

FISH PASSAGE AND RESTORATION PERMITTING WORKSHOP

MARCH 25, 2021



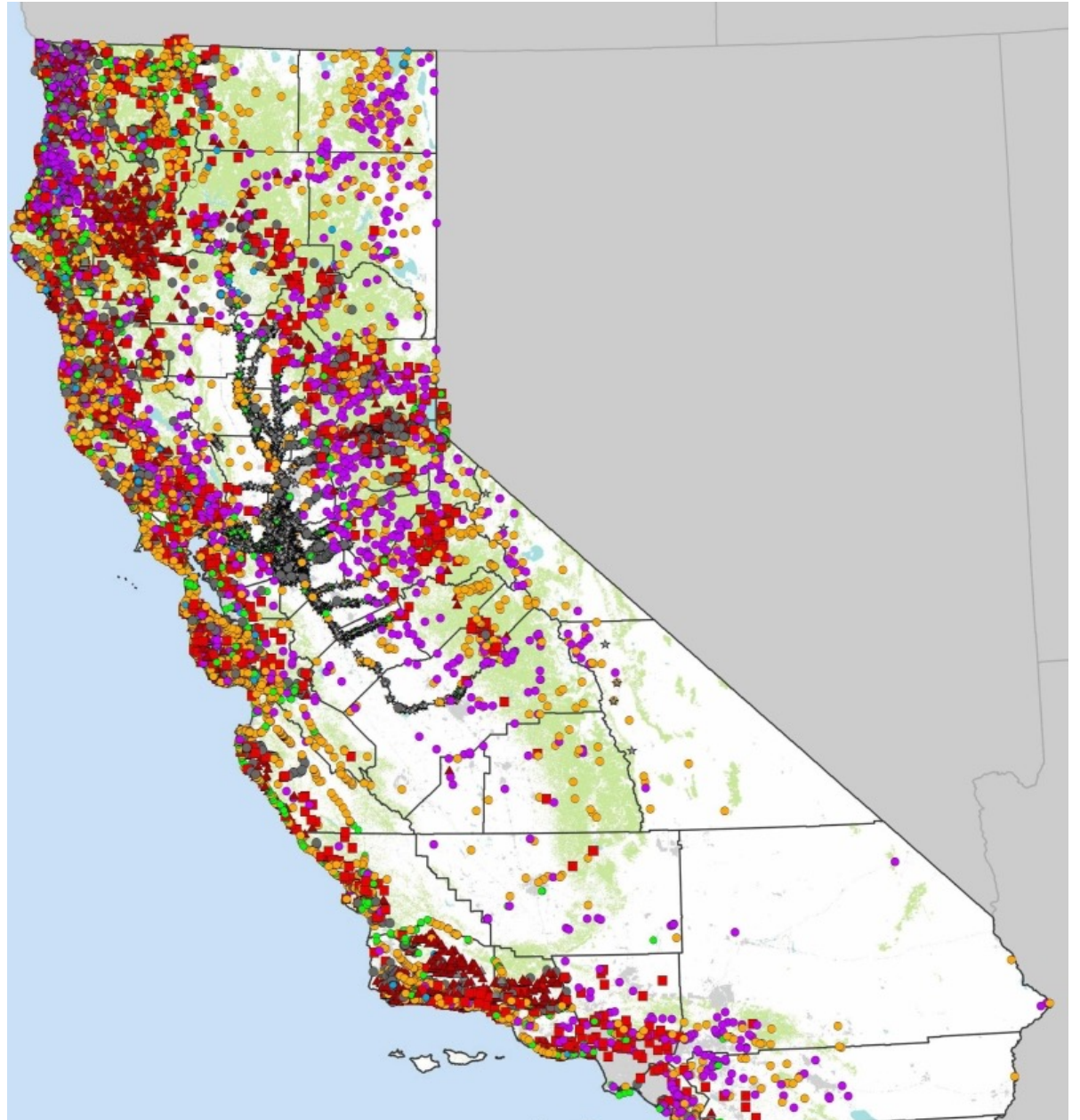




**NOAA
FISHERIES**



AND MANY OTHERS ...







