

# Appendix F

## Planning Influences

## PLANNING INFLUENCES

This section describes the influential factors considered during the planning process for the CASP units.

### Systemwide Planning

This section discusses the long-range, management-level planning documents that apply to all of the CSP units. These include documents that address issues and trends, opportunities, stakeholders, needs and deficiencies, roles and responsibilities, or actions and opportunities for the entire State Park System.

#### California Department of Parks and Recreation Operations Manual

The *Department Operations Manual (DOM)* provides the policies and procedures that are pertinent to the operation of the State Park System. It is intended as a working document for Department personnel.

##### Section 0300, Natural Resources

The DOM Section 0300 is the basic natural resource policy document for the state park system. The policies, definitions, processes, and procedures contained in this chapter guide the management of the natural resources under the jurisdiction of CSP, including naturally occurring physical and biological resources and associated intangible values, such as natural sounds and scenic qualities. These policies, definitions, processes, and procedures amplify the legal codes in the PRC, the California Code of Regulations, and the California State Park and Recreation Commission's Statement of Policies and Rules of Order as they pertain to the natural resources of the State Park System.

##### Section 0400, Cultural Resources

Section 0400, currently under revision, will provide cultural resource management guidance. Until it is complete, Section 1832 of the Resource Management Directives, the Cultural Resources Management Handbook, and the Departmental Notices provide the policies, definitions, processes, and procedures to guide the management of cultural resources under the jurisdiction of CSP.

##### Section 2000, Museum Collections Management

Section 2000 guides the management of the Department's museum collections, which include cultural objects, natural history specimens, archival materials, and archaeological and paleontological collections.

#### Statewide Comprehensive Outdoor Recreation Plan

The Land and Water Conservation Fund provides grant funding for outdoor recreation. To receive grant funding from this program, CSP must create a Statewide Comprehensive Outdoor Recreation Plan (SCORP). The SCORP provides a listing of the state's outdoor recreation opportunities, information on public opinion regarding outdoor recreation, and actions to address issues largely based on the public participation efforts. The SCORP is updated periodically. The most recent SCORP was produced in 2015 (CSP 2017).

## California Recreational Trails Plan

The *California Recreational Trails Plan* is a guide to trails within California managed by a variety of agencies and other recreation providers. The plan includes information on trail benefits, funding, stewardship, and methods of cooperation among trail users (CSP 2002).

One of the trails discussed in the plan is the Pacific Coast/California Coastal Trail, which passes through the Reserve and State Beach and continues south along the coast. This trail is envisioned to be 1,150 miles long, spanning from Mexico to Oregon. As of 2017, it was considered approximately 60% complete (California State Coastal Conservancy [Coastal Conservancy] 2017). The trail is a joint project of Coastwalk, the California Coastal Commission, CSP, and Coastal Conservancy, with the Coastal Conservancy responsible for the lead role.

## System-Wide Park Operations and Concessions Policies

The concessions program provides a very important part of the visitors' experience. Concessionaires offer the facilities, services, and goods that the State could not otherwise provide, ranging from traditional food services and campground grocery stores, to Jeep tours and rafting trips. In the system's historic parks, concessionaires help CSP provide interpretation and help to achieve its educational mission by providing educational programs. These programs add vitality, interest, and excitement to the State's fascinating heritage as preserved and protected by CSP.

CSP partners with a variety of businesses, non-profits, and public agencies through concession contracts, cooperative agreements, and operating agreements to offer the public these goods and services. The method through which these opportunities are made available to the public is regulated by the California PRC, Section 5080 et seq.

## Americans with Disabilities Act and Access to Parks Guidelines

The Americans with Disabilities Act (ADA) is the federal law that prohibits discrimination on the basis of disability, and applies to all actions by the states, including the preparation of state park general plans. CSP published the *Accessibility Guidelines* which states that universal accessibility is integrated into CSP's culture and embodied in its programs, providing visitors, regardless of their abilities, with high quality recreational opportunities while preserving the integrity of park resources (CSP 2015a).

The *Accessibility Guidelines* include recommendations and regulations for complying with the standards for accessibility. CSP has also published the *All Visitors Welcome: Accessibility in State Park Interpretive Programs and Facilities* (CSP 2011), which provides guidance on developing accessible interpretive programs and facilities.

## California Heritage Task Force

Established in 1981 by the California state legislature, the California Heritage Task Force (CHTF) was created to develop a set of policies and programs for the State's cultural heritage resources. As a result of a Cultural Heritage Resources Summit in Los Angeles November 2002, a report was published updating a 1984 CHTF Report. The updated report is used as a guide to cultural resource management legislation writing.

