



**California Department of Fish and Wildlife
Implementation of the Habitat Restoration and Enhancement Act**

Report to the Legislature
in compliance with Fish & Game Code §1656

July 2021

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Executive Summary

Fish and Game Code section 1656¹ directs the Department of Fish and Wildlife (CDFW) to submit to the Legislature a report on or before December 31, 2020, regarding the implementation of the Habitat Restoration and Enhancement Act [Fish & G. Code, §§ 1650-1657]. This report includes, but is not limited to, the number, type, and geographical distribution of approved projects, funding adequacy, and recommendations that the program be extended for another five years as well other suggested changes and improvements to the program. In summary:

- CDFW approved 93 habitat restoration or enhancement projects pursuant to the HREA: 31 projects pursuant to Section 1652 and 62 projects pursuant to Section 1653. Eight projects were determined ineligible.
- HREA projects were located across 20 counties.
- The HREA program has not been adequately funded. CDFW received \$307,917 in HREA fees since the program was implemented. These fees were not sufficient to cover the estimated cost of CDFW staff time for processing and reviewing HREA approval requests. Estimated cost exceeded the fee revenues by a substantial amount.
- Recommendations for statutory changes include:
 1. *Extend the sunset another five years, to January 2027, with additional fee authority that enables CDFW to recover revenue commensurate with costs based on the experience over the past five years.*
 2. *Promote pre-consultation with CDFW and detailed project planning and engineering.*
 3. *Require appropriate biological surveys and engineering designs to be included in the list of documents required to be submitted with an HREA request.*
 4. *Expressly enable amendment requests and associated amendment fees and enable the extension of CDFW timelines by mutual agreement.*
 5. *Any proposal that would expand eligibility to larger projects should also increase the review timelines and fees for larger projects to ensure effective project review and to cover CDFW costs. Alternatively, the State Water Resources Control Board (SWRCB) could amend the 401 SHRP Certification to allow projects that do not exceed a 1,000 linear foot limit. This would align the state with NOAA's Programmatic Biological Opinion standard and remain consistent with a "small" habitat restoration or enhancement project designation.*

¹ Unless otherwise indicated, all section references in this report are to the Fish and Game Code.

6. *Evaluate alternatives through the Department's Service Based Budgeting initiative to identify operational improvements to cover program implementation to minimize any potential fee increase, and only increase fees if necessary.*

Background and Purpose

Assembly Bill 2193 (Gordon, Ch. 604, Statutes of 2014) enacted the HREA which established a CDFW permitting process for landowners, state and local government agencies, and conservation organizations that implement small-scale, voluntary habitat restoration projects across California [Fish & Game Code, §§ 1650-1657]. Implementation of the HREA is coordinated by the CDFW Habitat Conservation Planning Branch. The HREA will sunset on January 1, 2022.

Habitat restoration or enhancement projects, as defined by HREA, are projects with the primary purpose of improving fish and wildlife habitat that meet the eligibility requirements for the SWRCB Order for Clean Water Act section 401 General Water Quality Certification for Small Habitat Restoration Projects (401 SHRP Certification).

Projects approved under HREA must be consistent with widely recognized restoration practices, must avoid or minimize any incidental impacts, and must result in measurable environmental benefits. Project approval is in lieu of any other permit or license from CDFW including but not limited to lake or streambed alteration agreements (LSA), California Endangered Species Act (CESA) permits, Native Plant Protections Act permits, and scientific collection permits. There are two approval pathways within HREA: Fish & Game Code sections 1652 and 1653.

Fish and Game Code Section 1652

Section 1652 is for projects that are eligible for, but have not yet received coverage under, the 401 SHRP Certification or have received alternative approval from the SWRCB or Regional Water Quality Control Board (Regional Water Board). Section 1652 requires projects to meet the following requirements:

- The project purpose is voluntary habitat restoration and the project is not required as mitigation.
- The project is not part of a regulatory permit for a nonhabitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order.
- The project meets the eligibility requirements of the SWRCB's 401 SHRP Certification, or its current equivalent at the time the project proponent submits the written request, but has not received certification pursuant to that order or its equivalent.
- The project is consistent with, or identified in, sources that describe best available restoration and enhancement methodologies.
- The project will not result in cumulative adverse environmental impacts that are significant when viewed in connection with the effects of past, current or probable future projects.