Little Lost Man – Humboldt 101, PM 124.49

Pre-project, double-bay Reinforced Concrete Box Culvert

Culvert outlet



Upstream Channel

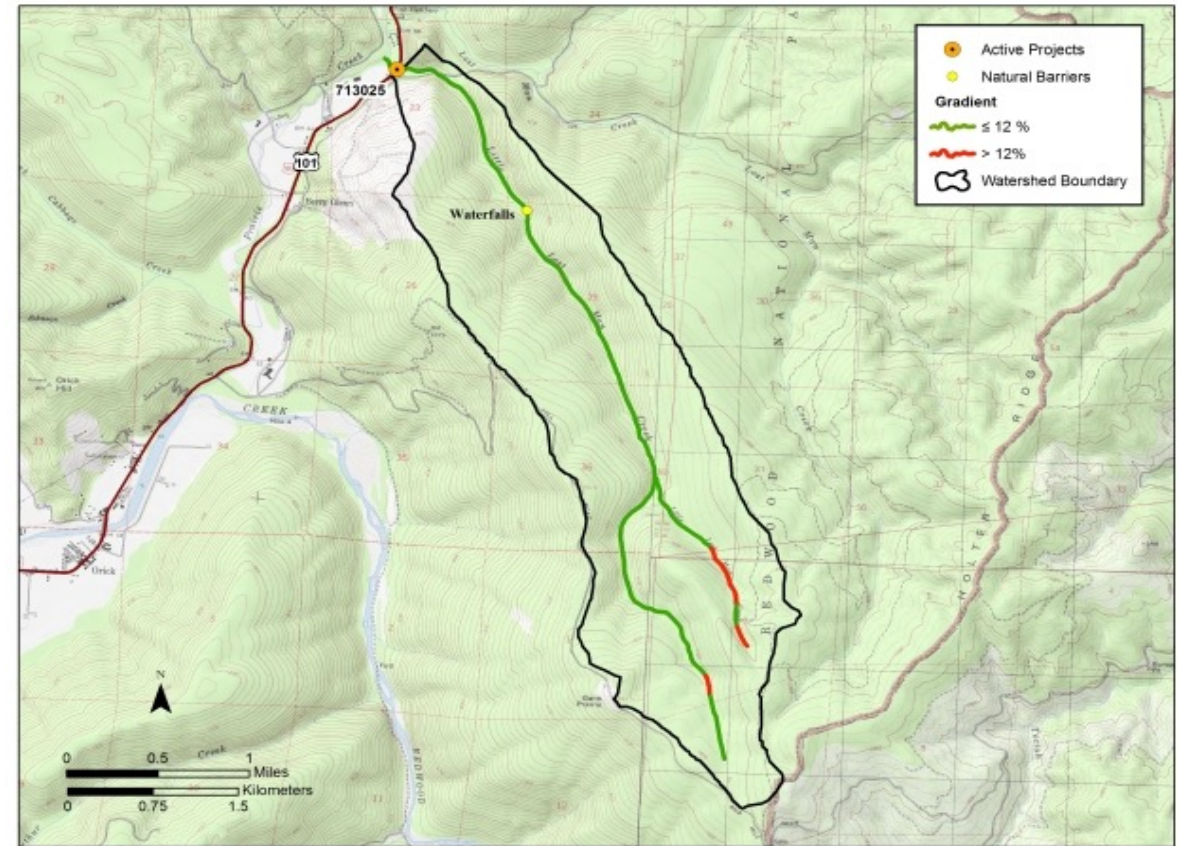
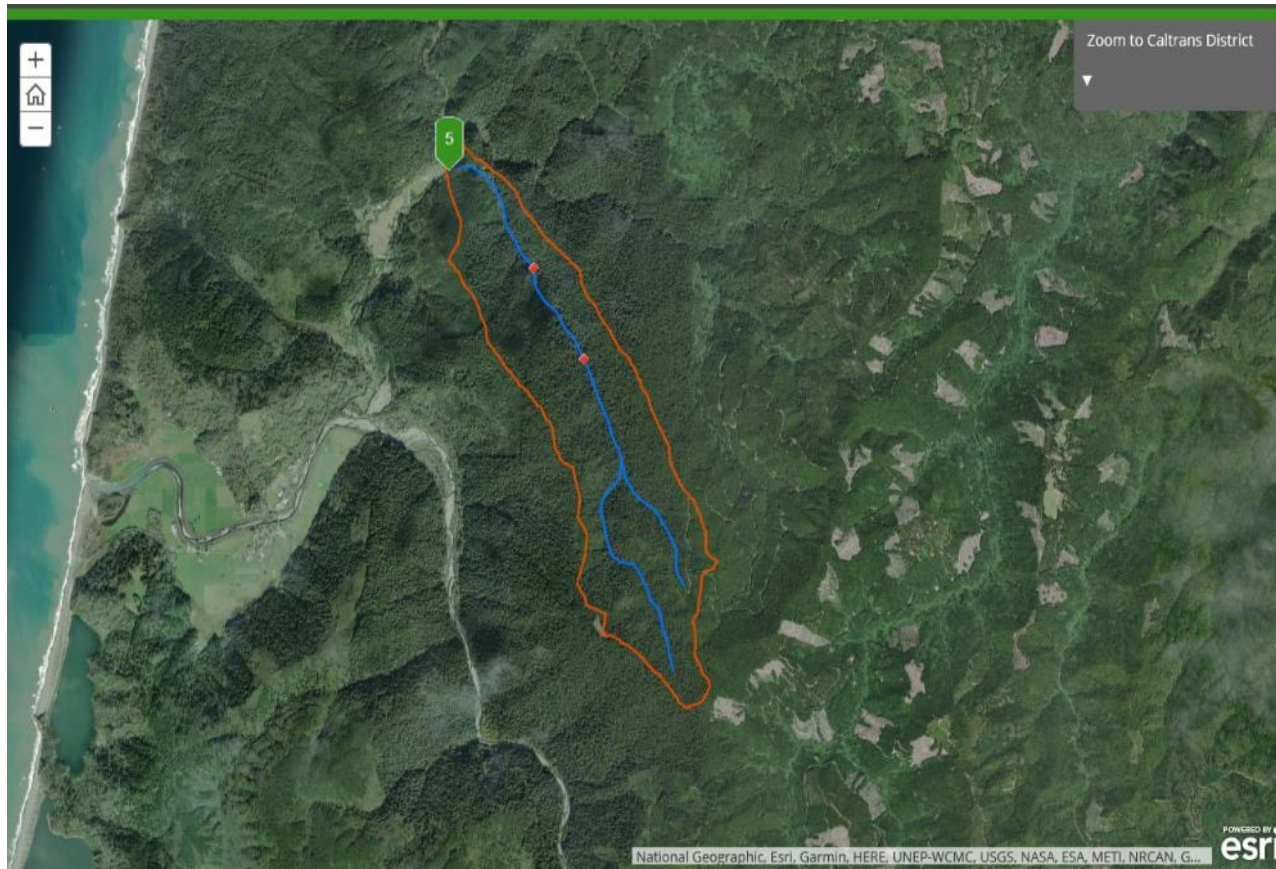
Culvert Inlet







Little Lost Man – Humboldt 101, pm 124.49



~1.2 miles of access for threatened Coho salmon and Steelhead

FISH PASSAGE AND RESTORATION PERMITTING WORKSHOP

MARCH 25, 2021



WORKSHOP AGENDA

Fish Passage and Restoration Permitting:

- Small Habitat Restoration Program (SHRP) General Order
- Habitat Restoration and Enhancement Act (HREA)
- HREA Best Practices
- Restoration Permitting for Larger Projects

GENERAL WATER QUALITY CERTIFICATION FOR SMALL HABITAT RESTORATION PROJECTS

STREAMLINED PERMITTING FOR SMALL RESTORATION PROJECTS

JAKE SHANNON, RESTORATION SPECIALIST

NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD



CALIFORNIA
Water Boards
STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS



HEALTHY WATERSHEDS, EFFECTIVE REGULATION, STRONG PARTNERSHIPS

- 9 Regional Water Boards and State Water Board in Sacramento
- Implement the 401 Water Quality Certification Program
 - Any project that requires a federal permit or involves dredge/fill activities that may result in a discharge to waters of the U.S. and/or waters of the state are required to obtain a Clean Water Act Section 401 Water Quality Certification.
- Developed streamlined permitting pathways to support and incentivize restoration projects, including:
 - Adoption of the General Water Quality Certification for Small Habitat Restoration Projects (SHRP)
 - Reduced permitting fees for restoration projects
 - Adoption of the Policy in Support of Restoration in the North Coast Region
 - Development of the upcoming statewide Restoration General Order



