Cutting the Green Tape Restoration Permitting Workshop

Fiscal Year 2020-21

CDFW Initiative

Geographic Focus: North Coast Salmon Project Watersheds

Collaboration/Communication

- Restoration Leaders Committee
- Public
- Restoration Practitioners
- Stakeholders
- Steering Committees

CGT Proposal Solicitation Process

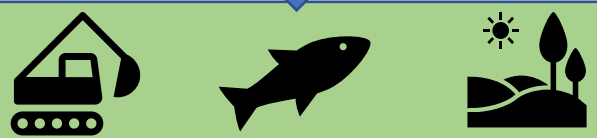
- Stakeholder Workshops
- Priority Setting
- Project Categories
- Recovery Plans
- Guiding Principles

Grant and Permit Assessment

- Stakeholder Surveys
- Grant Efficiencies
- Permitting Efficiencies
- Stakeholder Permit Workshops
- HREA Analysis
- Tool Development
- NCCP/RCIS

CDFW Cutting Green Tape Proposal Solicitation Notice - $15M

Granting and Permitting Tool Implementation



WORKSHOP AGENDA

Restoration Permitting:

- Habitat Restoration and Enhancement Act (HREA)
- Restoration Management Permit (RMP)
- Other tools (FRGP, SHA, CDs on programmatic BOs)
- Case Studies

WORKSHOP AGENDA

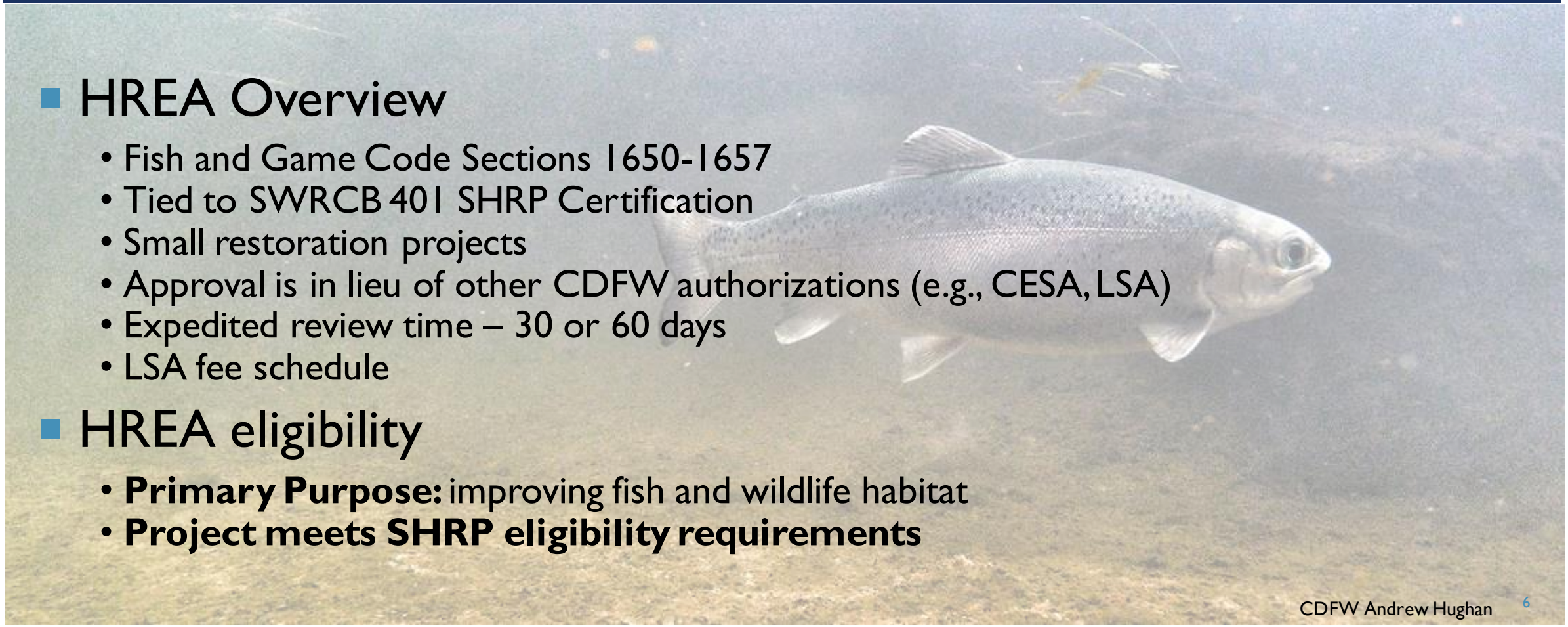
Landscape Conservation Program:

- Natural Community Conservation Plans
- Regional Conservation Investment Strategies

CUTTING THE GREEN TAPE HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

FISCAL YEAR 2020-21

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)



- HREA Overview
  - Fish and Game Code Sections 1650-1657
  - Tied to SWRCB 401 SHRP Certification
  - Small restoration projects
  - Approval is in lieu of other CDFW authorizations (e.g., CESA, LSA)
  - Expedited review time – 30 or 60 days
  - LSA fee schedule
- HREA eligibility
  - **Primary Purpose:** improving fish and wildlife habitat
  - **Project meets SHRP eligibility requirements**

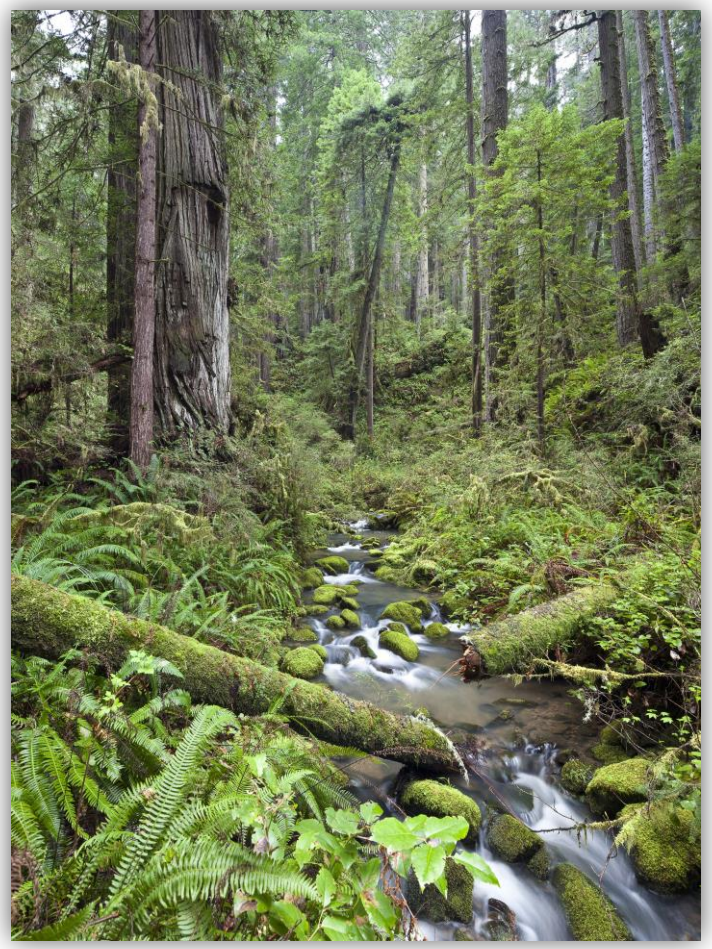
CDFW Andrew Hughan

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

- 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)

Two Permitting Pathways

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

BLM Bob Wick

HABITAT RESTORATION AND ENHANCEMENT ACT (HREA)

- Benefits of advance CDFW consultation
  - Project eligibility
  - Best permitting option
  - Appropriate design
  - Environmental protection measures
- Find out how to request project approval here:

Matthew Elyash

Robert Fletcher

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

Contact information:

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Lucy.Haworth@wildlife.ca.gov