The section 1652 process requires project proponents to submit:

- Contact information
- Detailed project description
- Biological assessments of the project area
- Geographic description of the project site
- Environmental protection measures incorporated into the project design
- Substantial evidence that the project meets the requirements of section 1652 listed above
- Certifying statement that the project will comply with the California Environmental Quality Act (CEQA)

CDFW has 60 days from the receipt of project approval request pursuant to section 1652 to determine if the project is eligible for approval and if the request includes all the required information and the appropriate fee.

Fish and Game Code Section 1653

Section 1653 is for projects that have received coverage from the appropriate Regional Water Board under the 401 SHRP certification. Project proponents seeking approval through this pathway are required to submit a request to the director of CDFW that includes:

- Notice that the project proponent has received a notice of applicability that indicates that the project is authorized pursuant to the SWRCB 401 SHRP Certification, or its equivalent at the time the project proponent submits the written request
- A copy of the notice of applicability
- A copy of the notice of intent provided to the SWRCB or a Regional Water Board
- A description of species protection measures incorporated into the project design, but not already included in the notice of intent, to avoid and minimize impacts to potentially present species protected by state and federal law

CDFW has 30 days from the receipt of project approval request pursuant to section 1653 to determine if the project is eligible for approval and if the request includes the required documents and the appropriate fee.

HREA Process

The HREA requires project approval requests to be received by the director of CDFW. The director shall then make a determination on whether the request is eligible for approval pursuant to the HREA and has included the appropriate information and documents.

The Habitat Conservation Planning Branch is responsible for coordinating the HREA program. HREA approval requests received by the Director's Office are forwarded to the Habitat Conservation Planning Branch where staff scan hard copy requests, ensure the appropriate fees are paid, and send the fees to CDFW's License and Revenue Branch. Staff also perform a cursory review for the appropriate documents, start a database entry for the project, and submit a public interest notice for publication in the California Regulatory Notice Register for projects going through the section 1653 pathway. Lastly, staff send the approval request packet to the appropriate CDFW staff in a regional office along with directions and the latest templates for the approval or denial documents.

Regional office staff review the project details and approval request documents to determine whether the project is eligible for approval under the HREA and whether all the appropriate information and documents are included with the request. Regional staff then draft the appropriate approval or denial documents.

Regional staff often engage in pre-consultations with project proponents before they submit their HREA approval requests. Pre-consultation has included project design review, project site visits to verify project size, and meeting with Regional Water Board staff. Project proponents that have included CDFW and the Regional Water Board in their planning process avoid unnecessary delays in the HREA approval process.

Approved Projects

The Department has approved 93 HREA projects. The annual number of projects approved is shown in Figure 1 and the distribution of those projects by county is shown in Figure 2.