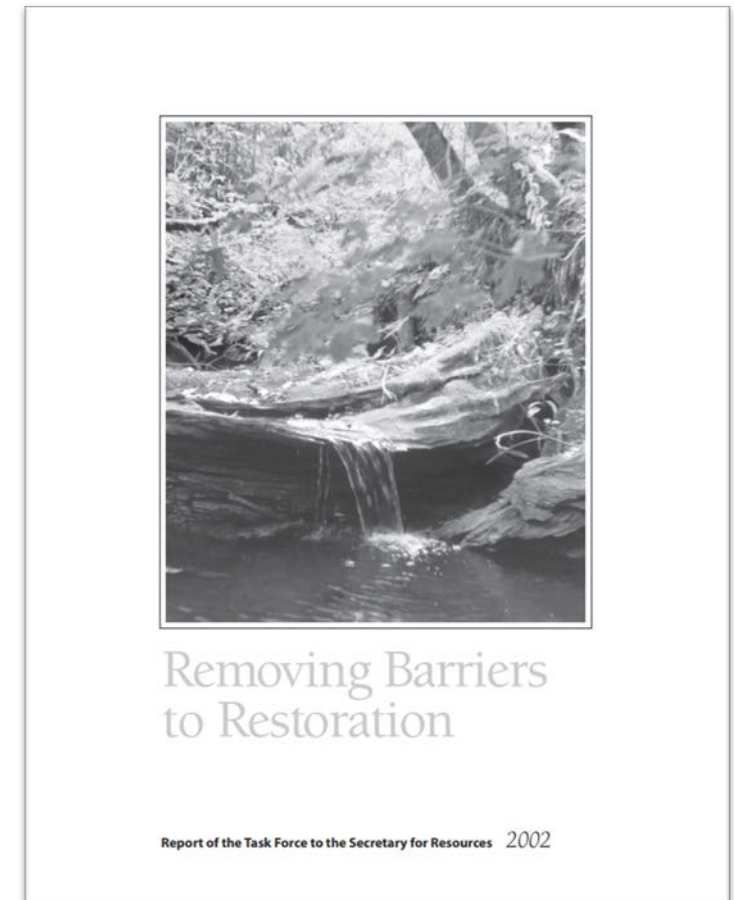
OVERVIEW

1. Description & history of the SHRP
2. Project eligibility requirements of the SHRP
3. CEQA Categorical Exemption § 15333
4. U.S. Army Corps of Engineers 404 permitting for small habitat restoration projects
5. Early consultation & the pre-application process
6. Notice of Intent (Application)
7. Notice of Applicability (Enrollment Letter)
8. Built-in flexibility & Amendments
9. Monitoring & post-project requirements



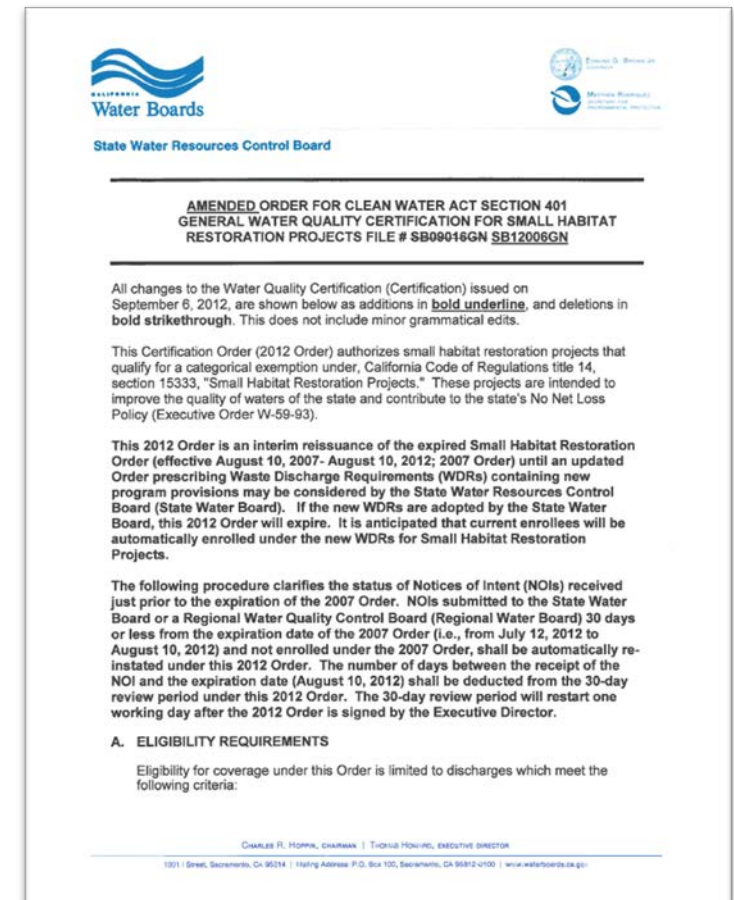
DESCRIPTION & HISTORY OF THE SHRP

- **2002:** The report *Removing Barriers to Restoration, Report of the Task Force to the Secretary of Resources* was released.
 - Highlighted barriers to voluntary restoration, notably state and federal permitting processes, which are complex, costly, and time consuming.
- **2004:** CEQA Categorical Exemption § 15333 Small Habitat Restoration Projects
- **2007:** The State Water Board adopted the SHRP



DESCRIPTION & HISTORY OF THE SHRP

- The SHRP is a General Water Quality Certification
 - Incorporates eligibility requirements, application requirements, permit conditions, and CEQA findings into the Order
 - Allows more streamlined permitting process for small-scale restoration projects
 - Simpler permit application
 - Reduced fees (currently \$551 Application Fee & \$276 Annual Fee)
 - Opens the door to CDFW's Habitat Restoration and Enhancement Act



PROJECT ELIGIBILITY REQUIREMENTS

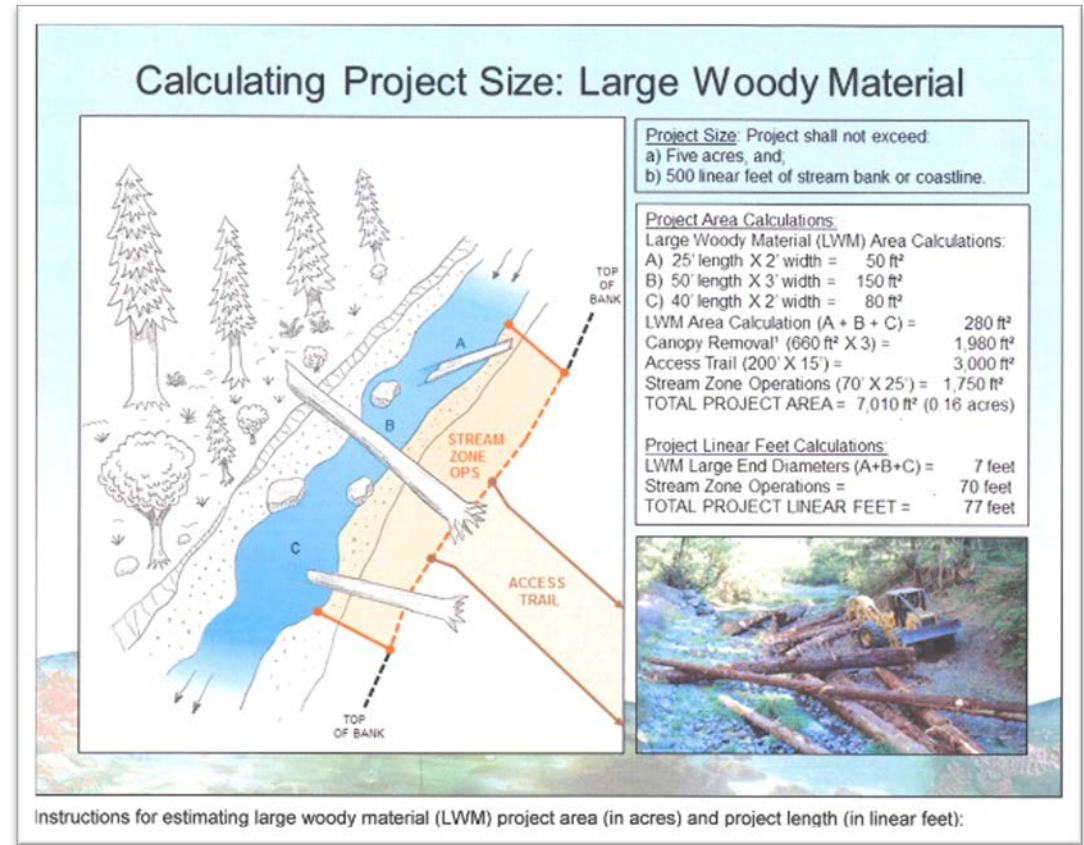
- Project size
- Eligible for CEQA Cat Ex § 15333
- Primary purpose is habitat restoration
- Cannot be a compensatory mitigation project
- Construction period shall not exceed five years.



