and transported to an authorized upland disposal area, as appropriate, and per federal, state, and local laws and regulations.

3. All hazardous material will be stored upland in storage trailers and/or shipping containers designed to provide adequate containment. Short-term laydown of hazardous materials for immediate use will be permitted with the same anti-spill precautions.

4. All construction material, wastes, debris, sediment, rubbish, trash, fencing, etc., will be removed from the site once the proposed project is completed and transported to an authorized disposal area, as appropriate, in compliance with applicable federal, state, and local laws and regulations. Construction material will need to be covered every night and during any rainfall event.

5. Construction crews will reduce the amount of disturbance within the Action Area to the minimum necessary to accomplish the proposed project.

6. Measures will be implemented to prevent debris from entering the San Francisco Bay.

7. Vessels and equipment that rely on internal combustion engines for power and/or propulsion will be kept in good working condition and compliant with California emission regulations.

8. Vehicles and equipment that are used during construction will be fueled and serviced in an upland location at least 100 feet from the shoreline. Fueling locations will be inspected after fueling to document that no spills have occurred. Any spills will be cleaned up immediately.

Worker Environmental Awareness Program

GEN-1: Develop and Implement Worker Environmental Awareness Program. Before the start of work, a Project-specific Worker Environmental Awareness Program (WEAP) training will be

developed and implemented by a Service-approved biologist and attended by all proposed project personnel performing repair or maintenance activities in Reaches 1, 2, and 14, where tidal marsh vegetation is present. The WEAP will include environmental permit requirements related to biological resources for all stages of the Project. The WEAP will be repeated as necessary to ensure that all personnel on the construction crew receive the training, including new personnel added to the crew once construction has begun. The WEAP training will generally include, but not be limited to, education about the following:

– Applicable federal, state, and local laws, environmental regulations, project permit conditions, and penalties for noncompliance.

– Special-status species with the potential to be encountered on or in the vicinity of the proposed project area during construction.

– Pre-construction survey and biological monitoring requirements at specific locations within the project area (i.e., Reaches 1, 2, and 14), as biological resources and protection measures will vary depending on where work is occurring within the site, time of year, and construction activity.

– Known sensitive resource areas in the proposed project vicinity that are to be avoided and/or protected, as well as approved proposed project work areas, access roads, and staging areas.

– A protocol for encountering special-status species, including a communication chain.

– Best management practices (BMPs) (e.g., straw wattles or spill kits) and their location around the proposed project area for erosion control, in addition to general housekeeping requirements.

Species-Specific Conservation Measures

The following conservation measures are proposed to avoid and minimize potential adverse effects on California Ridgway's rail, western snowy plover, and California least tern (measures are enumerated using the species acronyms RIRA, WSPL, and CLTE respectively):

California Ridgway's Rail

RIRA-1: Avoid Proposed Project Activities During the California Ridgway's Rail Breeding Season. Maintenance and repair activities at Reaches 1, 2, and 14 within 600 feet of suitable tidal marsh habitat will be avoided during breeding season (February 1 through August 31).

If maintenance and repair activities must be conducted within 600 feet of suitable tidal marsh habitat during the non-breeding season (September 1 through January 31), the SFO will implement RIRA-2 through RIRA-5 to minimize potential effects on California Ridgway's rail.

RIRA-2: Service-Approved Biological Monitor. If maintenance or repairs are conducted within

600 feet of suitable tidal marsh habitat in Reach 1, 2, or 14, a Service-approved biologist will conduct daily construction monitoring for the duration of the work activity that has potential to result in adverse effects on the species.

RIRA-3: Avoid Suitable Tidal Marsh Habitat. Mechanized equipment will operate from the airfield side of the SPS, and SFO will direct the contractor to avoid suitable marsh habitat.

RIRA-4: Stop Work. If a California Ridgway's rail is detected by sight or sound during maintenance or repair activities within 600 feet of suitable marsh habitat, all work will stop. The rail will be allowed to leave the area on its own volition and will not be hazed or harassed. Construction activities may resume when the individual is more than 600 feet from the proposed activities.

RIRA-5: Avoid Project Activities During Extreme High Tides. Project activities within or directly adjacent to suitable habitat for California Ridgway's rail in Reaches 1, 2, or 14 will not occur within two hours before or after extreme high tides (6.5 feet or above, as measured at the Golden Gate Bridge and adjusted to the timing of local high tides).