CUTTING THE GREEN TAPE
RESTORATION MANAGEMENT PERMIT

FISCAL YEAR 2020-21

PURPOSE AND NEED FOR 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

TAKE AUTHORIZATION

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

EXISTING MECHANISMS FOR AUTHORIZING TAKE

- CESA-Listed Species: 2081(a) permit or MOU, 2081(b) incidental take permit, Safe Harbor Agreement (SHA), Voluntary Local Program, HREA, Natural Community Conservation Plan (NCCP)
- FPS: Section 3511, 4700, 5050, and 5515 MOUs, and NCCP
- SSC: Scientific Collection Permit (SCP), Lake and Streambed Alteration (LSA) Agreement, SHA, HREA, and NCCP
- Common Species: SCP, LSA Agreement, SHA, HREA, and NCCP

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

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

STRUCTURE OF RMP

- Single, comprehensive template
- Remove authorizations if not needed
- Authorizes take relating to construction, implementation, O&M, and ongoing monitoring
- Relationship between RMP and LSA agreement

KEY PROVISIONS OF RMP

- Tables of Covered Species and Authorized Take Level
- Scope of Take Authorization (2081(a), FPS, SCP)
- Summary of Project Activities

KEY PROVISIONS OF RMP (CONTINUED)

- Term of the RMP
- Renewal and Amendment
- Suspension and Revocation
- Findings

CONDITIONS OF APPROVAL (COA) FOR RMP

- General COAs
- Restoration Work and Ongoing Implementation COAs
- Monitoring and Reporting COAs

MULTI-PROJECT PERMITTING

- A single RMP can be used to authorize multiple restoration projects
- Multi-project permitting is easiest when the projects are:
  - Covered by a single CEQA document
  - Located within a single watershed, hydrologic unit (HUC), or ecoregion
  - Substantially similar in kind (e.g., fish passage projects)
- The project proponents must be capable of close coordination

RMP PILOT PROJECT DEVELOPMENT

- Identifying 3-5 Projects to Test the RMP Template
- Projects are located in CDFW's Regions 1, 5, and 6
- Different Combinations of Authorizations
- Complete Permitting by June 30, 2021

Cutting the Green Tape Fisheries Restoration Grant Program (FRGP)

Fiscal Year 2020-21

FISHERIES RESTORATION GRANT PROGRAM (FRGP)

- Clean Water Act
  - § 404 Regional General Permits (12, 16, 78)
  - § 401 Water Quality Certification
- CEQA Mitigated Negative Declaration
- Future 404 Permitting Changes

CUTTING THE GREEN TAPE
SAFE HARBOR AGREEMENTS (SHA)

FISCAL YEAR 2020-21

SAFE HARBOR AGREEMENTS

- California State Safe Harbor Agreement Program Act
  - Fish and Game Code Sections 2089.2-2089.25
  - Voluntary program, no fee
  - Landowners agree to manage lands to provide "net benefit" to:
    - CESA candidate, threatened, or endangered species
    - Declining or vulnerable species
  - Landowner receives incidental take authorization
    - Even if declining or vulnerable becomes candidate or listed under CESA

CDFW Mandy Culpepper

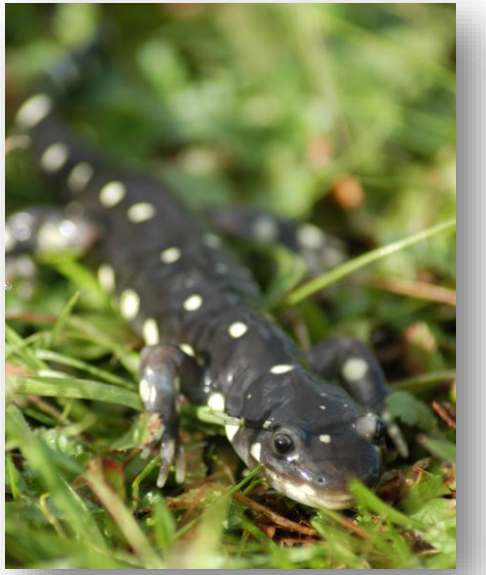
SAFE HARBOR AGREEMENTS

- Basic Components of Safe Harbor Agreement
  - Establish baseline conditions – habitat, populations, or both
  - Identify management practices that will provide a "net conservation benefit"
  - Develop a monitoring plan to evaluate effectiveness of the management practices.
  - Ensure sufficient funding to carry out the other components.
- Federal SHA Consistency Determinations

SAFE HARBOR AGREEMENTS

- Learn more at:

  https://wildlife.ca.gov/Conservation/CESA/Safe-Harbor-Agreements



CDFW Margaret Mantor

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CDFW Andrew Hughan

Cutting the Green Tape Consistency Determinations for Programmatic BOs

FISCAL YEAR 2020-21

PROGRAMMATIC BIOLOGICAL OPINIONS

NOAA Fisheries Restoration Center Programmatic BOs:

- Northern California Office (Arcata) jurisdictional area
- Santa Rosa Office jurisdictional area
- Central Valley of California

CONSISTENCY DETERMINATIONS

Process for Issuing CDs Pursuant to Section 2080.1:

- Submit 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

CONSISTENCY DETERMINATIONS ON PROGRAMMATIC BOS

Obstacles to Issuing CDs on Programmatic BOs:

- Section 2080.1 does not authorize programmatic CDs
- ITS must satisfy the requirements of CESA
- ITS must incorporate project-specific applications and approvals to satisfy Section 2080.1

CONSISTENCY DETERMINATIONS FOR PROGRAMMATIC BOS

Proposed Steps to Issuing CDs on Programmatic BOs:

- Review programmatic BO for general consistency with CESA when issued
- Receive and review project-specific applications for consistency with PBO
- Issue project-specific CDs within 30 days of submission of request

QUESTIONS ABOUT RESTORATION PERMITTING ?

- If you have a question or comment:
  - Submit it through the chat OR
  - Raise your hand
- Our moderator will read questions from the chat and will call on you to ask your question if you raise your hand

Contact Us: restorationpermitting@wildlife.ca.gov

Cutting the Green Tape Restoration Permitting Case Studies

FISCAL YEAR 2020-21

HREA CASE STUDY:
UPPER SHASTA RIVER HABITAT IMPROVEMENT PROJECT 2019

- 1 ½ Mile reach of the upper Shasta River below Dwinnell Dam in Siskiyou County
- Ongoing Safe Harbor Agreement underway to benefit Coho Salmon
- Two private ranches
- Project funded by NFWF
- Implemented by California Trout and partners
- Permitted and completed in 2019