PROJECT ELIGIBILITY REQUIREMENTS: PROJECT SIZE LIMITS

Project size cannot exceed:

- Five acres (from CEQA Categorical Exemption § 15333)
- 500 linear feet



PROJECT ELIGIBILITY REQUIREMENTS: PROJECT SIZE LIMITS

Guidance documents to help calculate project size

1 PROJECT SIZE CALCULATOR FOR LARGE WOODY MATERIAL (LWM) PROJECTS					
2 STREAM ZONE OPERATIONAL AREAS (within Waters of the State)					
3 AREA ID	Width (ft)	Length (ft)	Disturbance (ft ²)	Disturbance (acres)	Linear Impact (ft)
4 4 structures	80	40	3200	0.07	40
5 2 structures	40	20	800	0.02	20
6					
7					
8					
9 TOTAL DISTURBANCE			4000 feet ²	0.09 acres	60.00 linear ft
11 PROJECT ACCESS ROUTES (outside Waters of the State)					
12 TRAIL ID	Width (ft)	Length (ft)	Disturbance (ft ²)	Disturbance (acres)	
13 Skid Trail 1	25	1,100	27500	0.63	
14 Skid Trail 2	20	800	16000	0.37	
15 Skid Trail 3	25	400	10000	0.23	
16 Skid Trail 4	25	250	6250	0.14	
17					
18 TOTAL DISTURBANCE			59750 feet ²	1.37 acres	
20 LARGE WOODY MATERIAL CALCULATIONS					
21 Number of Trees	Width (ft)	Length (ft)	Disturbance (ft ²)	Disturbance (acres)	Linear Impact (ft)
22 14	2.2	74	2279.2	0.05	30.8
23					
24					
25					
26					
27 TOTAL DISTURBANCE			2279 feet ²	0.05 acres	30.80 linear ft
29 CANOPY REMOVAL AREA CALCULATIONS					CONVERSION
30 Number of Trees		Disturbance per tree (acres)	Total Disturbance (acres)	Acres	Feet ²
31 14		0.015	0.21	1	43560.17
32					
33 TOTAL PROJECT SIZE					
34 ACRES:	1.73	LINEAR FEET:	90.80		

Calculating Project Size: Large Woody Material

Project Size: Project shall not exceed:
a) Five acres, and,
b) 500 linear feet of stream bank or coastline.

Project Area Calculations:
Large Woody Material (LWM) Area Calculations:
A) 25' length X 2' width = 50 ft²
B) 50' length X 3' width = 150 ft²
C) 40' length X 2' width = 80 ft²
LWM Area Calculation (A + B + C) = 280 ft²
Canopy Removal¹ (660 ft² X 3) = 1,980 ft²
Access Trail (200' X 15') = 3,000 ft²
Stream Zone Operations (70' X 25') = 1,750 ft²
TOTAL PROJECT AREA = 7,010 ft² (0.16 acres)

Project Linear Feet Calculations:
LWM Large End Diameters (A+B+C) = 7 feet
Stream Zone Operations = 70 feet
TOTAL PROJECT LINEAR FEET = 77 feet

Instructions for estimating large woody material (LWM) project area (in acres) and project length (in linear feet):

- LWM – Area and Length Calculations:** Calculate the area in square feet (ft²) for each individual piece of wood by multiplying the length by the large-end-diameter width along the trunk. The LWM project area is the summed total of individual LWM pieces. The large-end-diameter width is used to estimate project length in linear feet.
- Canopy Removal¹ – Area Calculation:** For felled trees, include the area to be affected as a result of canopy removal by multiplying the number of trees by an assigned value of 660 ft² (or 0.015 acres).
- Access Trail – Area Calculation:** Calculate the area of each access trail (in ft²) located outside of the stream zone by multiplying length by width for each trail. The access trail project area is the sum of these values.
- Stream Zone² Operations – Area and Length Calculations:** Calculate the area of proposed stream zone operations in ft² by multiplying the length (measured parallel to stream flow) by the width of the operational area at each site. The length of the operational area is the same value used to estimate project length in linear feet.
- Total Project Area:** Add together all project area calculations (LWM + canopy removal + access trails + stream zone operations) and divide the value by 43,560 to convert project size from ft² to acres (1 acre = 43,560 ft²).
- Total Project Length:** Add together the totals of all project length calculations (Stream zone operations + LWM).

Note: The total project size must not exceed 5 acres and 500 linear feet of streambank to conform to the size limits of the: (1) CEQA Categorical Exemption 15333, and (2) the SWRCB General 401 for Small Habitat Restoration Projects.

¹ Canopy removal disturbance value based upon the average canopy cover for a 36" diameter breast height coniferous tree (660 ft², or 0.015 acres) as presented in Largest Crown Width Prediction Models for 53 Species in the Western U.S. (W. Bechtold, USDA, 2004).

² Stream zone operations are defined here as any heavy equipment operations within state jurisdictional waters below "top of bank". These include the areas on either side of a waterbody which may become inundated by surface waters during high flood events.

Project size calculations and schematics developed by Jonathan Warmendarm, NCRWOCB, with contributions from Richard Macedo, CDFW, and photographs by Jennifer Carah, The Nature Conservancy, on behalf of the [Wood for Salmon Working Group](#). Version: March 2014.