Figure 1. Number of approved HREA projects per Year

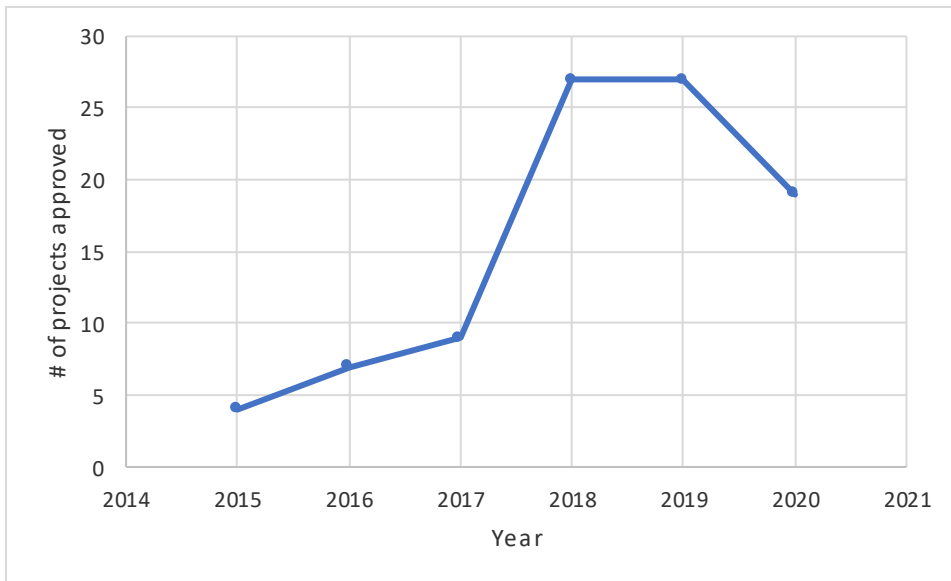
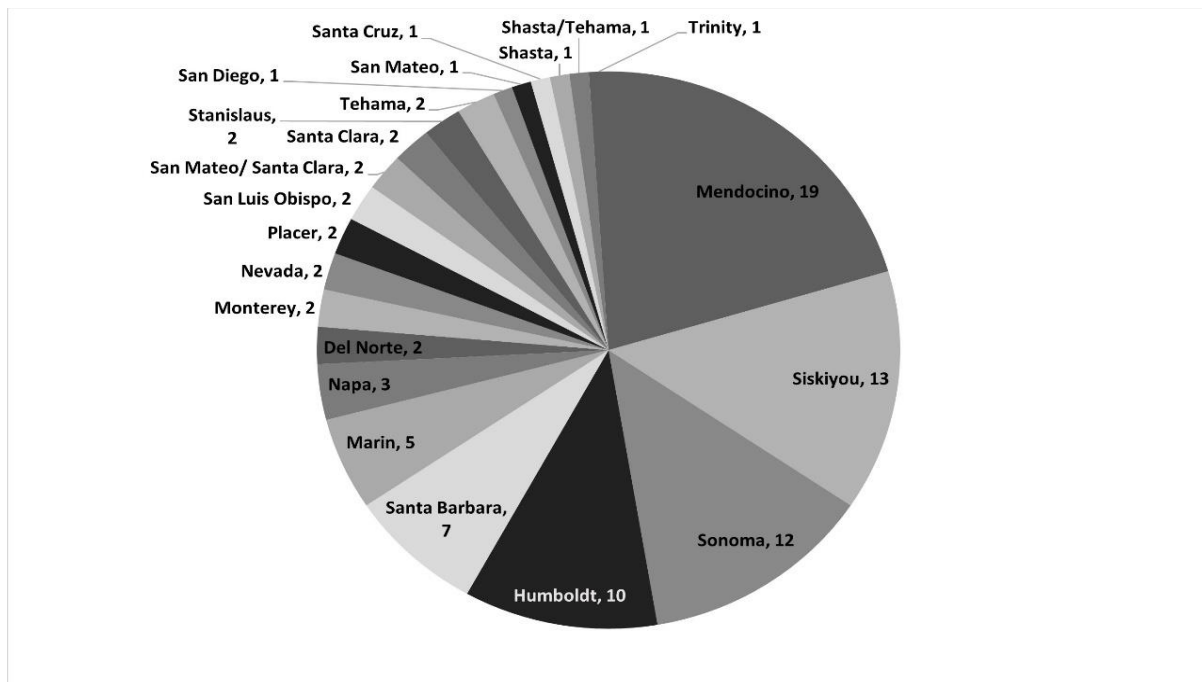


Figure 2. Number of HREA Projects Approved per County



HREA projects approved pursuant to sections 1652 and 1653 are listed in Table 1 and Table 2, respectively.