## California History Plan

The California History Plan, originally published in 1970 and updated in 2009 (CSP 2009), provides a holistic framework to guide interpretation of cultural resources throughout the state. CSP lead the effort to create the framework and relied on cultural heritage experts from many public agencies to guide the eight concepts and 37 related categories covered in the framework. CSP has accepted

responsibility to interpret those resources within its purview as vital pieces to the overall framework, but other agencies and organizations are responsible for those parts of the history framework that are outside of CSP influence.

The Reserve, the State Beach, and Point Lobos Ranch all contain important artifacts and elements of California's history. The California History Plan specifically states that interpretation at the Reserve should recognize the contribution of Japanese commercial abalone fishing and processing to the "Evolving Economies" theme in the History Plan/Framework.

## California Underwater Parks and Reserves Plan

The draft 2000 California Underwater Parks and Reserves Plan is a cumulative and comprehensive summary of laws, policies, documents, studies, and surveys concerning the marine areas of the State Park System. The draft plan addresses issues and makes recommendations related to establishing a more manageable marine classification system and improving public education, research, monitoring, and evaluation activities; lists existing state park marine units as well as proposed additions; identifies natural, cultural, and recreational features; and identifies management and enforcement within designated areas. The draft plan is consistent with Assembly Bill (AB) 993, the Marine Life Protection Act (1999). The act establishes a uniform classification system for state marine managed areas to be used by state agencies.

## Regional Planning

Various regional plans govern lands in the vicinity of and adjacent to the CASP units. Below, in alphabetical order, are descriptions of these plans and how they may relate to the General Plan. Regional agencies and non-governmental agencies with planning influences in the Monterey area are further discussed under Section 2.7, Park Support.

### Big Sur Coast Highway Management Plan

The Big Sur Coast Highway Management Plan (CHMP) (Caltrans 2004) covers a 75-mile length of SR I, mostly within Monterey County. This length extends from around the Carmel River in Monterey County to San Carpoforo Creek in San Luis Obispo County and is designated as an "All-American Road." This designation is typically assigned to roads which are considered destinations in and of themselves and portions of SR I run through the CASP units.

### Carmel Area Land Use Plan/Local Coastal Program

The Reserve, the State Beach, and Point Lobos Ranch are within the *Carmel Area Land Use Plan/Local Coastal Program* (CALUP) planning area (Monterey County 1983). The CALUP was certified in 1983 and last updated in 1995. As stated in the CALUP, "the common goal for the Carmel area must be that any future development blend with and be clearly subordinate to the natural scenic character." The CALUP contains a number of policies relating to fuel load management, noxious weeds, interpretive programs, water resources, sensitive biological resources, parking, recreation opportunities, and visual resources that are pertinent to one or more of the CSP properties.

### Carmel Valley Master Plan

The Carmel Valley Master Plan (Monterey County 1986) covers the area of Hatton Canyon not covered in the *Greater Monterey Peninsula Area Plan*. There are no policies within the Carmel Valley Master Plan that specifically reference Hatton Canyon or other CSP properties or are unique in their need for CSP consideration.

## City of Carmel-by-the-Sea General Plan/Coastal Land Use Plan

The City of Carmel-by-the-Sea's sphere of influence extends to Hatton Canyon to the east and the State Beach to the south. Hatton Canyon is described as a right-of-way within the City's 2003 General Plan (City of Carmel-by-the-Sea 2003), as the property was previously owned by the California Department of Transportation (Caltrans) when the City's General Plan was adopted.

## Greater Monterey Peninsula Area Plan

The *Greater Monterey Peninsula Area Plan* (Monterey County 1997) covers the northernmost area of upper Hatton Canyon. According to a policy in the *Greater Monterey Peninsula Area Plan*, it is a high priority to establish the Carmel River Parkway Trail connecting the State Beach and Carmel Hill (Hatton Canyon) with Palo Corona Regional Park and Jacks Peak County Park and the lower Carmel River.

## Monterey County General Plan

The *Monterey County General Plan* (Monterey County 2010) includes policies to address unincorporated areas within the county. Monterey County has divided the unincorporated areas into several community areas, each with its own land use plan. The community areas that include portions of the CASP units are the *Greater Monterey Peninsula Area Plan*, *Carmel Valley Master Plan*, and *Carmel Area Land Use Plan*. The policies within the County's general plan elements apply countywide, while each area plan contains supplemental policies to address area-specific issues.