PROJECT ELIGIBILITY REQUIREMENTS: CEQA CAT. EX. § 15333

- Projects must be eligible for CEQA Cat Ex § 15333
 - Project size cannot exceed five acres
 - Result in no significant adverse impact on endangered, rare, or threatened species or their habitat
 - No hazardous materials at or around the project site that may be disturbed or removed
 - Cannot result in significant impacts when viewed in connection with past or probable future projects
- A CEQA Notice of Exemption was filed with the State Clearinghouse in 2012.
 - Project-specific Notice of Exemption is not required

EXEMPTION

Notice of Exemption Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: _____

From: (Public Agency): _____
State Water Resources Control Board
1001 I St., 15th floor, Sacramento, CA 95814
(Address)

Project Title: General Water Quality Certification for Small Habitat Restoration Projects

Project Applicant: Statewide Permit

Project Location - Specific:
Various projects Statewide

Project Location - City: _____ Project Location - County: _____

Description of Nature, Purpose and Beneficiaries of Project:
The General 401 Water Quality Certification Order (General 401 Certification) allows the State Board and Regional Boards to authorize incidental discharges to Waters of the State associated with small habitat restoration projects.

Name of Public Agency Approving Project: State Water Resources Control Board

Name of Person or Agency Carrying Out Project: State Water Resources Control Board

Exempt Status: (check one):
 Ministerial (Sec. 21080(b)(1); 15268);
 Declared Emergency (Sec. 21080(b)(3); 15269(a));
 Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
 Categorical Exemption. State type and section number: Small Habitat Restoration section 15333
 Statutory Exemptions. State code number: _____

Reasons why project is exempt:
Only projects eligible for a categorical exemption under California Code of Regulations title 14, section 15333, Small Habitat Restoration Projects are authorized under this permit.

Lead Agency: _____
Contact Person: Catherine Woody Area Code/Telephone/Extension: 916-341-5785

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

Signature: Catherine Woody Date: SEPT. 7, 2012 Title: ENVIRONMENTAL SCIENTIST
FOR: CATHERINE WOODY
 Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR: _____
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

RECEIVED
SEP 07 2012
STATE CLEARING HOUSE

Revised 2011

CEQA CATEGORICAL EXEMPTION § 15333

§ 15333. Small Habitat Restoration Projects.

- Class 33 consists of projects **not to exceed five acres in size** to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that:
 - (a) There would be no significant adverse impact on endangered, rare or threatened species or their habitat pursuant to section 15065,
 - (b) There are no hazardous materials at or around the project site that may be disturbed or removed, and
 - (c) The project will not result in impacts that are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.
 - (d) Examples of small restoration projects may include, but are not limited to:
 - (1) revegetation of disturbed areas with native plant species;
 - (2) wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat;
 - (3) stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish;
 - (4) projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment.
 - (5) stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation; and
 - (6) culvert replacement conducted in accordance with published guidelines of the Department of Fish and Game or NOAA Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation.

PROJECT ELIGIBILITY REQUIREMENTS: PROJECT PURPOSE & COMPENSATORY MITIGATION

- Primary Project Purpose
 - Primary purpose must be habitat restoration.
 - Cannot be part of a larger project whose primary purpose is not habitat restoration.
- Compensatory Mitigation Projects
 - Cannot be a compensatory mitigation project.



PROJECT ELIGIBILITY REQUIREMENTS: CONSTRUCTION PERIOD

The project construction period shall not exceed five years.



U.S. ARMY CORPS OF ENGINEERS HABITAT RESTORATION PROJECT

- CWA Section 404 permit from the Army Corps of Engineers often required as well, typically:
 - Nationwide Permit 27 - Aquatic Habitat Restoration, Enhancement, and Establishment Activities
 - Nationwide Permit 13 - Bank Stabilization
- Contact the appropriate Army Corps of Engineers office for more information



EARLY CONSULTATION & PRE-APPLICATION PROCESS

- Early consultation with CDFW & Water Board staff is key
 - Application package needs to contain everything both agencies require:
 - Engineering designs,
 - Impacts,
 - Discharged materials,
 - Sediment and erosion control BMPs,
 - Dewatering plan,
 - Resource protection measures,
 - and more.



**Parks Creek Fish Passage Project:
Site Layout and Proposed Monitoring Locations**

WGS 84: Lutes/2017

Legend

- Parks Creek
- ▨ Project Area
- ▨ Staging Area
- Access_Road
- Photo Points
- X-Section Transects

NOTICE OF INTENT

Notice of Intent (NOI)

- 7-page application
- Project & applicant name
- Project location information
- Receiving waterbody
- Project description*
- Project timing
- Discharge information*
- Project size & impacts*
- Monitoring & Reporting plan

State Water Resources Control Board
Division of Water Quality, 1001 I Street, 15th floor- Sacramento, California 95814 • (916) 341-5455
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
FAX: (916) 341-5403 • Internet Address: <http://www.waterboards.ca.gov/>

NOTICE OF INTENT
TO COMPLY WITH THE TERMS OF
GENERAL 401 WATER QUALITY CERTIFICATION ORDER FOR
SMALL HABITAT RESTORATION PROJECTS

ORDER NUMBER: SB12006GN

**Regional Water Quality Control Board (Regional Water Board) and State Water Resources Control Board
(State Water Board) - FOR AGENCY TRACKING USE ONLY**

WDID:	Regional Board Office:	Date NOI Received:	Check No.:

I. NOTICE OF INTENT STATUS

MARK ONLY ONE ITEM:	<input type="checkbox"/> New Application	<input type="checkbox"/> Change of Information for WDID# _____
	<input type="checkbox"/> Coho HELP Act Project	

II. PROJECT and APPLICANT INFORMATION

Project Title:			
Applicant Name:			
Business/Agency:			
Street Address:			
City, County, State, Zip:			
Telephone:		Fax	
E-mail:			

III. PROPERTY OWNER Check Box if Same As Above

Name:			
Street Address:			
City, County, State, Zip:			
Telephone:		Fax	
E-mail:			

NOTICE OF INTENT: SUBMISSION GUIDANCE

1. Via email, site visitor, or a meeting, work with Water Board and CDFW staff to confirm project eligibility.
2. Encourage submitting a draft NOI and application package to both agencies for review
3. Incorporate any comments and formally submit NOI

Tip: Work with agency staff to incorporate flexibility into the project description and timeline. It is easier to authorize anticipated adaptive management actions than it is to amend permits.



NOTICE OF APPLICABILITY

Notice of Applicability (NOA)

- Enrollment letter that certifies coverage under the SHRP
- Reflects what is in the complete NOI and application package
- Should address CDFW's HREA requirements associated with the project
- NOAs differ from Individual 401 Certifications and cannot be conditioned beyond those in the General Order



North Coast Regional Water Quality Control Board

March 15, 2021

David Wright
The Nature Conservancy
90 W. Redwood Avenue
Fort Bragg, CA 95437
David.wright@tnc.org

Dear David Wright:

Subject: Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN

File: Ten Mile River Mainstem Enhancement Project Phase 1
CW-871967; WDID No. 1B21011WNME

This letter is to certify coverage of the Ten Mile River Mainstem Enhancement Project Phase 1 (Project) under the General 401 Water Quality Certification Order for Small Habitat Restoration Projects (General 401 Order); Order No. SB12006GN. The Project is designed to significantly increase juvenile salmonid rearing habitat volume and value in what is currently a deeply entrenched channel that is largely disconnected from its floodplains.