Table 1. HREA Section 1652 Projects approved by CDFW

Project Title	Approval Date	County
Circle G Ranch Fish Passage Restoration Project	7/15/15	Santa Barbara
Fish Passage Improvement at Crossing 3, Quiota Creek	7/24/15	Santa Barbara
Green Valley Creek Farm and Ranch Solid Waste Cleanup and Abatement	9/24/15	Santa Cruz
Kapusta 1a Side Channel Habitat Restoration and Enhancement Project	12/4/2015	Shasta
Lower Deer Creek Falls Fish Passage Improvements Project	6/2/2016	Tehama
Fish Passage Improvement at Crossing 4, Quiota Creek	6/29/2016	Santa Barbara
Live Oaks Ranch Bridge Replacement	7/20/2016	Sonoma
Lagunita Diversion Dam Removal Project	3/23/2017	San Mateo & Santa Clara
Five Springs Farm Stream Crossing and Gully Restoration	1/23/2017	Sonoma
Fish Passage Improvement at Crossing 5, Quiota Creek	9/20/2017	Santa Barbara
Climate Ready Rangeland	11/3/2017	San Luis Obispo
Lagunita Diversion Dam Removal Project	3/21/2018	San Mateo & Santa Clara
Truckee River State Wildlife Area Wild Trout Project	6/7/2018	Nevada
6500 River Road Wild Trout Project	4/3/2018	Placer
Fish Passage Improvement on Crossing 9, Quiota Creek	7/20/2018	Santa Barbara
Mission Peak Lease Livestock Water Distribution Project	3/30/2020	Santa Clara
Dennett Dam Removal	6/22/2018	Stanislaus
Lower Powers Creek Habitat Enhancement Project	8/27/2018	Humboldt
Pescadero Creek Habitat Enhancement Project	10/3/2018	San Mateo
Campbell Creek Fish Passage Project	3/15/2019	Humboldt
Cachagua Creek Project	6/4/2019	Monterey
Cooley Ranch Culvert Replacement Project	7/1/2019	Sonoma
Fish Passage Improvement on Crossing 8, Quiota Creek	7/17/2019	Santa Barbara
East Branch Russian Gulch Fish Passage Barrier Removal Project	7/31/2019	Sonoma
Oken Property Riparian Restoration Project	2/11/2020	Sonoma
Maxwell Creek Archaeological Protection/Enhancement Project	12/12/2019	Napa
Jameson Creek Fish Passage Improvement Project	4/3/2020	Humboldt
North Marin Water District Gallagher Ranch Streambank Stabilization Project	5/11/2020	Marin
Calistoga: Pioneer Park Fish Passage Enhancement Project	6/3/2020	Napa
Redwood Creek Restoration at Pacific Way Bridge	9/17/2020	Marin
Squaw Creek Restoration and North Meadow Enhancement Project	9/2/2020	Placer