## Monterey County Regional Transportation Plan

The Transportation Agency of Monterey County (TAMC) completed the last update of the regional transportation plan (RTP) in 2014 (TAMC 2017). The RTP assembled local and regional transportation projects and prioritized which improvements would be made based on the goals within the RTP as well as the goals within the various local general plans. The only improvements listed I in the vicinity of the CASP units are a proposed climbing lane along SR 1 between Rio Road and Carmel Valley Road, install Class I path from Carmel Valley Road to SR 1. The RTP is updated every 3 years to provide decision-makers and the public with an up-to-date assessment of regional transportation needs to help guide state, federal, and local investment in Monterey County's transportation infrastructure (TAMC 2017).

## Monterey Peninsula Regional Park District

The Monterey Peninsula Regional Park District (MPRPD) *Master Plan: An Open Space Plan for the Next 10 Years* (MPRPD 1998) aims to inform the public about MPRPD's role, establish and maintain long-range open space goals, and provide criteria for acquisition and management of open space.

There is a great deal of potential for cooperation and collaboration with MPRPD because several of MPRPD's properties are adjacent to CSP properties. The largest is Palo Corona Regional Park, located directly east of SR 1 from the State Beach and adjacent to Point Lobos Ranch. MPRPD is in the process of preparing a General Development Plan for Palo Corona Regional Park, which is anticipated for completion in 2018. In 2004, MPRPD took ownership of the Whisler-Wilson property, located immediately adjacent to Palo Corona Regional Park and Point Lobos Ranch, and in 2013 prepared a feasibility study that assessed the recreational capacity of the property (MPRPD 2013). The Big Sur Land Trust has also secured funding for a trail along San Jose Creek that would cross CSP and MPRPD property in this area. A memorandum of understanding (MOU) regarding the trail exists between the two agencies. MPRPD also owns a 37-acre parcel immediately east of Hatton Canyon. CSP, MPRPD, and the Big Sur Land Trust will continue to coordinate planning efforts on the above-mentioned management plans and projects.

## Watershed Assessment and Action Plan for the Carmel River Watershed

The Watershed Assessment and Action Plan of the Carmel River Watershed was published in 2004 (CRWC 2004) and the Action Plan was updated in 2016 (Resource Conservation District of Monterey County, Carmel River Watershed Conservancy, and Monterey Peninsula Water Management District 2016). The assessment was prepared to identify areas within the river and watershed in need of restoration and to provide guidance to develop restoration and conservation measures. The main objective of the Watershed Assessment and Action Plan is to guarantee surface flow in the Carmel River and its tributaries. All other goals for watershed restoration are supported by this objective.

## Regulatory Influences

### Federal Laws and Regulations

#### Federal Endangered Species Act

The federal Endangered Species Act (ESA) of 1973, as amended, provided for the conservation of ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend. The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) have authority over projects that may result in take of a species listed as threatened or endangered under the ESA (i.e., a federally listed species). In general, persons subject to the ESA (including private parties) are prohibited from “taking” endangered or threatened fish and wildlife species on private property, and from “taking” endangered or threatened plants in areas under federal jurisdiction or in violation of state law. Under the ESA, the definition of “take” is to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” USFWS has also interpreted the definition of “harm” to include significant habitat modification that could result in take. If a project would result in take of a federally listed species, either an incidental-take permit, under Section 10(a) of the ESA, or a federal interagency consultation, under Section 7 of the ESA, is required before the take can occur. Such a permit typically requires mitigation to compensate for or minimize the take.

#### **Recovery Plan for Five Plants from Monterey County, California**

The USFWS prepared a recovery plan for five federally listed species in Monterey County (USFWS 2004). The five species included in the plan are coastal dunes milk-vetch (*A. tener* var. *titi*), Yadon’s rein orchid (*Piperia yadonii*), Hickman’s cinquefoil (*Potentilla hickmanii*), Monterey clover (*T. trichocalyx*), and Gowen cypress (*Hesperocyparis goveniana*). The plan provides recovery criteria for each species and a timeline for determining whether the methods used to restore and recover the species were successful enough to downlist or delist the species. These species occur or could occur within the CASP units.