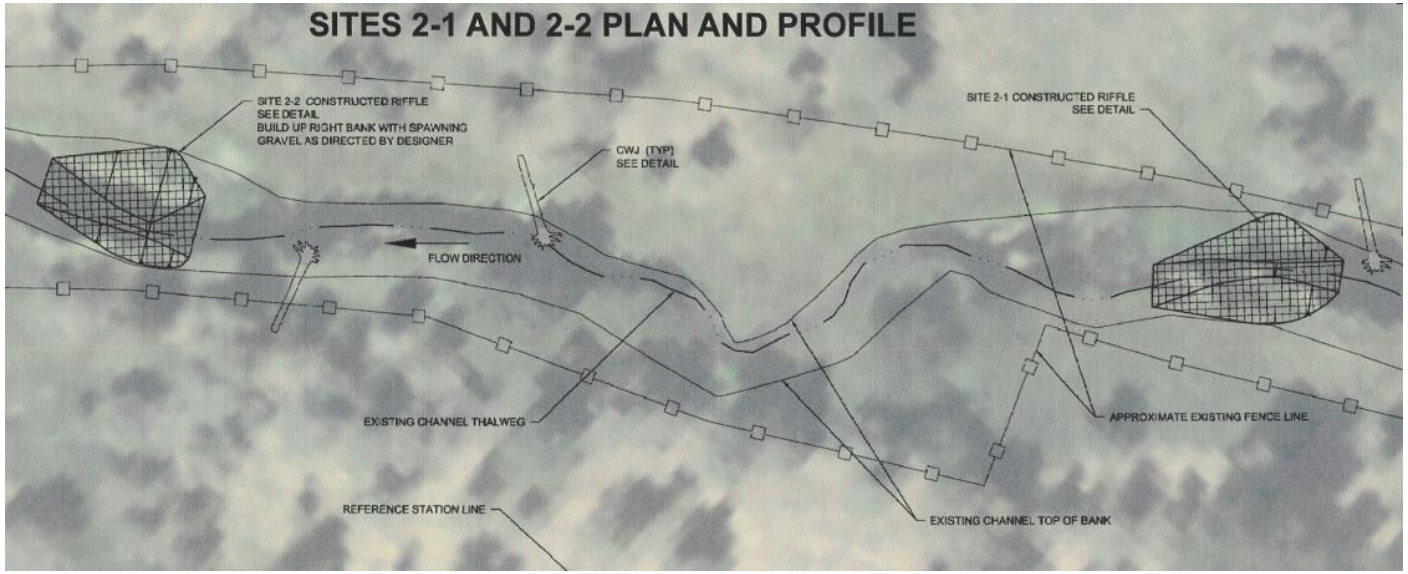
HREA CASE STUDY: LOCATION

HREA CASE STUDY:
UPPER SHASTA RIVER HABITAT IMPROVEMENT PROJECT 2019

- Safe harbor agreement (SHA) actions are being implemented to improve water management and Coho Salmon habitat
  - Water quality improvements
  - Access for restoration
- The SHA program will cover 14 operations, and will consist of federal SHAs with CDFW consistency determinations
- This reach is below a storage dam and the river exhibits low habitat complexity
- With improved water quality, fisheries improvements could be accelerated by providing access to spawning substrate, improving cover, increasing riparian shading, and enhancing off-channel habitat

HREA CASE STUDY: PROJECT DESCRIPTION

- 5 coarse riffle structures were constructed to hold spawning gravel in place, with an average riffle length of approximately 60 feet



HREA CASE STUDY: PROJECT DESCRIPTION

- 50 juniper trees were used to construct root wad structures to increase pool depth and provide cover for rearing and migrating juvenile coho salmon and approximately 100 willows were planted.

HREA CASE STUDY: PROJECT DESCRIPTION

- A salmon rearing alcove receiving spring flows was enlarged and planted, with willows and a boulder fence were installed to reduce mixing.

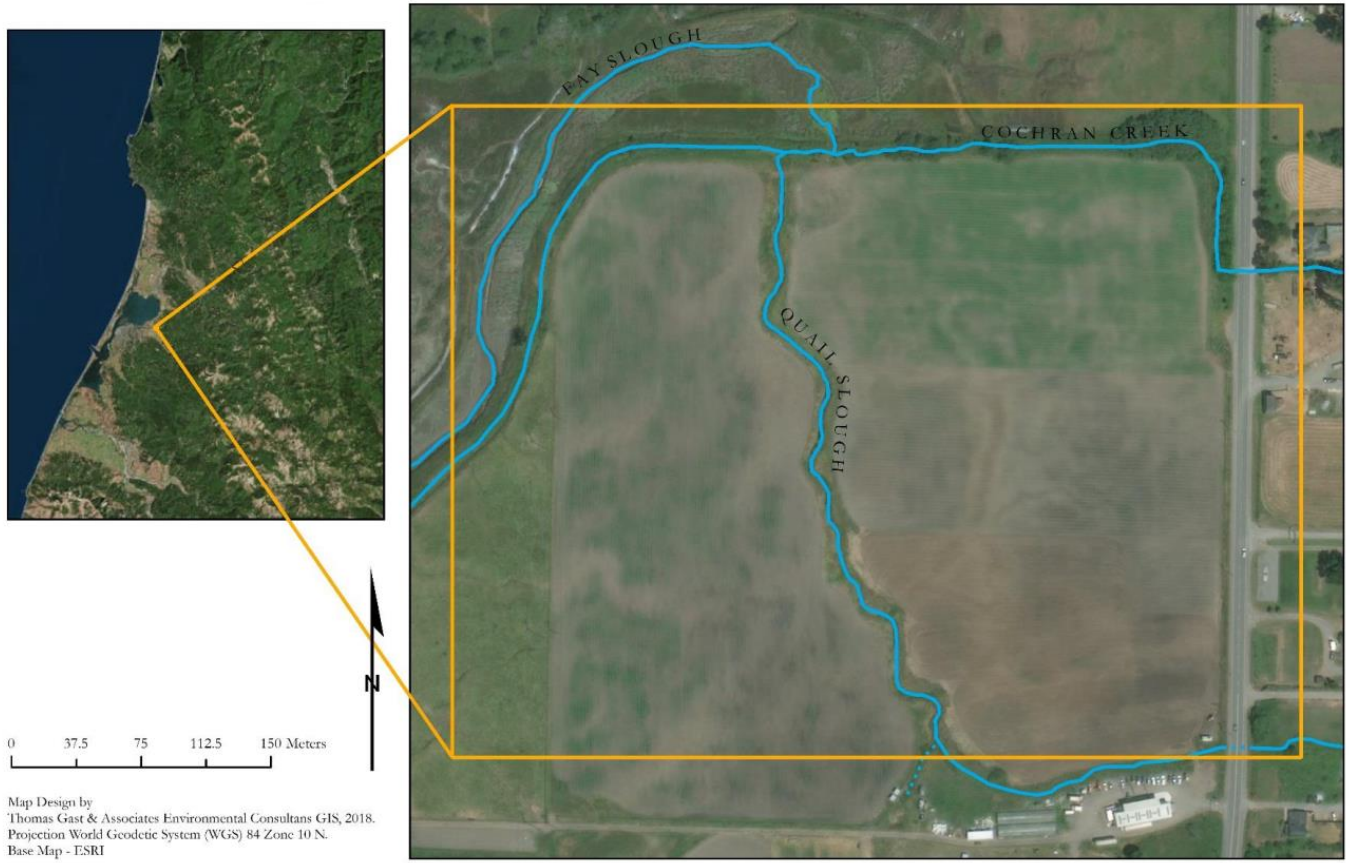
HREA CASE STUDY: PERMITTING NEEDS

- Potential for take:
  - Coho Salmon
  - Nesting birds
  - Western pond turtle and frogs
  - American badger
- LSA agreement needed
- The total project area was approximately 3.54 acres and impacted 494 linear feet of stream
- No CEQA environmental document