Table 2. HREA Section 1653 Projects approved by CDFW

Project Title	Approval Date	County
Mill Creek Fish Passage Barrier Removal and Riparian Restoration Project	6/10/2016	Mendocino
Stemple Creek - Channel Adjustment for Bank Stabilization	9/9/2016	Marin
Mid-French Creek Side-Channel Beaver Dam Analogue Project	3/3/2017	Siskiyou
Baker Creek Terrace Groundwater Recharge Project	6/2/2017	Humboldt
Pennington Creek Steelhead Barrier Removal Project	6/2/2017	San Luis Obispo
Parks Creek Fish Passage Project	10/20/2017	Siskiyou
Furlong Culvert Repair Project	10/20/2017	Sonoma
LandSmart on-the-Ground for Sonoma Creek - Vineyard Project 2	11/10/2017	Sonoma
Armstrong Bridge Project	10/27/2017	Mendocino
LandSmart on-the-Ground for Sonoma Creek - Vineyard Project 1	2/23/2018	Sonoma
LandSmart on-the-Ground for Sonoma Creek - Vineyard Project 3	4/27/2018	Sonoma
Eradication of Invasive Sea Lavender (<i>Limonium duriusculum</i>) from Carpinteria Salt Marsh	5/11/2018	Santa Barbara
Ten Mile River South Fork Enhancement Project Phase 1A	5/4/2018	Mendocino
Lower Sugar Creek BDA	5/18/2018	Siskiyou
Rodden Road Restoration Project	5/25/2018	Stanislaus
Temescal Creek Hydromodification Removal Project	6/29/2018	San Diego
Albion River Large Wood Augmentation Project	7/27/2018	Mendocino
Upper Little North Fork Big River and Manly Gulch Large Wood Augmentation Project	7/27/2018	Mendocino
North Branch North Fork Navarro River Large Wood Augmentation Project -Phase II	7/27/2018	Mendocino
Olsen Gulch Large Wood Augmentation Project	7/27/2018	Mendocino
Upper Signal Creek Large Wood Augmentation Project	7/27/2018	Mendocino
South Branch North Fork Navarro River Large Wood Augmentation Project	7/27/2018	Mendocino
South Fork Trinity River Instream Salmon Enhancement Project	9/21/2018	Trinity
Lawrence Creek Off Channel Pond 2.0 Project	9/28/2018	Humboldt
Seldom Seen Diversion Fish Passage Improvement Project	9/28/2018	Siskiyou
EFM Patterson Creek Accelerated Wood Recruitment Project	10/5/2018	Siskiyou
Miners Creek, Scott Valley, Siskiyou County, BDA	10/26/2018	Siskiyou
Los Padres Dam Gravel Augmentation Project	1/25/2019	Monterey
Novy-Rice-Zenkus Fish Passage Improvement Project	2/8/2019	Siskiyou
Little Lost Man Creek Fish Passage Project	3/1/2019	Humboldt
Parks Creek Fish Passage and Cardoza Efficiency Project	6/14/2019	Siskiyou
South Fork Elk River Debris Jam Barrier Modification	6/14/2019	Humboldt
San Geronimo Creek Restoration Project	6/14/2019	Marin
Janes Creek at Alliance Avenue Fish Passage Improvement Project	6/14/2019	Humboldt
Lower Sugar Creek Floodplain Restoration Project	7/5/2019	Siskiyou
Lower Bear Creek Instream Habitat Enhancement Project	7/12/2019	Humboldt
Lost River Groundwater and Streamflow Project	7/26/2019	Mendocino
Hamilton Road 5.76km Powderhouse Creek Fish Passage Improvement	8/30/2019	Del Norte
Upper Shasta River Habitat Improvement Project	8/16/2019	Siskiyou
Horse Creek Lawrence/Morgan Wood Loading Project	9/6/2019	Siskiyou
Calistoga Elementary School Biotechnical Streambank Stabilization Project	8/16/2019	Napa
Stanford University Upper Quarry CRLF Habitat Restoration Project	9/20/2019	Santa Clara

Table 2. HREA Section 1653 Projects approved by CDFW

Project Title	Approval Date	County
Old Hill Ranch Sediment Reduction Project	9/27/2019	Sonoma
Geib Ranch Sediment Reduction Project	9/27/2019	Sonoma
Scott River Watershed Coho Salmon Enhancement Project	10/18/2019	Siskiyou
Flynn Creek Large Wood Augmentation Project - Phase 2	10/18/2019	Mendocino
Antelope Creek Fish Passage Improvement Project	11/8/2019	Tehama
North Fork Battle Creek Barrier Modification and Fish Passage Improvement Project - Upper Barrier Site	1/22/2020	Shasta and Tehama
Gallo CTS Ponds and Creek Enhancement Project	5/13/2020	Sonoma
South Fork Ten Mile River Enhancement Project Phase 1B	5/21/2020	Mendocino
Truckee River Fish River Habitat Enhancement Project	7/8/2020	Nevada
Upper Noyo Fish Passage Improvement Project	6/26/2020	Mendocino
No Name Road Ford Replacement and Fish Passage Improvement Project	6/20/2020	Monterey
Howland Hill Road Metcalf Grove Creek Fish Passage Improvement Culvert Replacement	8/26/2020	Del Norte
San Geronimo Creek Fish Passage and Bridge Stabilization Project	8/13/2020	Marin
Ryan Creek Floodplain and Sediment Reduction Project	8/26/2020	Mendocino
Redwood Creek (SF Eel River) Large Wood Augmentation Project	8/12/2020	Mendocino
Hayshed Gulch Large Wood Augmentation Project	8/13/2020	Mendocino
Mill Creek (Navarro River) Large Wood Augmentation Project	8/21/2020	Mendocino
North Fork Navarro River Whole Tree Instream Coho Habitat Enhancement Project	8/21/2020	Mendocino
Lawrence Creek Hydrologic Reconnection of Critical Off-Channel Salmonid Habitat (3.0)	10/23/2020	Humboldt
M-1 Road Fish Passage Improvement Project	10/9/2020	Mendocino