#### **Recovery Plan for South Central California Coast Steelhead**

NMFS released the South-Central California Coast Steelhead Recovery Plan in 2013 (NMFS 2013). The plan covers the area from the coastal tributaries of the Pajaro River in Monterey County south to Arroyo Grande in San Luis Obispo County. A recovery plan is not a regulatory document, but a blueprint that describes the unique biological characteristics of south-central California coast steelhead (*Oncorhynchus mykiss irideus*), and the measures necessary to recover the species. The recovery plan identifies the threats which have brought the south-central California coast steelhead to the brink of extinction, provides a general strategy for recovering the species to allow their removal from the list of threatened species, and describes a research and monitoring program to refine recovery goals and track the progress towards recovery. The focus of the South-Central California Coast Steelhead

Recovery Plan is on the restoration of basic watershed processes. Chapter 10 of the plan specifically focuses on the Carmel River Basin Biogeographic Population Group.

#### Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. 1801 et seq.) is the primary law governing marine fisheries management in United States federal waters. It was amended in 1996 and is also known as the Sustainable Fisheries Act (Public Law 104-297). To manage the fisheries and promote conservation, the MSA created eight regional fishery management councils. MSA requires that regional management councils describe essential fish habitat (EFH) in their fishery management plans, that they minimize impacts on EFH from fishing activities, and that they and other federal agencies consult with the NMFS about activities that might harm EFH. The Pacific Fishery Management Council is responsible for managing commercial fishery resources along the coasts of Washington, Oregon, and California.

Only federal actions require consultation; however, NMFS must provide EFH conservation recommendations if they receive information on a state action that may adversely affect EFH. States are not required to initiate consultation with NMFS nor respond to its recommendations.

#### Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA), first enacted in 1918, provides for international protection of migratory birds and authorizes the Secretary of the Interior to regulate the taking of migratory birds. The MBTA states that it shall be unlawful, except as permitted by regulations, to pursue, take, or kill any migratory bird, or any part, nest, or egg of any such bird. The current list of species protected by the MBTA can be found in Title 50 of the Code of Federal Regulations, Section 10.13. The list includes nearly all birds native to the United States.

#### Marine Mammal Protection Act of 1972

The Marine Mammal Protection Act (MMPA) established a federal responsibility to conserve marine mammals, with management for pinnipeds (other than walrus) and cetaceans vested in the NMFS and management for other marine mammals, including sea otters, vested in the USFWS. Among other prohibitions, the MMPA prohibits the “take” of marine mammals. In addition to the exceptions explained in the MMPA, it is unlawful to possess a marine mammal or marine mammal product taken in violation of the MMPA, or to transport, purchase, sell, import or export a marine mammal.

#### Clean Water Act and Porter-Cologne Water Quality Control Act

The Clean Water Act (CWA) is the primary federal law that governs and authorizes water quality control activities, and the Porter-Cologne Water Quality Control Act (Porter-Cologne Act) is California’s statutory authority for the protection of water quality (discussed below under State Laws and Regulations). The CWA and Porter-Cologne Act set forth the obligations of Regional Water Quality Control Boards (RWQCB) pertaining to the adoption of water quality control plans (Basin Plans), in which beneficial uses, water quality objectives, and implementation programs are established for each of the nine regions in California.

#### Clean Air Acts

The federal Clean Air Act (CAA) and the California Clean Air Act (CCAA) authorizes the establishment of ambient air quality standards. Locally, the Monterey Bay Unified Air Pollution Control District is responsible for preparing plans for the attainment of ambient air quality standards, adopting and enforcing rules and regulations about sources of air pollution, issuing permits for stationary

sources of air pollution, inspecting stationary sources of air pollution and responding to citizen complaints, and monitoring ambient air quality and meteorological conditions.

### National Historic Preservation Act

Section 106 of the National Historic Preservation Act requires scoping, identification, assessment, and consultation to determine effects on properties included in or eligible for listing on the National Register of Historic Places (NRHP), as described in 36 CFR 800.8. Section 106 review is conducted to determine whether significant (per NRHP criteria) resources will be adversely affected by an undertaking, and if so, whether measures can be implemented to reduce adverse effects to a less-than-significant level. Section 106 does not deal with effects on all types of cultural resources, or all cultural aspects of the environment; it deals only with effects on properties included in or eligible for the NRHP.

Section 106 and its implementing regulations requires federal agencies to consider the effects of their actions or those they fund or permit (an “undertaking”), on the properties that may be eligible for listing on or are presently listed on the NRHP.