Background

On January 27, 2021, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) from David Wright, The Nature Conservancy (Applicant) to comply with the terms of, and obtain coverage under, the General 401 Order. On March 9, 2021, supplemental information was provided and the NOI was deemed complete.

Project Location

The Project is located at 28800 Camp 2 Ten Mile Road, Fort Bragg, CA 95437 at 39.556851° N, 123.723451° W, within the Mendocino Coast Hydrologic Unit 113.13.

Project Description

The Ten Mile River is an important watershed for maintaining and recovering populations of coho salmon, steelhead, and Chinook salmon. Restoration actions in the Ten Mile watershed are considered to be a high priority by the National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), and the California Department of Fish and Wildlife (CDFW) as the potential for effective restoration is high and the coho inhabiting the Ten Mile River watershed are a regionally

GREGORY A. GIUSTI, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

5550 Skylane Blvd., Suite A, Santa Rosa, CA 95403 | www.waterboards.ca.gov/northcoast

BUILT-IN FLEXIBILITY & AMENDMENTS

- Examples of flexibility:
 - Completion Date
 - Consider incorporating additional years of permit coverage
 - Seasonal Work Period
 - Develop approved wet weather sideboards to allow late season work
 - Material variances
 - Identify potential project alternatives up front
 - Adaptive management
 - Work with agency staff during development of the NOI to incorporate any potential adaptive management actions that may be required.

Seasonal Work Plan:

SRWC will submit a work plan for construction of ancillary structures or major repair activities to NCRWCQB and CDFW at least 30 days prior to the proposed work window. The work plan will provide details on specific construction activities for each project site, including equipment type, materials, access and BMPs. NCRWCQB and CDFW will work with SRWC to provide a notice to proceed (NTP) within 30 business days of receiving the work plan. Construction will not commence until the NTP is received and the BMPs are in place.

Project Time Frame

Start Date: November 1, 2020

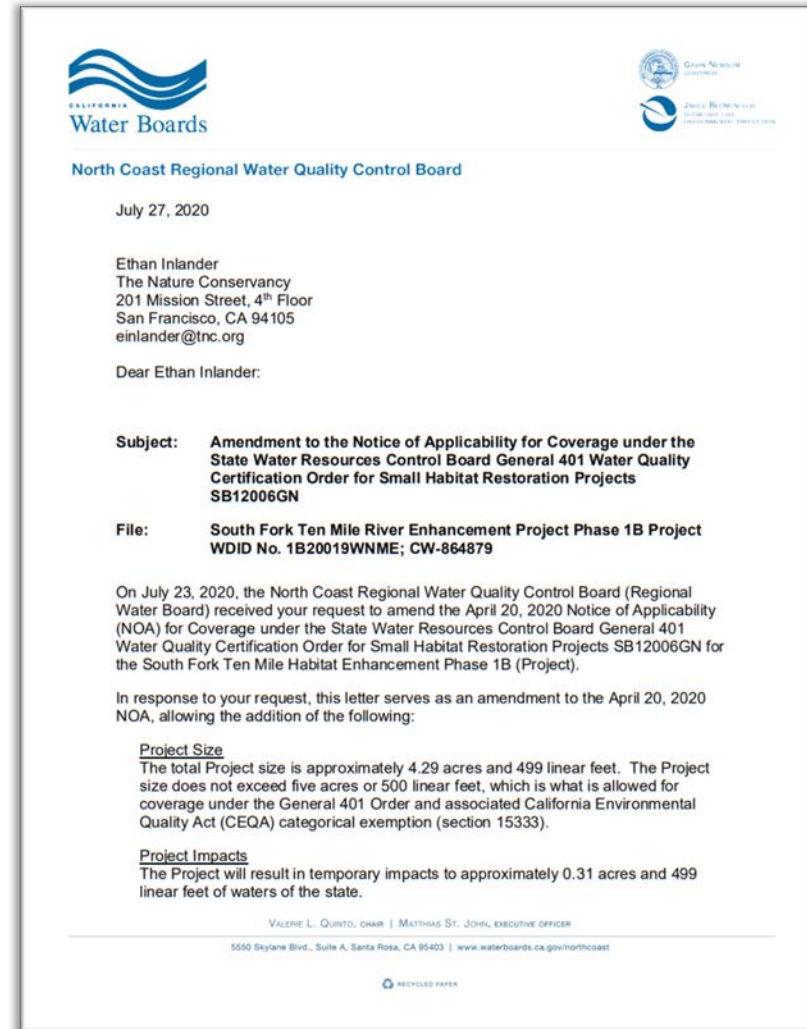
Completion Date: October 15, 2021

Number of Workdays: Approximately 40 days

Seasonal Work Period: May 15 through October 15, with the possibility of extension with written approval from the Regional Water Board and CDFW

BUILT-IN FLEXIBILITY & AMENDMENTS

- Amending the NOA may require amending the HREA Consistency Determination issued by CDFW
- Typically, the need for an amendment can be avoided by developing flexible permit language
 - Usually amending project timeframe or field-fitting issues
 - Turn-around time can be expedited in the case of emergencies but best to avoid “fire drills” whenever possible



MONITORING & POST-PROJECT REQUIREMENTS

- Proposed monitoring & reporting plan should be commensurate with project complexity, risk of adverse impacts, and other environmental factors such and presence of listed species.
 - As-built report with photos and narrative,
 - First high flow event report,
 - Fish passage,
 - Water quality monitoring,
 - Riparian planting survivorship,
 - and more
- A Notice of Completion is required at a minimum

Monitoring and Reporting Schedule

As required in Section B, Item 4, of the General 401 Order, monitoring reports shall be submitted to document the achievement of performance standards and Project goals. A report will be submitted to the Regional Water Board following the completion of each seasonal work period and upon Project completion. This report will include the pre- and post-Project monitoring findings and indicate whether performance standards have been achieved. Each report will include a summary of findings, an identification and discussion of problems with achieving performance standards, any proposed corrective measures as needed (requires Regional Water Board approval), and appropriate monitoring data.

A Notice of Completion (NOC) shall be submitted by the applicant no later than 30 days after the Project has been completed. A complete NOC includes at a minimum: photographs with a descriptive title, the date each photograph was taken, the name of the photographic site, the WDID number indicated above, and success criteria for the Project. The NOC shall demonstrate that the Project has been carried out in accordance with the Project description as provided in the applicant's NOI. Please include the Project name and WDID number with all future inquiries and document submittals. Document submittals shall be made electronically to NorthCoast@waterboards.ca.gov.

THANK YOU

Please reach out with any project-specific questions anytime.