Funding Adequacy

Section 1655 requires CDFW to charge the same application fees used by the LSA Program for HREA approval requests. The fees follow a graduated schedule that is based upon the total cost of a project. For example, the 2020 fee schedule for projects with a term of up to five years ranged from \$609.25 for a project that costs less than \$5,000, to \$5,430.60 for a project that costs \$350,000 or more. The fees are adjusted annually for cost of living, using the Federal Implicit Price Deflator Index, per Section 713.

Section 1655 established the Habitat Restoration and Enhancement Account within the Fish and Game Preservation Fund. CDFW has received \$307,917 in HREA fees since the implementation of the program.

CDFW estimated the average time spent on HREA approval requests by classification based on staff reporting and Service Based Budgeting (Table 3). The tasks associated with this estimation include:

- Pre-consultation with project proponents
- Headquarters processing new requests
- Regional office activities for reviewing requests, coordinating with project proponents and Regional Water Boards, and drafting and finalizing approval or denial documents
- Compliance monitoring by regional staff

Table 3. Average Review Time per HREA Approval Request

Classification	Average Hours per Project
Environmental Scientist	80.5
Senior Environmental Scientist (Specialist)	17.0
Senior Environmental Scientist (Supervisory)	9.0
Environmental Program Manager I (Supervisory)	3.5
Office Technician	5.0
Staff Services Analyst	5.5
Total	120.5

Project review also included consultation with senior hydraulic engineers and legal counsel. CDFW estimates that these classifications each spend an average of 15 hours per year reviewing HREA projects.

CDFW estimates that HREA review and approval in 2020 cost up to \$10,000 per project. This analysis included salaries, benefits, operating expenses, and equipment for each classification per year. Salaries were estimated from the lowest step of each classification with three meritorious salary adjustments (mid-salary).

In summary, HREA fees received did not cover the cost of project review and approval. Additionally, the total hours spent on HREA approvals is likely underestimated as it does not include time spent on denied, withdrawn or incomplete requests. Nor does it include outreach activities, consultation with SWRCB and other stakeholders, and general program administration including departmental overhead (25%).

Additionally, the LSA fees were not designed to cover the cost of threatened and endangered species consultation. The HREA review addresses not only LSA activities but also threatened, endangered and candidate species consultation. This represents an additional scope of work with species specific conditions. For example, CESA fees in 2020 ranged from \$6,534 to \$16,334.75 for projects that cost up to \$500,000.