The NRHP is a register of districts, sites, buildings, structures, and objects of significance in American history, architecture, archaeology, engineering, and culture. The regulations provided in 36 CFR Part 60.4 describe the criteria to evaluate cultural resources for inclusion in the NRHP. Cultural resources can be significant on the national, state, or local level. Properties may be listed in the NRHP if they possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- are associated with events that have made a significant contribution to the broad patterns of our history;
- are associated with the lives of persons significant in our past;
- embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess an artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- have yielded, or may be likely to yield, information important in prehistory or history.

### Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act (NAGPRA) was established in 1990 and provides for the protection of Native American graves. This act requires federal agencies and recipients of federal funds to document Native American human remains and cultural items within their collection, to notify all tribes that are or are likely to be affiliated with these holdings, and to provide an opportunity for the repatriation of appropriate human remains or cultural items.

### The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings

These are principles that promote historic preservation best practices that will help to protect cultural resources. The Standards are a series of concepts about maintaining, repairing, and replacing historic materials, as well as designing new additions or making alterations. The Guidelines offer general design and technical recommendations to assist in applying the Standards to a specific property.

## State Laws and Regulations

### California Environmental Quality Act

California Environmental Quality Act (CEQA) requires state and local agencies to regulate activities with consideration for environmental protection. If a proposed activity has the potential for a significant adverse environmental impact, an Environmental Impact Report (EIR) must be prepared and certified as to its adequacy before taking action on the proposed project. General plans typically contain a Programmatic EIR, and park development projects require appropriate environmental review, which may include an EIR.

### Assembly Bill 52, CEQA Guidelines Update for Tribal Cultural Resources

As part of the 2013/14 legislative session, AB 52 established a new class of resources under CEQA, tribal cultural resources, and requires that lead agencies undertaking CEQA review must, upon written request of a California Native American Tribe, begin consultation once the lead agency determines that the application for the project is complete. CEQA also requires lead agencies to consider whether projects will impact tribal cultural resources. Tribal cultural resources are defined as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are included or determined to be eligible for inclusion in the CRHR or included in a local register of historical resources, and a resource determined by the lead agency to be significant pursuant to PRC Section 5024.

### Public Resources Code

The California Public Resource Code (PRC) authorizes certain powers and responsibilities in CSP. Some examples are listed below in the order they appear in the PRC.

PRC Section 513 describes the conditions under which CSP may enter an agreement with a nonprofit association to engage in educational or interpretive work in a state park system unit.

PRC Section 5002.2 requires CSP to develop a general plan prior to any development of new facilities. In addition, the “department may prepare a general plan which includes more than one unit of the state park system for units which are in proximity to one another and which have similar resources and recreational opportunities if that action will facilitate the protection of public resources and public access to units of the state park system.”

PRC Section 5010.1 grants CSP the right to enter a contract with another organization for the collection of fees, rents, or other returns, or the operation of reservation systems, derived from the use of any state park system area on behalf of the state or operating public agency.

PRC Section 5019.50–5019.80, Classification of Units of the State Park System, provides guidelines for the designation of state park units and guiding principles for improving state parks. The PRC classifies different types of state park units and provides guidelines for the upkeep and improvements of park units.

PRC 5024 requires that each state agency shall formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction listed in or potentially eligible for inclusion in the National Register of Historic Places or registered or eligible for registration as a state historical landmark. PRC 5024.5 further states that a state agency must give notice to the State Historic Preservation Officer (SHPO) early in the planning process should an action potentially have an adverse effect on a significant historical resource. If the SHPO determines that the action will

have an adverse effect on a listed historical resource, prudent and feasible measures that will eliminate or mitigate the adverse effects will be adopted by the state agency and SHPO.

PRC Section 5080 describes that generally, services and products provided through concession contracts are limited to those which cannot be provided by park staff or park volunteers and are not available at other nearby locations.

PRC Section 5097.5 makes it a misdemeanor for anyone to knowingly disturb any archaeological, paleontological, or historical features situated on public lands.

PRC Section 5097.9 et seq. prohibits a public agency or private party from interfering with the free expression or exercise of Native American religion, or from causing severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property. It also established the Native American Heritage Commission (NAHC) and stipulates that no public agency can alter, modify, disturb, remove, destroy, or damage any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine except with the consent of the NAHC. PRC 5097.99 states that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.

### California Code of Regulations

Title 14, Section 4308, Archaeological Features, states that no person shall remove, injure, disfigure, deface, or destroy any object of archaeological, or historical interest or value within a State Park.