Western Snowy Plover and California Least Tern

• WSPL/CLTE-1: Avoid Project Activities During Western Snowy Plover and California Least Tern Breeding Seasons. To the extent practicable, maintenance and repair activities within 600 feet of suitable habitat near the landspits of Reach 2, the landspit at the junction of Reaches 12 and 13, and the salt flats of Reach 14 will be avoided during the western snowy plover and California least tern breeding seasons (March 1 through September 14 for WSPL or April 15 through August 15 for CLTE; Table 1). During the breeding seasons for these species, maintenance and repair activities in these areas will be conducted only if there are negative findings from pre-construction nest surveys conducted by a Service-approved biologist (per WSPL/CLTE-2).

For maintenance and repair activities conducted within 600 feet of suitable habitat during the non-breeding seasons (September 15 through February 28 for western snowy plover or August 16 through April 14 for California least tern), then no additional protection measures or surveys would be required.

• WSPL/CLTE-2: Conduct Pre-Construction Survey. If maintenance or repair activities are conducted during the western snowy plover or California least tern breeding seasons within 600 feet of suitable landspits or salt flat habitat in Reach 2, at the junction of Reaches 12 and 13, or in Reach 14, a Service-approved biologist will conduct a pre-construction survey within 14 days prior to the start of work. The area surveyed will include the work area and an additional 600-foot buffer around the work area. The pre-construction survey will be conducted to determine whether western snowy plovers or California least terns are present within or immediately adjacent to the work area.

– If no individuals are detected, no additional protection measures will be implemented.

– If western snowy plovers or California least terns are detected, then the Service-approved biologist will contact the Service and reinitiation may be necessary.

TABLE 1

BREEDING SEASONS OF COVERED BIRDS

Species	January	February	March	April	May	June	July	August	September	October	November	December
Ridgway's Rail		Breeding Season (February 1 – August 31)										
Western Snowy Plover			Breeding Season (March 1 – September 15)									
California Least Tern				Breeding Season (April 15 – August 15)								

California Ridgway's Rail

The Service concurs with the Corps' determination that the proposed project may affect but is not likely to adversely affect California Ridgway's rail. California Ridgway's rail habitat at SFO is limited to marshes on the north and south side. California Ridgway's rails are consistently recorded at the southern marsh during breeding season surveys conducted by the San Francisco Estuary Invasive *Spartina* Project. One rail was recorded here in 2023 (Olofson Environmental, Inc. 2023). California Ridgway's rails have not been heard at the northern marsh since 2010 (Service 2023). Surveys have not been conducted at the northern marsh since 2017 due to the lack of non-native *Spartina*, but suitable habitat for California Ridgway's rail is regrowing here (J. McBroom, personal communication, March 2024). Although rails have been documented at both marshes, they are unlikely to be adversely affected due to likely habituation to baseline level of human, vehicular, and air traffic disturbance around the SFO, the small project footprint and avoidance marsh habitat, short duration of the proposed work, and the implementation of the proposed *Conservation Measures*.

Salt Marsh Harvest Mouse

The Service concurs with the Corps' determination that the proposed project may affect but is not likely to adversely affect the salt marsh harvest mouse. Small amounts of marginal habitat for the salt marsh harvest mouse are present within Reaches 1, 2, and 14. The species is not expected to occur in these areas because the marsh habitat segments are small and fragmented and the reaches lack sufficient upland refugia habitat when the marshes are tidally inundated. There are no known records of the species near the Action Area, and a recent comprehensive range-wide survey conducted by the California Department of Fish and Wildlife (CDFW) did not find the species at San Bruno Canal, which is the closest potential habitat which is adjacent to Reaches 1 and 2.

California Least Tern

The Service concurs with the Corps' determination that the proposed project may affect but is not likely to adversely affect the California least tern. No nesting sites have been identified in the

Action Area (Service 2020). California least terns have never been documented nesting or foraging in the Action Area. Small numbers of migrating or post-breeding terns occur rarely in the vicinity of SFO. SFO's wildlife biologist conducted bi-monthly point count surveys along the shoreline from 2015 to 2022 and never detected the species and the nearest eBird observations are 2-3 miles to the north (Oyster Point Marina) and south (Coyote Point). The nearest nesting colonies to SFO are located about 10 miles across the bay and thus foraging during breeding season is not expected to occur in the Action Area. Although California least terns have not been documented nesting at SFO, suitable nesting habitat does exist in salt flat habitat in Reach 2, at the junction of Reaches 12 and 13, and in Reach 14. Effects to California least terns will be discountable due to the small proposed project footprint, the short duration of the proposed work, the lack of species detections, and the implementation of the proposed *Conservation Measures* which include pre-construction surveys.