Challenges and Recommendations

Several HREA Program recommendations, challenges and opportunities for improvement are identified below:

- **Extension of HREA**

The HREA will sunset on January 1, 2022. The HREA has successfully permitted 93 small habitat restoration or enhancement projects. Based on the positive feedback received from restoration partners and practitioners through continued interactions with the Restoration Leaders Committee and through the California Natural Resource Agency's Cutting the Green Tape Initiative, CDFW believes the HREA should be extended for another five years, to January 2027, *with additional fee authority that enables CDFW to recover revenue, if necessary, commensurate with costs based on the experience over the past five years.*

→ **Recommendation 1** - *Amend the Fish and Game Code section 1657 to extend the sunset date of the HREA to January 1, 2027, with additional fee authority that enables CDFW to recover revenue commensurate with costs based on the experience over the past five years.*

- **Conflicting definitions of restoration.**

Section 1651(b) defines a habitat restoration or enhancement project as "a project with the primary purpose of improving fish and wildlife habitat." In contrast, the SWRCB 401 SHRP Certification does not define a habitat restoration or enhancement project but states that "examples of habitat restoration projects may include but are not limited to:

- a. Revegetation of disturbed areas with native plant species
- b. Wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat
- c. Stream or river bank re-vegetation, the primary purpose of which is to improve habitat for amphibians or native fish
- d. Projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment
- e. 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
- f. Culvert replacement conducted in accordance with published guidelines of CDFW or the National Oceanic and Atmospheric Administration Fisheries, the primary purpose of which is to improve habitat or reduce sedimentation

The definition of a habitat restoration or enhancement project in the Fish and Game Code sometimes conflicts with the examples listed in the SWRCB 401 SHRP Certification. For example, stream or riverbank stabilization projects that reduce or eliminate erosion may protect property but do not necessarily improve fish and wildlife habitat. In cases where projects provided little or no benefits to habitat, and had deleterious effects to habitat in the project area or downstream, CDFW disagreed with the SWRCB determination that the project qualifies as a habitat restoration or enhancement project and subsequently denied HREA approval. As Regional Water Boards had already given notice that the 401 SHRP certification was applicable for these projects, this was not expected by project proponents.

Where these events occurred, CDFW and the Regional Water Boards are developing open lines of communication to better coordinate when project approval requests are received and encourage project proponents to request pre-consultation with both agencies. Project approval is most successful when the project proponent submits their draft notice of intent to CDFW for review and comments before submitting the document for Regional Water Board approval and when the Regional Water allows CDFW to review or comment on the draft notice of applicability.

While CDFW's HREA website contains a frequently asked questions document that encourages pre-consultation and identifies potential issues, some project proponents submit HREA approval requests without any consultation.

→ ***Recommendation 2*** - Promote pre-consultation and detailed project planning and engineering. This should include, but is not limited to, outreach and CDFW update of the approval request application and the HREA website.

- **Section 1653 technical reviews are at times incomplete.**

SWRCB and CDFW technical reviews serve differing missions. SWRCB review has not always included technical aspects that CDFW considers in project review. Important biological survey, engineering, or impact assessment may not be included in Regional Water Board review.

CDFW cannot deny a Section 1653 project on the basis that the project proponent has not provided additional information necessary for CDFW's review beyond that information expressly required by Section 1653. The limited ability for CDFW to request additional information during the Section 1653 review process results in missed opportunities to adequately condition projects and minimize impacts.

For example, aquatic connectivity projects would ideally be reviewed and accepted in advance by a CDFW or National Marine Fisheries Service engineer with fish passage expertise. However, because the Section 1653 process does not require fish passage engineering design review, it is possible that the Regional Water Board could unknowingly issue a notice of applicability for a fish passage project with design flaws, setting up a situation that could be difficult to resolve.

CDFW cannot accurately determine if species protection measures will avoid and minimize impacts if there are no biological surveys. CDFW has responsibility for all animals and plants in California, both aquatic and terrestrial. It is not uncommon for a restoration project benefitting aquatic species to have unforeseen impacts to nontarget terrestrial species, including some state-listed terrestrial species. CDFW can work with restoration project design teams to develop projects that strive to benefit as many species as possible while minimizing impacts to non-target sensitive species.

→ ***Recommendation 3*** - Amend the Fish and Game Code section 1653(b) to require appropriate biological surveys and engineering designs to be included in the list of documents that are required to be submitted with an HREA request.