### Executive Order W-26-92

Executive Order W-26-92 requires state agencies to take specific measures to preserve significant state-owned properties and to administer historic properties under their control in a spirit of stewardship. It directs all state agencies to recognize, and to the extent prudent and feasible, to preserve and maintain the state's significant historical resources.

### Executive Order B-10-11

Executive Order B-10-11 establishes the role and responsibilities of the Governor's Tribal Advisor and directs that every state agency and department under the Governor's executive control, communicate and consult with federally recognized tribes and other California Native Americans, and permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.

### State Lands Commission and the Public Trust Doctrine

In California, tidelands and submerged lands, including those that have been filled, are subject to the Public Trust Doctrine, under which these lands are held in trust for the statewide public and are dedicated to uses such as commerce, fisheries, navigation, environmental preservation, and recreation (CSLC 2015). Uses of these lands must be consistent with the Public Trust Doctrine. The State Lands Commission is the state agency with authority concerning the Public Trust Doctrine and owns and manages much of the state's public trust land. The State may grant public trust lands to other public agencies; granted lands remain subject to the public trust unless it is specifically removed.

### California Ocean Protection Council

The California Ocean Protection Act established the California Ocean Protection Council (OPC) in 2004 to conserve, restore, and manage the State's ocean, bays, estuaries, and coastal wetlands. A Vision for Our Ocean and Coast is the OPC's 5-year strategic plan that guides the agency's priorities.

Goals and actions seek to improve decision-making; prepare and reduce harmful effects of climate change; and sustain healthy coastal ecosystems (OPC 2012). In April 2017, OPC released its Rising Seas in California: An Update on Sea-Level Rise Science policy document. The report includes new information regarding the science and projections of sea level rise under various greenhouse gas (GHG) emission scenarios. The degree of sea level rise depends upon location, project type, and implementation of adaptation and resiliency strategies.

### California Endangered Species Act

The California Endangered Species Act (CESA) directs state agencies to decline approval of projects that would jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of a species. A “take” of a species, under CESA, is defined as an activity that would directly or indirectly kill an individual of a species. The CESA definition of take does not include “harm” or “harass” as is included in the federal ESA. As a result, the threshold for a take under CESA may be higher than under the ESA because habitat modification is not necessarily considered take under CESA.

Sections 2081(b) and (c) of CESA allow CDFW to issue an incidental take permit for a state-listed threatened and endangered species only if certain criteria are met, including that take is incidental to an otherwise lawful activity; that the impacts of the authorized take have been minimized and fully mitigated; and that issuance of the permit will not jeopardize the continued existence of a state-listed species.

### California Fish and Game Code

#### **Lake and Streambed Alteration**

All diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake in California that supports wildlife resources are subject to regulation by CDFW under Section 1602 of the California Fish and Game Code. Under Section 1602, it is unlawful for any person to substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by CDFW, or use any material from the streambeds, without first notifying CDFW of such activity and obtaining a final agreement authorizing such activity. “Stream” is defined as a body of water that flows at least periodically or intermittently through a bed or channel having banks and that supports fish or other aquatic life. CDFW’s jurisdiction within altered or artificial waterways is based on the value of those waterways to fish and wildlife. A CDFW Streambed Alteration Agreement must be obtained for any project that would result in an impact on a river, stream, or lake.

#### **Protection of Raptors**

Section 3503.5 of the California Fish and Game Code states that it is unlawful to take, possess, or destroy any raptors (i.e., species in the orders Falconiformes and Strigiformes), including their nests or eggs. Typical violations include destruction of active raptor nests as a result of tree removal and failure of nesting attempts, resulting in loss of eggs and/or young, because of disturbance of nesting pairs by nearby human activity.

#### **Fully Protected Species**

The California Fish and Game Code states that no permits may be issued to allow for the take of fully protected species. The species protected are listed under Fish and Game Code Sections 3511, 4700, 5050, and 5515. The only exception is to allow CDFW to take species for scientific research which

may contribute to efforts to recover these mammals. To date, no fully protected species have been documented in any of the CASP units.

### California Department of Fish and Wildlife Marine Protected Areas Program

California's landmark Marine Life Protection Act (MLPA) became effective from Pigeon Point to Point Conception on September 21, 2007. This action established a Central Coast Region, composed of 29 marine protected areas (MPAs), from San Mateo County to Santa Barbara County. The Central Coast Region is the first of five regions that will eventually lead to a network of MPAs along the state's 1,100-mile coastline. The MPA designation significantly increases the protection that marine life living in the area receives. These protections include long-term safe havens for rockfish and other bottom fishes, migration corridors for salmon, and a diverse environment that abalone, kelp, and numerous marine mammals and seabirds need to survive.