Jake Shannon | Senior Environmental Scientist | Restoration Coordination Specialist

(707) 576-2673 | jacob.shannon@waterboards.ca.gov

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)



HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

■ HREA Overview

- Fish and Game Code Sections 1650-1657
- AB 2193 – effective January 1, 2015
- Repeals January 1, 2022
- SB 716 – Current bill to extend HREA to January 1, 2027

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)



USFWS



CDFW Teri Moore

■ HREA Overview (continued)

- CESA, LSA, SCP all in one permit
- Tied to SWRCB 40I SHRP Certification
- Small restoration projects
- Expedited review time – 30 or 60 days
- LSA fee schedule

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

■ HREA eligibility

- **Primary Purpose:** improving fish and wildlife habitat
- **Project meets SHRP eligibility requirements**

■ SHRP Eligibility

- **CEQA** – Class 33 Categorical Exemption
- **The Project Size** – Less than five acres or 500 linear feet
- **Not Compensatory Mitigation**
- **Primary Project Purpose** – Habitat restoration
- **Project Construction Period** – Less than five years



CDFW Andrew Hughan

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)



BLM Bob Wick

Two Permitting Pathways

- 1652 – prior to 401 SHRP certification
 - Voluntary, not mitigation
 - Not part of regulatory permit, settlement, or enforcement action
 - Not part of a court order
 - Consistent with best available restoration or enhancement methodologies
 - No cumulative adverse significant impacts
 - 60-day approval timeline

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

■ How to apply:

- Submit to Director's Office:
 - 1652 Application form
 - Appropriate Fee
 - Supporting Documents that include the required information

- Hard Copy via mail or Online via the Document Repository

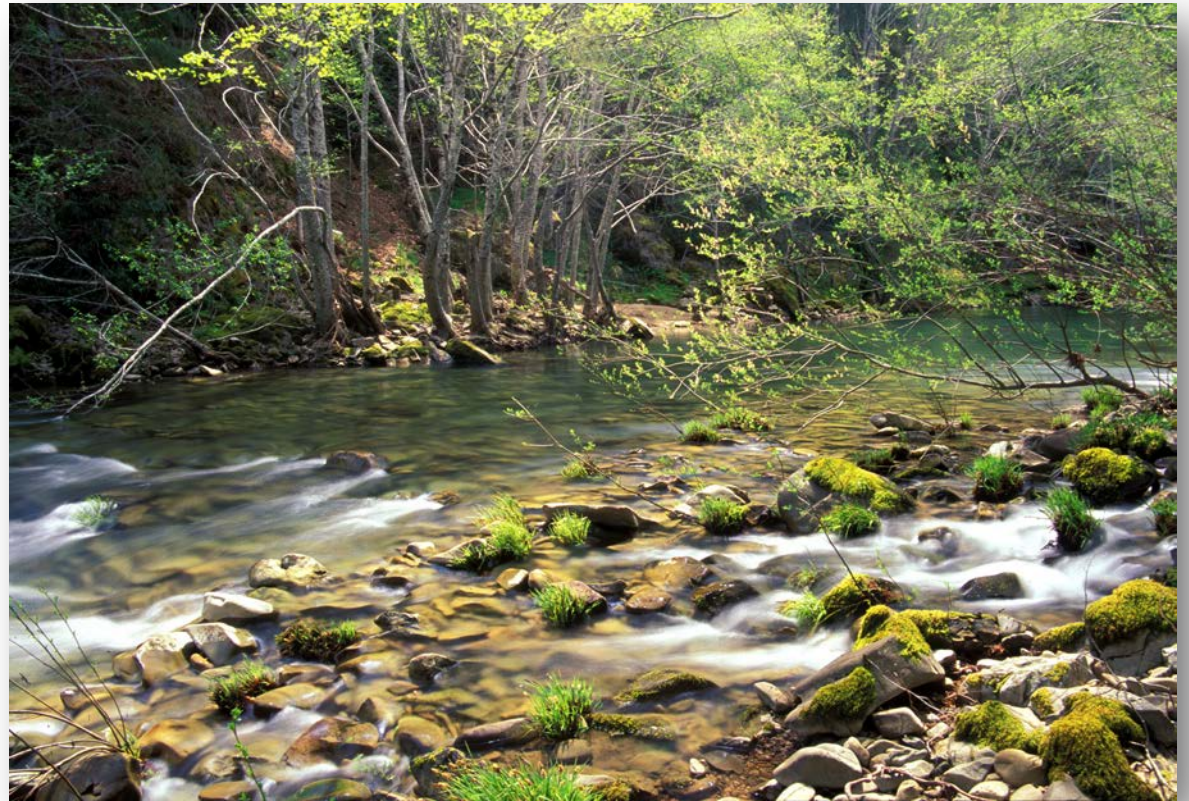
■ Required Information:

- Contact info
- Geographic description
- Biological Assessment
- Full project description: designs, techniques, methods, project activities and schedule, estimated disturbance, and how the project is expected to benefit species
- Species protection measures
- CEQA
- Any additional evidence that shows that the project meets these requirements

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

Two Permitting Pathways

- 1653 – after 401 SHRP certification
 - Tied to SHRP certification
 - Also requires species protection measures
 - 30-day approval timeline



HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

■ How to apply:

- Submit to Director's Office:
 - 1653 Application form
 - Appropriate Fee
 - Required Documents

- Hard Copy via mail or Online via the Document Repository

■ Required Documents:

- NOI
- NOA
- Species protection measures

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

■ Downsides to HREA

- Front-loaded application
- 1653 amendments tied to NOA



Matthew Elyash



Robert Fletcher

■ Early Consultation is key!

- Project eligibility
- Best permitting option
- Environmental protection measures
- Appropriate design and Engineering Review
- CDFW and regional water boards can coordinate

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

- Find out more here:

<https://wildlife.ca.gov/Conservation/Environmental-Review/HREA>

Contact information:

Madeleine.Wieland@wildlife.ca.gov

Lucy.Haworth@wildlife.ca.gov



HREA BEST PRACTICES



HREA BEST PRACTICES

- The Good News: Caltrans staff are experts at environmental review, impact assessment, and developing species protection measures
- The information in a NES would typically suffice for getting through the HREA process!



Natural Environment Study

In Siskiyou County about six miles north of Fort Jones from 0.3 mile south to 0.3 mile north of Lower Moffett Creek Road

Siskiyou County, California

02-SIS-3-PM 38.0/38.6

02-4G440 / 02 1400 0013
March 2019



HREA BEST PRACTICES

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- The Caltrans NES may already include:
 - Project location, description, work details
 - Literature review, species surveys and agency consultation
 - Biological conditions
 - Impacts to species and habitats
 - Species protection measures
 - Cut and paste/include with your HREA application

HREA BEST PRACTICES



BLM Bob Wick

Early Consultation is the Key to Success!