Western Snowy Plover

The Service concurs with the Corps' determination that the proposed project may affect but is not likely to adversely affect western snowy plovers. The shoreline around SFO is within the South San Francisco Bay recovery unit of the western snowy plover, but is more than 10 miles from known breeding sites. There is one area with landspits in Reach 2, a single landspit at the junction of Reaches 12 and 13, and there are tidal flats in Reach 14, which may provide limited potential breeding and foraging habitats for the species. The only documented occurrence of western snowy plover at SFO was (July 11, 2018) from the landspit at the junction of Reaches 12 and 13.

Given that most western snowy plovers are site faithful (i.e., habitually return to the same breeding site in subsequent breeding seasons), the lack of regular observations in the Action Area despite regular, frequent, and recent point surveys, poor habitat conditions at the shoreline and at the landspits, and presence of predators, western snowy plovers have very low potential to breed in the Action Area. Effects to western snowy plovers will be discountable due to the small project footprint, the short duration of the proposed work, and the implementation of the proposed *Conservation Measures* which include pre-construction surveys.

Longfin Smelt

The Service concurs with the Corps' determination that the proposed project may affect but is not likely to adversely affect longfin smelt. This conclusion is based on: (1) all construction will occur on the shoreline or during low tide (no in-water work proposed); (2) elevated levels of turbidity fed by sediment resuspension would be short-term and localized and are expected to result in no more than discountable effects; and (3) the proposed *Conservation Measures* will be implemented to minimize contaminants entering the water.

REINITIATION – CLOSING STATEMENT

This concludes informal consultation on the San Francisco International Airport Regional General Permit for the Shoreline Protection System Maintenance Program.
As provided in 50 CFR § 402.16,

(a) Reinitiation of consultation is required and shall be requested by the Federal agency, where discretionary Federal involvement or control over the action has been retained or is authorized by law and:

(1) If the amount or extent of taking specified in the incidental take statement is exceeded;

(2) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;

(3) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or

(4) If a new species is listed or critical habitat designated that may be affected by the identified action.

(b) An agency shall not be required to reinitiate consultation after the approval of a land management plan prepared pursuant to 43 U.S.C. 1712 or 16 U.S.C. 1604 upon listing of a new species or designation of new critical habitat if the land management plan has been adopted by the agency as of the date of listing or designation, provided that any authorized actions that may affect the newly listed species or designated critical habitat will be addressed through a separate action-specific consultation. This exception to reinitiation of consultation shall not apply to those land management plans prepared pursuant to 16 U.S.C. 1604 if:

(1) Fifteen years have passed since the date the agency adopted the land management plan prepared pursuant to 16 U.S.C. 1604; and

(2) Five years have passed since the enactment of Public Law 115-141 [March 23, 2018] or the date of the listing of a species or the designation of critical habitat, whichever is later.

Please address any questions or concerns regarding this response to Andrew Raabe, Endangered Species Biologist, at andrew_raabe@fws.gov or (916) 930-2642 or Kim Squires, Section 7 Division Manager, at kim_squires@fws.gov.

Sincerely,

STEVEN DETWILER

Digitally signed by STEVEN DETWILER
Date: 2024.10.24 09:37:39 -07'00'

for Jana Affonso
Assistant Field Supervisor

LITERATURE CITED

Olofson Environmental, Inc. 2023. 2023 California Ridgway's Rail Surveys for the San Francisco Estuary Invasive Spartina Project. Prepared for State Coastal Conservancy, 1001 42nd Street, Suite 230, Oakland, California 94608.

U.S. Fish and Wildlife Service (Service). 2020. CALIFORNIA LEAST TERN (Sternula antillarum browni) (= Sterna a. b.) 5-YEAR REVIEW: Summary and Evaluation U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, Carlsbad, California. 118 pp. https://ecosphere-documents-production-public.s3.amazonaws.com/sams/public_docs/species_nonpublish/3520.pdf

_____. 2023. Formal Consultation on the proposed San Francisco Estuary Invasive Spartina Project for 2023-2033, Appendix F. San Francisco Bay National Wildlife Refuge Complex, Fremont, California.

Personal Communication

Jen McBroom, Invasive *Spartina* Project California Ridgway's Rail Monitoring Manager, phone conversation with Andy Raabe, U.S. Fish and Wildlife Service Fish and Wildlife Biologist, March 2024