The MLPA Program was designed to advance the conservation of marine resources for their long-term sustainable use while also enhancing outdoor recreation and ocean research opportunities along the coast. A main goal of the MLPA is to use these MPAs as research sites where scientists can gain a greater understanding of California's marine and coastal environment and how marine animals and plants interact with little or no disturbance by people. The MLPA process was invigorated as a public-private partnership with the Natural Resources Agency, the Resources Legacy Fund Foundation, the California Marine Life Protection Act Initiative, and CDFW and its Commission.

The offshore area directly adjacent to the Reserve has been included in the Central Coast Marine Protected Area as the Point Lobos State Marine Reserve. In addition, the Point Lobos State Marine Conservation Area extends seaward from the Point Lobos State Marine Reserve.

The northern portion of the State Beach is located adjacent to the Carmel Bay State Marine Conservation Area, and Carmel Pinnacles State Marine Reserve is located further offshore.

### California Coastal Act

The California Coastal Commission was established in 1972 by voter initiative and made permanent within the Coastal Act in 1976 (Coastal Act) (PRC Section 30000 and seq.). The Coastal Act includes specific policies that address issues such as shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, water quality, transportation, development design, and public works. The policies within the Coastal Act provide the regulatory standards used by the Coastal Commission and local governments. The Coastal Commission partners with local municipalities, such as Monterey County, to plan and regulate the use of land and water in the coastal zone. Development activities within the CASP units in the coastal zone generally would require a coastal permit from the Coastal Commission or Monterey County. Under PRC Section 30500, Monterey County, along with other local governments like the City of Carmel-by-the-Sea, must prepare a local coastal program for the portion of the land within its jurisdiction that lies within the coastal zone.

### Porter-Cologne Water Quality Control Act

Under Section 401 of the federal CWA, an applicant for a Section 404 permit must obtain a certificate from the appropriate state agency stating that the intended dredging or filling activity is consistent with the state's water quality standards and criteria. The CASP units are under the jurisdiction of the Central Coast Regional Water Quality Control Board.

The RWQCB's jurisdiction includes federally protected waters under CWA Section 401 and state-protected waters under the Porter-Cologne Water Quality Control Act. A "water of the state" is

defined as any surface water or groundwater, including saline waters, within the boundaries of the state. The RWQCB has the discretion to take jurisdiction over areas not federally protected under Section 401 provided they meet the definition of waters of the state. The RWQCB typically requires mitigation for impacts on waters and wetlands such that no net loss of functions and values occurs.

### 2009 California Climate Adaptation Strategy

The 2009 California Climate Adaptation Strategy outlines adaptation strategies for seven major sectors organized around risks to the State's natural resources, infrastructure, and public health in the face of climate change. CSP was part of the Coastal and Ocean Working Group that developed strategies related to oceans and coastal resources, most of which focus on sea level rise. The strategies emphasize the need to avoid new development in areas vulnerable to sea level rise. However, the strategies also promote the protection of vulnerable areas with regionally significant existing development and habitat and the accommodation of in-fill development. CSP is also an implementing agency for strategies that seek to conserve biodiversity and restore ecosystems, primarily by establishing a system of habitat preserves.

### 2014 and 2018 Safeguarding California: Reducing Climate Risk

This plan, originally released in 2014, provides policy guidance for state decision-makers, and is part of continuing efforts to reduce impacts and prepare for climate risks. It highlights climate risks in nine sectors in California, discusses progress to date, and makes realistic sector-specific recommendations. In March 2016, CNRA released the final Safeguarding California Implementation Action Plans, which provide more specific guidance and actions to implement Safeguarding California's statewide strategies. Safeguarding California Plan: 2018 Update was released in January 2018. The Plan provides an updated programmatic survey of existing efforts to combat climate change throughout the state. The plan is intended to serve as a roadmap and tool for future actions to minimize the effects of climate change and improve the state's and local communities' resiliency to a changing climate (CNRA 2018).