- **HREA does not expressly enable CDFW to amend approvals.**

CDFW and project proponents have experienced the need to amend HREA approvals. As environmental conditions, personnel, permitting, or funding sources change, projects change as well. While statute does not expressly forbid amendments to HREA approvals, neither does it expressly allow for amendments. This could be interpreted to require new approval requests and full fees for changes to approved projects, resulting in project delays and the perception as punitive and unfair.

Wildfire and pandemic complexities have necessitated last minute changes. Project proponents undergoing CDFW's 30- or 60-day review process are withdrawing their approval requests in response to these situations. As these HREA approvals often rely on other permits or approvals such as 401 certification, those other approvals must be amended before the HREA approval request can be updated and finalized. This usually cannot be completed within the statutory time limit of the request. When a request must be withdrawn and subsequently resubmitted, a new application fee may also be required.

Additionally, Section 1653 approvals are dependent upon approvals from the Regional Water Board. These approvals come in the form of a notice of applicability. This suggests that an amendment to a Section 1653

approval would be dependent upon the Regional Water Board first amending the notice of applicability.

→ **Recommendation 4a** - Amend Fish and Game Code sections 1652 and 1653 to expressly enable amendment requests and section 1655(c) to expressly enable associated amendment fees.

- **HREA does not enable mutual agreement to extend CDFW review timelines.** Unlike section 1607 which allows for extension of time periods for lake or streambed alteration agreements by mutual agreement. This addition to the HREA would prevent project proponents from needing to submit a new application and possibly a new fee when there are project changes that cause delays.

Recommendation 4b - Amend the Fish and Game Code to add a new section to the HREA, section 1658, that enables the extension of CDFW timelines by mutual agreement.

- **Pressures to increase project size requirements.** HREA was established to streamline permitting for small projects with negligible impacts. One SWRCB eligibility requirement is that “the project size shall not exceed five acres or a cumulative total of 500 linear feet of stream bank or coastline.”

Interest has been expressed by agencies and project proponents to increase linear feet requirement or rely solely on the five-acre size requirement. Consider that most HREA projects involve actions along a narrow stream corridor, and for example five acres along a 40-foot wide stream corridor equates to 5,445 linear feet or more than one mile. CDFW would not consider this a “small” habitat restoration or enhancement project.

Even well-intentioned projects can have deleterious effects on a watershed or species. The truncated HREA timeline applied to a larger and likely more complex project becomes administrative relief at the expense of the resource when CDFW staff do not have sufficient time to consult with proponents and adequately analyze the project.

The majority of HREA projects affect threatened or endangered salmon species such as coho salmon. The National Oceanic and Atmospheric Administration (NOAA) expedites the approval of small habitat restoration projects that affect species listed under the federal Endangered Species Act through programmatic biological opinions (PBOs). One of the eligibility requirements is that stream dewatering for the project be limited to 1,000 linear feet. Projects in Southern California are further limited to 500 linear feet of stream dewatering. Projects exceeding these limits are too

large and complex to be approved under a PBO and require further review.

→ **Recommendation 5** – Any proposal that would expand eligibility to larger projects should also increase the review timelines and fees for those larger projects. This would be necessary to ensure effective review and project success, and to cover CDFW costs, as one size does not fit all.

Alternatively, the SWRCB could amend the 401 SHRP Certification to allow projects that do not exceed a 1,000 linear foot limit. This would align the state with NOAA's Programmatic Biological Opinion standard and remain consistent with a "small" habitat restoration or enhancement project designation.

- **Fee revenues do not cover the cost of implementing the program.**

HREA project review and approval costs exceeded the fee revenues. Fees were calculated in an amount necessary to maintain existing staffing levels of the LSA Program, which did not appropriately contemplate the total cost of the program or the costs needed to provide endangered, threatened or candidate species consultation.

→ **Recommendation 6** – Evaluate alternatives through the Department's Service Based Budgeting initiative to identify operational improvements to cover program implementation to minimize any potential fee increase, and only increase fees if necessary.