- Work with your liaisons in advance
- Determine if the project is exempt from CEQA
- Complete species presence surveys
- Develop targeted protection measures for species or habitats that may be affected

A FEW MORE HREA BEST PRACTICES

- Is HREA the best fit? Projects without the need for other CDFW permits might fit better under an LSA agreement
- Include measures for all the special status species that might occur!
- Don't apply too early! Reduce the need for amendments!
- Agency review of applications prior to submittal can be helpful
- Build in flexibility when possible for minor changes that can occur during implementation

FISH PASSAGE AND RESTORATION PERMITTING FOR LARGER PROJECTS



PROJECT TOO LARGE FOR HREA? - CDFW PERMITTING

- A CEQA environmental document will likely be necessary (EIR, MND, ND)
- CESA and/or other take authorizations may be necessary
- A 1602 LSA agreement will most likely be needed. The LSA agreement may cover movement out of harm's way for certain species
- Agency biological and engineering review strongly recommended

HELP IS ON THE WAY!



- SWRCB is developing a programmatic EIR and General Order for large restoration projects
- CDFW is developing the Restoration Management Permit and improved procedures for Consistency Determinations for restoration projects

RESTORATION MANAGEMENT PERMIT (RMP)

- Consolidate take authorizations into a single permit
- Standardize permitting practices within CDFW
- Facilitate more efficient permitting
- Minimize permit applications and fees



FISH PASSAGE PROJECT TAKE AUTHORIZATIONS

- Endangered, Threatened, and Candidate Species
- Fully Protected Species
- Species of Special Concern
- Common Species



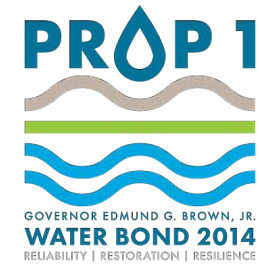
RMP TAKE AUTHORIZATIONS

- CESA-listed species for “scientific, educational, or management purposes”
- FPS for “necessary scientific research, including efforts to recover fully protected, threatened, or endangered species”
- SSC for “scientific, educational, or propagation purposes”
- Common species for “scientific, educational, or propagation purposes”

TYPES OF TAKE COVERED BY RMP

- Movement out of harm's way (pursue, catch, capture)
- Translocation (pursue, catch, capture)
- Monitoring/tagging (pursue, catch capture)
- Lethal take (kill)

CONSISTENCY DETERMINATIONS FOR RESTORATION BIOPS



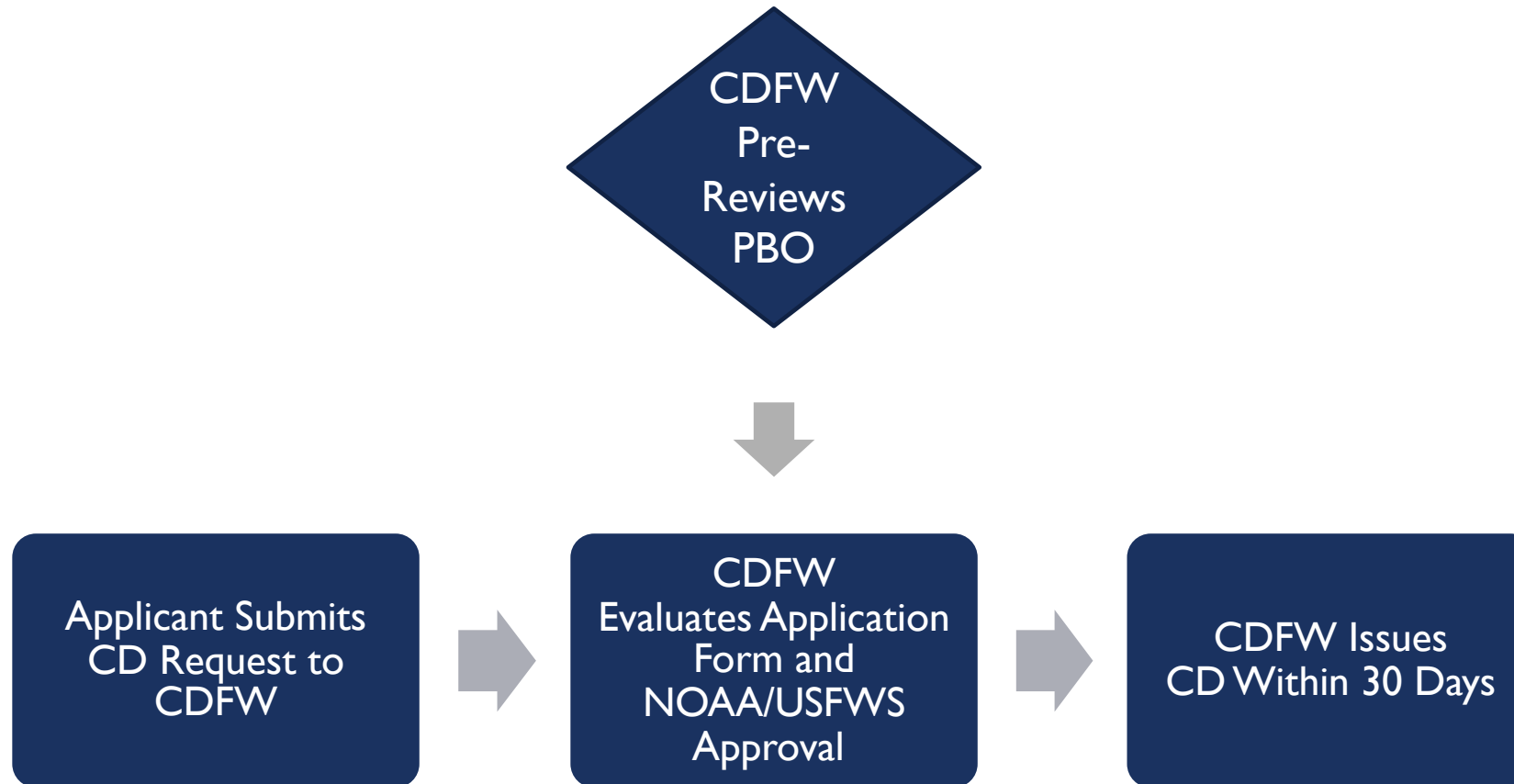
CONSISTENCY DETERMINATIONS (CDS)

- A CD is a statement from CDFW affirming that a federal take authorization is consistent with CESA
- Applicant submits a written request for a CD to the Director and include a copy of the ITS/ITP and the required fee
- Within 30 days of receipt of the notice, the Director shall determine whether the ITS/ITP “is consistent with” CESA
- CDFW cannot add or remove terms from the ITS/ITP

PROJECT SPECIFIC CONSISTENCY DETERMINATIONS FOR PROGRAMMATIC BIOPS

- Through its Cutting the Green Tape initiative, CDFW is exploring ways to better utilize Programmatic Biological Opinions (BiOps)
- The best time to maximize efficiencies is during ITS/BiOp development

CD'S ON PROGRAMMATIC BO'S - HOW WOULD THIS WORK?



THANK YOU!
QUESTIONS ABOUT RESTORATION PERMITTING ?

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