### Assembly Bill 32 – California Global Warming Solutions Act

In 2005, Governor Arnold Schwarzenegger signed Executive Order S-3-05, which directed California to reduce GHG emissions to 1990 levels by 2020, and to 80 percent below 1990 levels by 2050. A year later, in 2006, the Global Warming Solutions Act (AB 32) was passed, establishing regulatory, reporting, and market mechanisms to achieve quantifiable reductions in GHG emissions. AB 32 put a cap on GHG emissions, setting a target of reducing GHG emissions to 1990 levels by 2020. As part of its implementation of AB 32 and Executive Order S-3-05, the California Air Resources Board (CARB) developed the Climate Change Scoping Plan (Scoping Plan) in 2008. The Scoping Plan, along with its update in 2013, describes the approach California will take to reduce GHGs to achieve reduction targets and goals. California is currently on track to meet or exceed the AB 32 current target of reducing GHG emissions to 1990 levels by 2020.

### Executive Order B-30-15

On April 20, 2015 Governor Edmund G. Brown Jr. signed Executive Order B-30-15, establishing a new GHG emissions reduction target 40 percent below 1990 levels by 2030. This target aligns with those of leading international governments such as the 29-nation European Union which adopted the same target in October 2014. Executive Order B-30-15 also directed CARB to update the AB 32 Scoping Plan to reflect the path to achieving the 2030 target.

### Senate Bill 32 and Assembly Bill 197 of 2016

In August 2016, Governor Brown signed SB 32 and AB 197, which serve to extend California's GHG reduction programs beyond 2020. SB 32 amended the Health and Safety Code to include Section

38566, which contains language to authorize CARB to achieve a statewide GHG emission reduction of at least 40 percent below 1990 levels by no later than December 31, 2030. SB 32 codified the targets established by Executive Order B-30-15 for 2030, which set the next interim step in the State's continuing efforts to pursue the long-term target expressed in Executive Orders S-3-05 and B-30-15 of 80 percent below 1990 emissions levels by 2050.

### Climate Change Scoping Plan and Updates

On January 20, 2017, CARB released its proposed *2017 Climate Change Scoping Plan Update* (2017 Scoping Plan Update), which provides the framework for achieving the mandate of SB 32 (2016) to reduce statewide GHG emissions to at least 40 percent below 1990 levels by the end of 2030 (CARB 2017a). The proposed 2017 Scoping Plan Update identifies the GHG reductions needed by each emissions sector. At the time of writing this General Plan, CARB has not approved its proposed 2017 Scoping Plan Update.

## Public Concerns, Interests, and Opportunities

### Public Meetings and Workshops

The planning team conducted two public workshops and an open house to inform the public and receive public input on the General Plan. The State Park and Recreation Commission conducted an additional listening session. The first workshop introduced the planning process, anticipated planning schedule, and sought public input. The second workshop presented the alternative concepts that had been developed based on different thematic ideas envisioned for the CASP units, and early public and stakeholder ideas and input. The public provided comments on the alternative concepts. In addition, the planning team met with neighborhood groups representing residents of Hatton Canyon, Red Wolf Drive, Ribera Road/Carmel Meadows, and Carmel Highlands to solicit further input. These comments helped to form the draft preferred alternative, which was presented to the public at an open house. The purpose of the State Park and Recreation Commission's listening session was to receive additional input on the preferred alternative and share information about coordination among the agencies and organizations involved in regional land conservation. The preferred alternative was further refined in response to public input and is presented in Chapter 4 as the Park Plan.

### Native California Indian Consultation

Ongoing consultation has occurred throughout the planning process with Native California Indian representatives of the Rumsen, Ohlone/Costanoan-Esselen Nation, Esselen Tribe of Monterey County, Ka Koon Ta Ruk Band of Costanoan-Ohlone Indians of the Big Sur Rancheria, and the Pajaro Valley Ohlone Indian Council. Through telephone discussions, email, in-person meetings, and site visits tribal representatives shared information, interests, and concerns regarding known cultural resources, future interpretation and management opportunities, and suggestions for a potential park name.

The main concern identified was the protection and preservation of Native California Indian cultural sites, particularly the area near San Jose Creek known as the Hudson Mound and Polo Field. All were supportive of a new cultural preserve proposal intended to provide a high level of resource protection. Concern remains regarding the appropriate level of public access to the area.

All discussions reflected interest in seeing the Native California Indians interpreted to the public in these parks and all were enthusiastic about working collaboratively with CSP to develop sensitive and informative interpretation.

Nearly the entire area of the CASP GP planning area was historically known to the Native California people as Ishxenta. Most of the tribal representatives consulted would like to see the name Ishxenta restored as the name of the new state park.

## Continued Public Involvement

Following the General Plan process, opportunities for continued public involvement will be provided during future planning of project-specific areas of the CASP units, including future management plans and development plans that are prepared. This also includes public review of proposed projects required under CEQA.

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