HREA CASE STUDY: PERMITTING SOLUTIONS

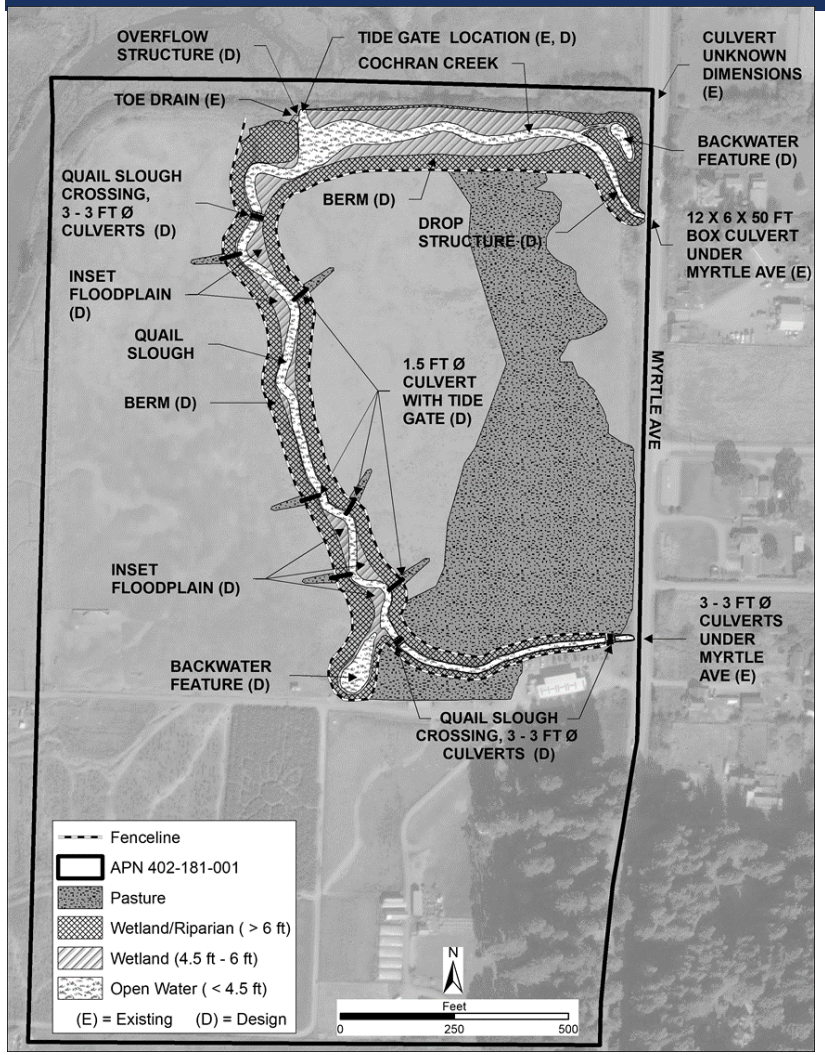
- Great fit for Small Habitat Restoration General Order / Habitat Restoration Enhancement Act for California Trout (not a SHA landowner)
- 1653 – Regional Water Quality Control Board Notice of Applicability followed by a CDFW consistency determination
- 30-day CDFW process
- Allowed design, permitting, and implementation to occur in an expedited timeframe
- The SHA process facilitated landowner commitments, cooperation, and provided assurances for increased coho use on their properties while improving water quality in this reach
- Questions?

LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



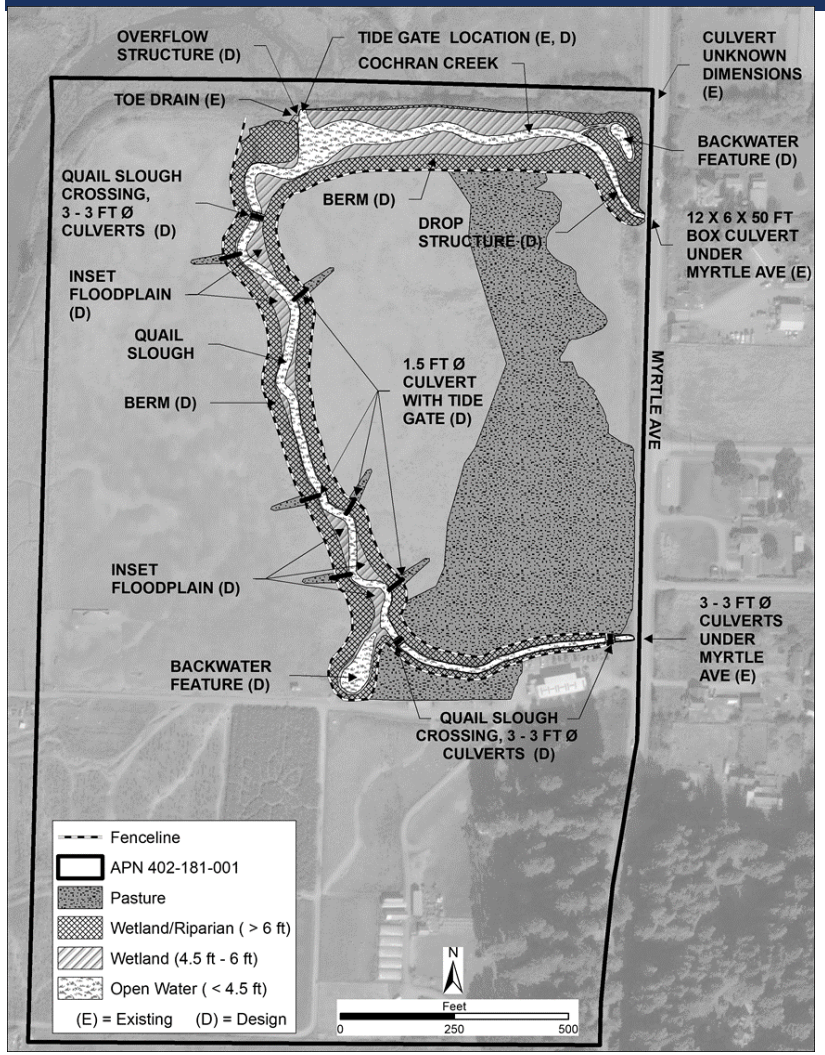
- Cochran Creek, tributary to Fay Slough/Eureka Slough/Humboldt Bay
- Historically: habitat for coho, steelhead, and coastal cutthroat trout
- Disconnected from tidal habitats by levee and tidegate that is a fish passage barrier. Risk of fish stranding in adjacent ag fields.

LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



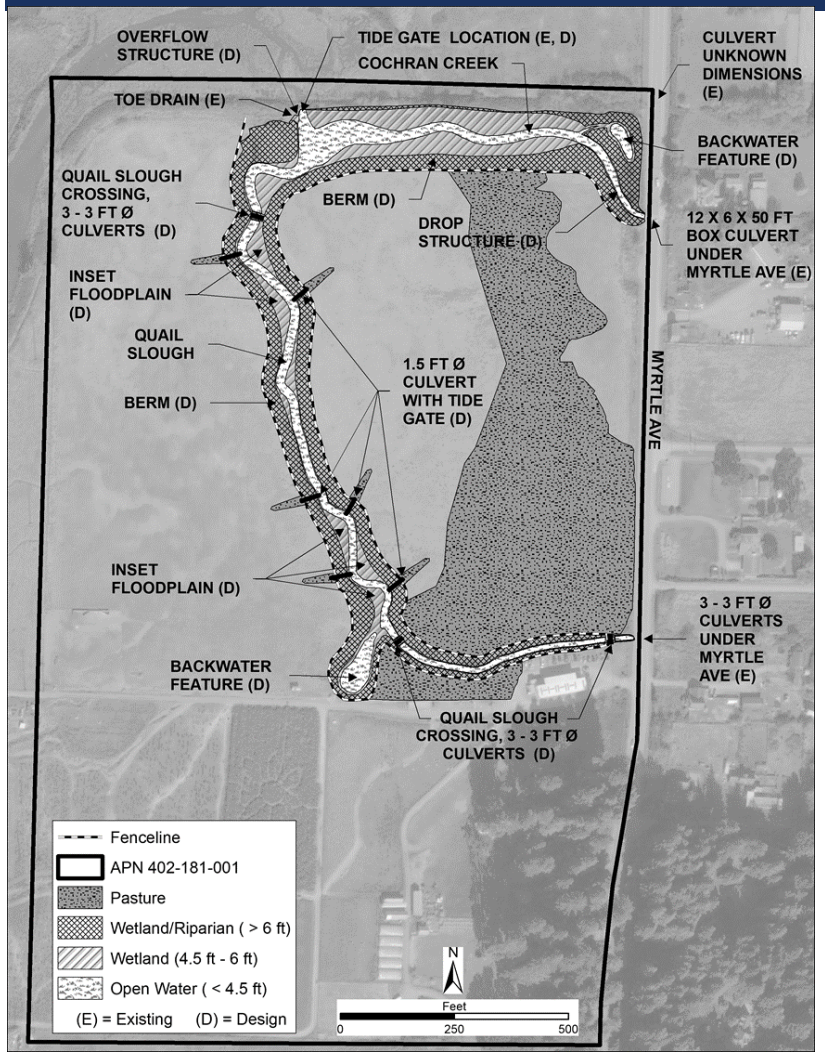
- Project: Improve fish passage for salmonids via tidegate replacement
- Expand tidal, brackish, freshwater and riparian habitat conditions onsite

LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



- Project proponents: Property owners (John Gary and Heather Plaza – Organic Matters Ranch), CalTrout, and Coastal Ecosystems Institute of Northern CA
- Funding: CA Coastal Conservancy, CDFW (Prop 1), and CNRA EEM Grant Program

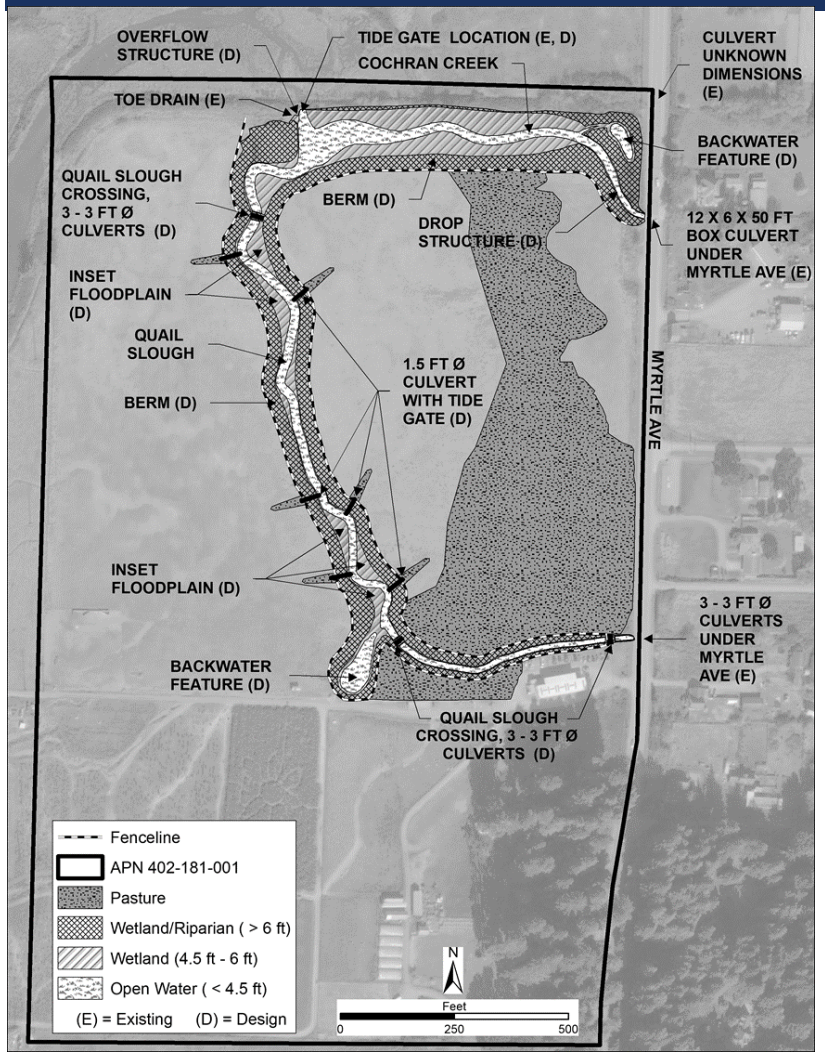
LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



Expected Outcomes:

- Provide improved access to > 2 miles of anadromous habitat upstream of tidegate
- Improve > 2,000 feet of stream channel, create aquatic habitat features on Cochran Creek and Quail Slough

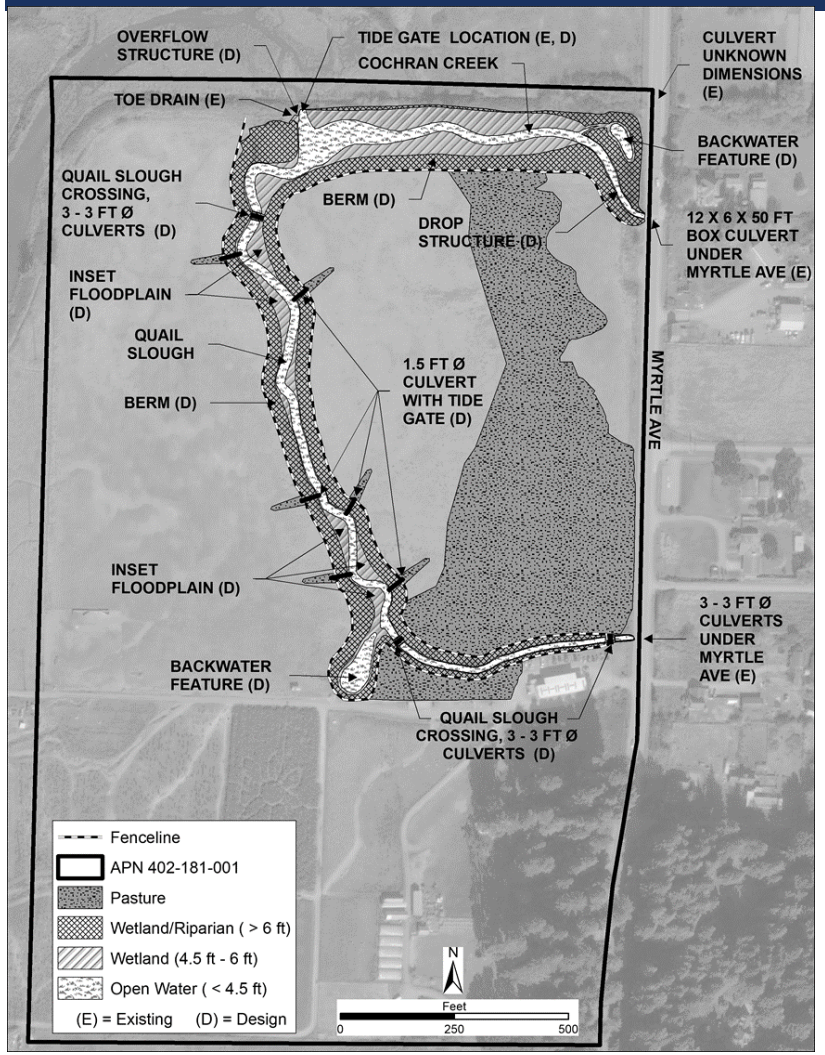
LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



Expected Outcomes:

- Improve >1 acre of floodplain habitats
- Create 2.8 acres of riparian habitat

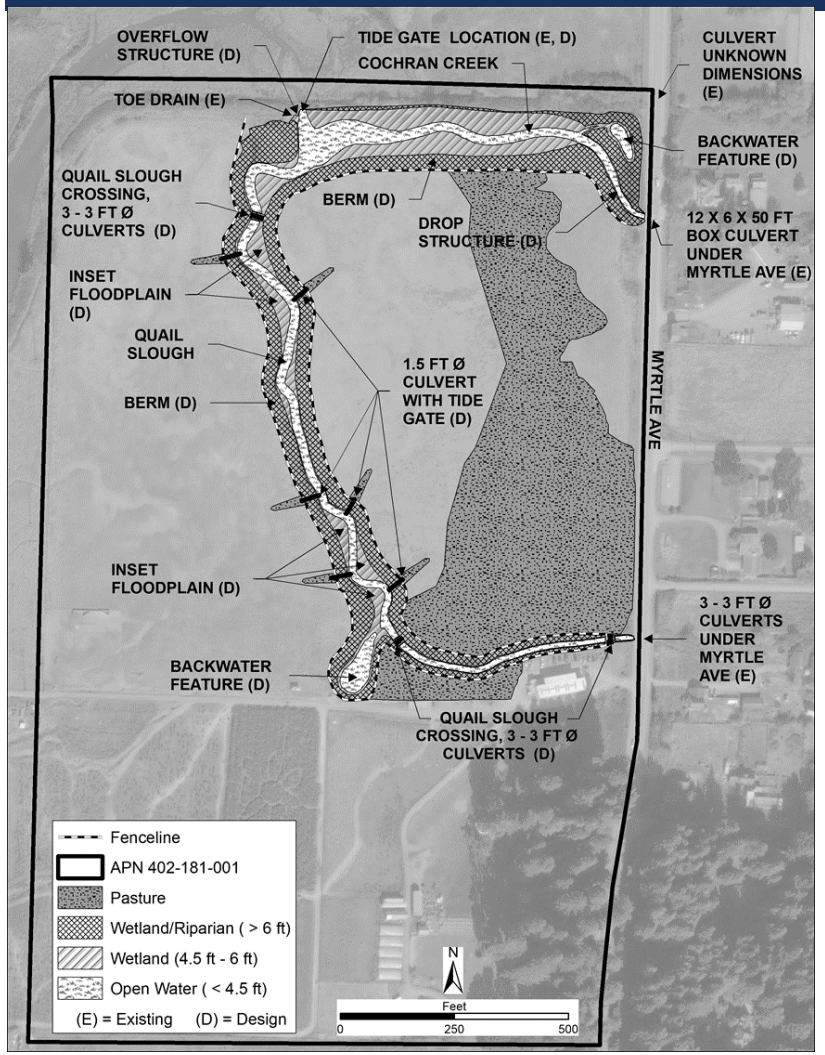
LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



Permitting needs:

- State take coverage for Coho Salmon during construction and post-project monitoring
  - Construction: capture/relocation prior to dewatering for instream work
  - Monitoring: baited minnow traps to assess salmonid use of new habitat

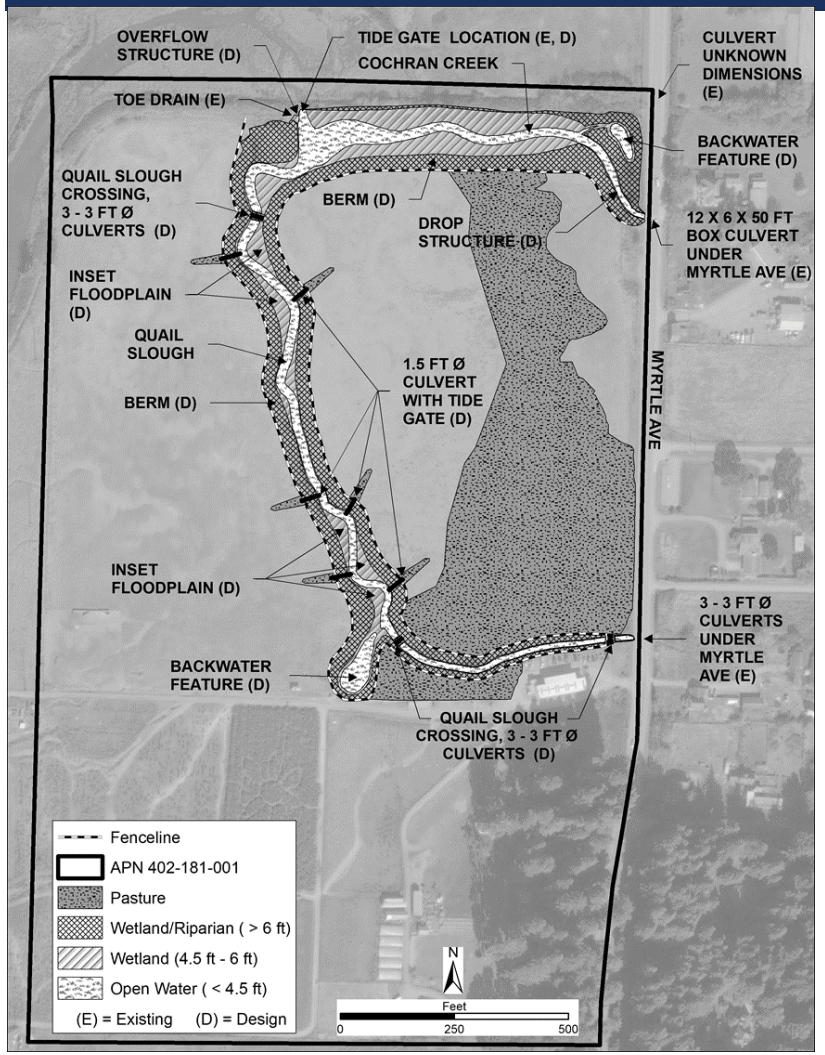
LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



Permitting needs:

- LSA agreement
  - Covers typical project activities (alteration of bed/bank/channel)
  - Also authorizes moving non-listed animals out of harm's way during construction

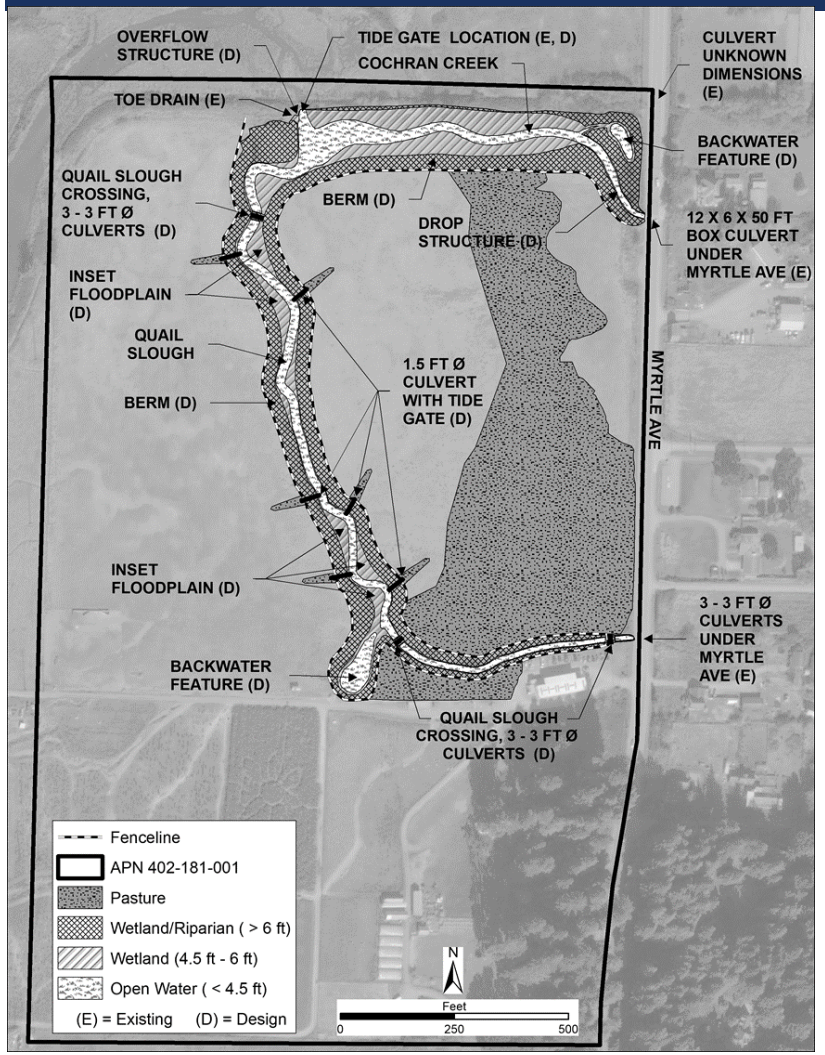
LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



Permitting needs:

- Relatively large project site (14 acres, several thousand feet of channel)
- CEQA compliance: would not fit Class 33 Small Habitat Restoration Project Exemption (MND adopted May 2019)

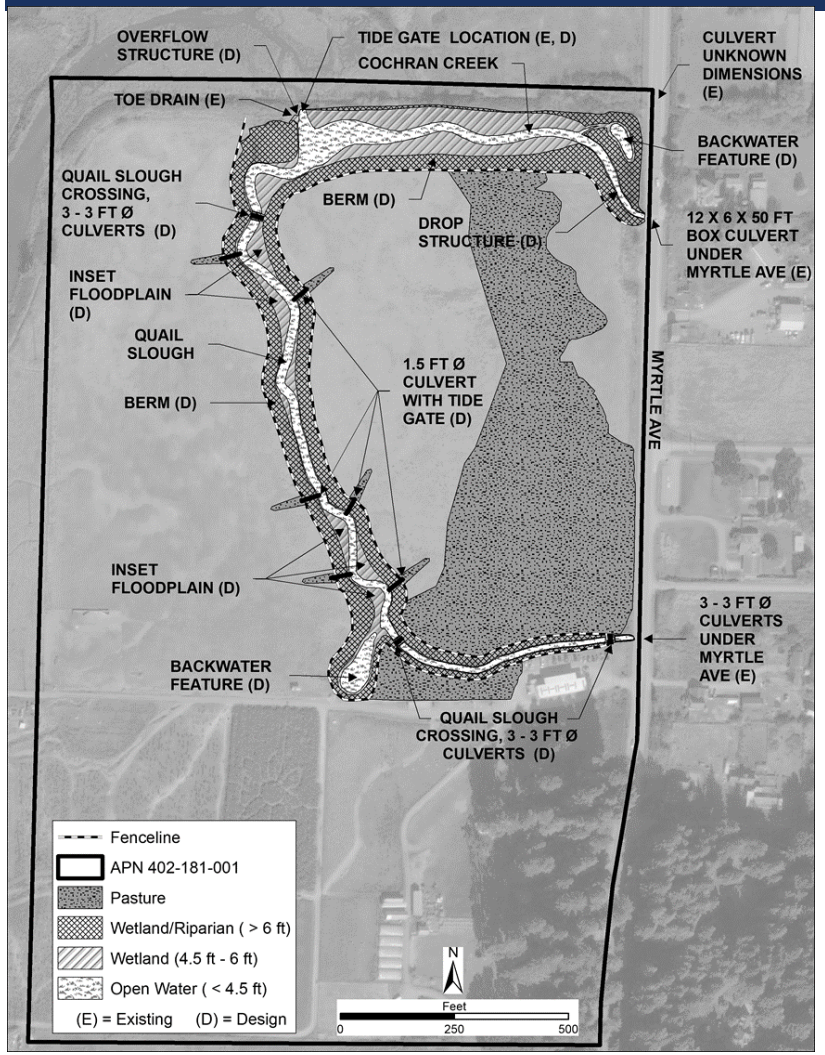
LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



Permitting needs

- Project considerations/constraints made RMP a good fit:
  - Too large for HREA/not CEQA exempt
  - Difficult to address the types financial assurances typically required by ITP/CDs

LARGE PROJECT – RMP: COCHRAN CREEK AND QUAIL SLOUGH FISH PASSAGE AND HABITAT ENHANCEMENT PROJECT



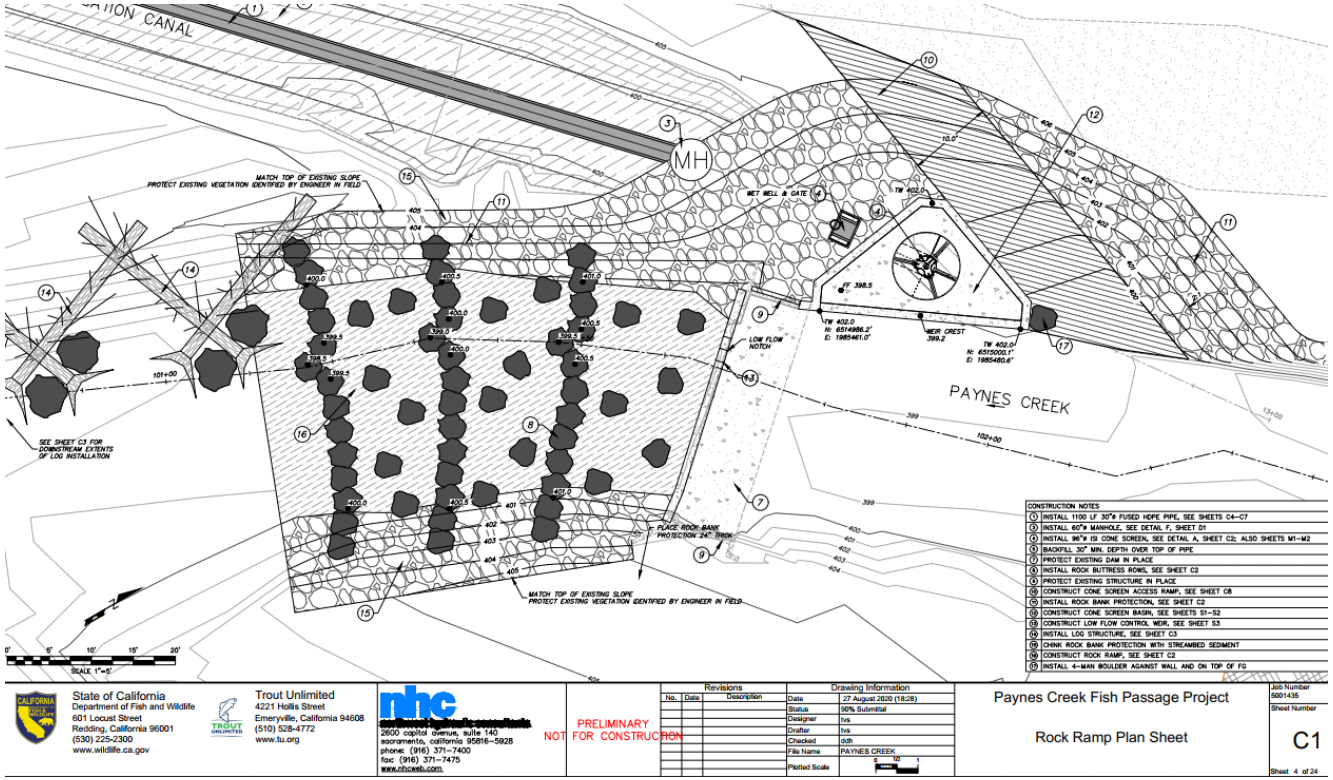
Outcomes/Lessons Learned:

- Project begins initial construction this summer, stay tuned!

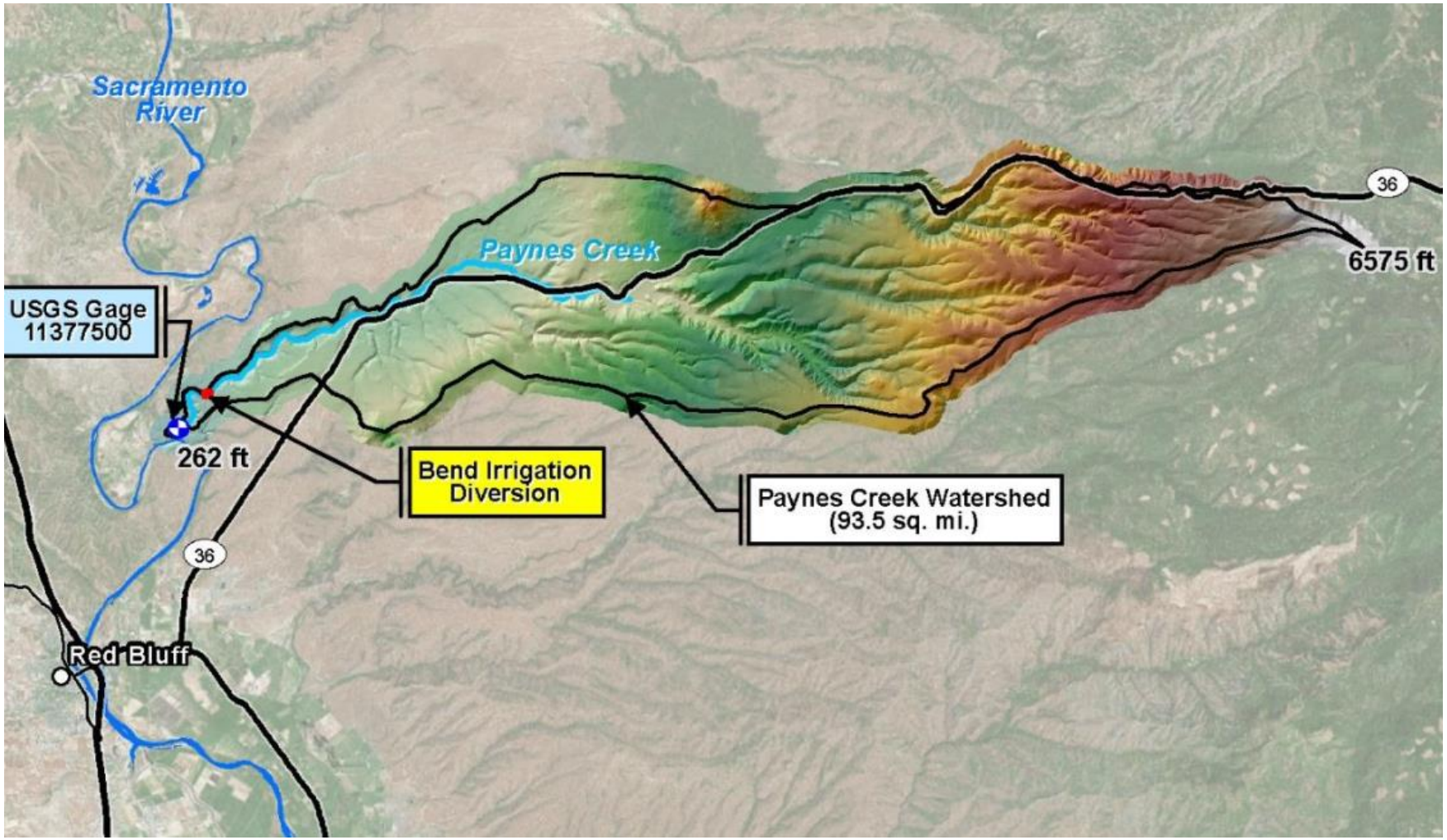
Any Questions?

CD ON A PROGRAMMATIC BIOLOGICAL OPINION CASE STUDY: PAYNES CREEK FISH PASSAGE PROJECT

- This project is currently in the final design phase and we hope to permit this project during CGT permitting pilot
- Project design, environmental review, and permitting was funded by Prop 1
- Trout Unlimited is the Grantee



CD CASE STUDY: LOCATION



CD CASE STUDY: BACKGROUND

- The Paynes Creek project site is at a water diversion facility that can be a physical barrier to upstream fish passage created by a flashboard diversion dam
- A 3,000 linear foot unscreened irrigation canal can trap fish upstream of the fish screen
- The project goal is to develop a design to restore fish passage at the diversion facilities and address fish mortality associated with the unscreened irrigation canal while meeting the operational needs of the water users

CD CASE STUDY: PROJECT DESCRIPTION

- The project has committed to providing upstream and downstream fish passage for the target species during the migration window. The TAC has identified the following target species for design:
  - Fall-run Chinook
  - Central Valley Steelhead
  - Pacific Lamprey
- The project site may also support non-natal rearing habitat for:
  - Winter-run Chinook (ESA and CESA Endangered)
  - Spring-run Chinook (ESA and CESA Threatened)

CD CASE STUDY: PROJECT DESCRIPTION

- The preferred alternative includes construction of a roughened rock ramp and an on-channel cone fish screen

CD CASE STUDY: PROJECT DESCRIPTION

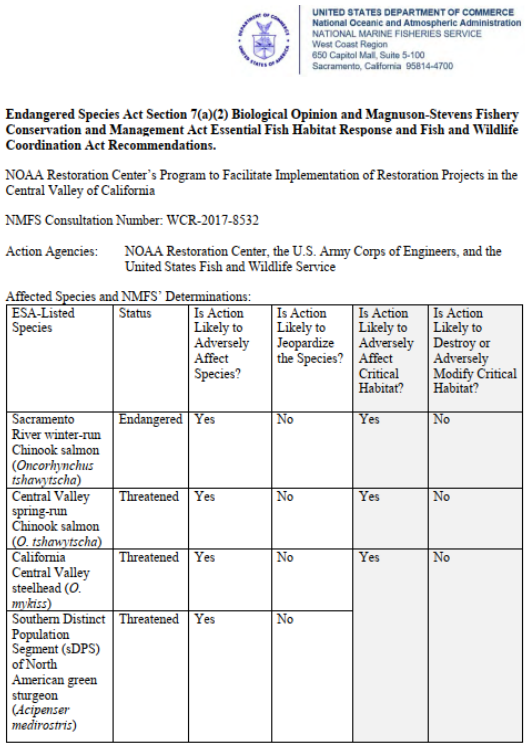
- The design also includes piping the diversion canal and installing an on-channel cone fish screen to keep fish in Paynes Creek

CD CASE STUDY: PERMITTING NEEDS

- Potential for take during project work:
  - Winter-run Chinook (ESA and CESA Endangered)
  - Spring-run Chinook (ESA and CESA Threatened)
  - Other fish, pond turtles, and amphibians
- Stream alteration – LSA agreement needed
- The Project did not qualify for the Small Habitat Restoration General Order
- CEQA – 15333 categorical exemption
- ESA take for the project will be authorized via NOAA RC Central Valley ITS/BO

CD CASE STUDY: PERMITTING SOLUTIONS

- Potential fit for a project-specific consistency determination (CD) on the NOAA Restoration Center's programmatic ITS/BO to Facilitate Implementation of Restoration Projects in the Central Valley of California
- Note that a RMP could also work for this project, but the CD option may be more streamlined
- 30-day CDFW CD process
- No CD fee
- The project LSA agreement can authorize moving non-listed animals out of harm's way



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
650 Capitol Mall, Suite 5-100
Sacramento, California 95814-4700

Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response and Fish and Wildlife Coordination Act Recommendations.

NOAA Restoration Center's Program to Facilitate Implementation of Restoration Projects in the Central Valley of California

NMFS Consultation Number: WCR-2017-8532

Action Agencies: NOAA Restoration Center, the U.S. Army Corps of Engineers, and the United States Fish and Wildlife Service

Affected Species and NMFS' Determinations:

ESA-Listed Species	Status	Is Action Likely to Adversely Affect Species?	Is Action Likely to Jeopardize the Species?	Is Action Likely to Adversely Affect Critical Habitat?	Is Action Likely to Destroy or Adversely Modify Critical Habitat?
Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*)	Endangered	Yes	No	Yes	No
Central Valley spring-run Chinook salmon (*O. tshawytscha*)	Threatened	Yes	No	Yes	No
California Central Valley steelhead (*O. mykiss*)	Threatened	Yes	No	Yes	No
Southern Distinct Population Segment (sDPS) of North American green sturgeon (*Acipenser medirostris*)	Threatened	Yes	No		

CD CASE STUDY: HOW WOULD THIS WORK?