

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DIRECTOR'S OFFICE
POST OFFICE BOX 944209
SACRAMENTO, CA 94244-2090



**CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR
RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2023-017-R1**

Project: First Slough Fish Passage, Floodplain Restoration, and Coastal Habitat Connectivity Project
Location: Humboldt County
Lead Agency: City of Eureka
Lead Agency Contact: Cristin Kenyon, Principal Planner; Ckenyon@ci.eureka.ca.gov

Background

Project Location: The First Slough Fish Passage, Floodplain Restoration, and Coastal Habitat Connectivity Project (Project) is located within the urban boundaries of the City of Eureka (City) and along First Slough. First Slough is more broadly located in the Eureka Plain watershed, which encompasses all tributaries to Humboldt Bay. The Project spans 7.9 acres and occurs in four locations along the waterway. The first location will include floodplain and habitat restoration activities within the City's Cooper's Gulch Park. Three other locations will address fish passage barriers. The approximate locations within the Project are:

Location 1: Cooper's Gulch reach habitat improvements (40.79900, -124.153499)
Location 2: 14th Street Barrier removal & culvert replacement (40.79615, -124.15314)
Location 3: N Street Right of Way barrier removal & channel daylight (40.79446, -124.15521)
Location 4: M Street Right of Way barrier removal & culvert replacement
(40.79448, -124.15653)

Project Description: The City proposes to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend and to restore or provide habitat for California native fish and wildlife. The Project is designed to benefit coho salmon (*Oncorhynchus kisutch*) and other native fish species, including northern California steelhead (*Oncorhynchus mykiss irideus*) and coastal cutthroat trout (*Oncorhynchus clarkii clarkii*), and increase habitat quality and extent in the First Slough watershed. Currently, because of undersized urban culverts that prevent fish passage upstream into forested drainages within City limits, salmonids are limited to just the lower 0.6 miles of First Slough. By addressing these fish passage barriers, the Project will improve habitat connectivity to nearby First Slough brackish habitat and the Eureka Slough estuary.

This Project builds upon the recent completion of another substantial culvert replacement on First Slough, under Myrtle Avenue, that successfully removed a significant fish passage barrier. This Project is designed to address three other upstream fish passage barriers and will also include habitat enhancements that will involve placement of large wood structures, channel realignment, and the creation of alcoves.

The habitat enhancement activities at the Cooper Gulch reach will include realigning approximately 725 feet of channel, adding sinuosity and increasing the overall length by approximately 150 feet. Much of the existing channel will be left as is to convey local drainage and to minimize impacts to existing riparian wetland habitat. Large wood habitat structures will be placed within the existing channel to increase stream bed complexity, including refugia pools and cover. Additionally, three off-channel alcoves will be constructed to provide rearing habitat for fish and amphibians.

Upstream of the Cooper Gulch reach, three migration barriers will be removed by replacing and/or improving culverts at the 14th Street crossing, the M Street right of way, and the N Street right of way.

Interested Party and Tribal Coordination: The City has been actively coordinating with property owners in the Project area. Most of the Project area is in the public right-of way, but the City has needed to obtain permission from a few private landowners for access and large wood installation.

The Project was presented to the Eureka City Council on January 3, 2023, and included opportunity for public comment and questions. The Cooper Gulch Common Grounds, a neighborhood group for the area of the Project, was directly invited. Supportive comments for the Project were received and were included in the City of Eureka's SERP submittal.

Furthermore, a Cultural Resource Investigation Report (CRI Report) was prepared for the Project. Recommendations for standard inadvertent discovery protocols will be implemented by the City during construction. The City outreached to the Blue Lake Rancheria, Bear River Band of the Rohnerville Rancheria, and Wiyot Tribe on November 1, 2022, via a formal letter. Tribal Historic Preservation Officers from the Blue Lake Rancheria and the Wiyot Tribe responded. The City will implement recommendations from the Tribes regarding inadvertent discovery protocols and notifications during ground disturbing activities.

Anticipated Project Implementation Timeframe: Implementation year to be determined based on future grant funding award.

Lead Agency Request for CDFW Concurrence: On February 1, 2023, the California Department of Fish and Wildlife CDFW (CDFW) received a concurrence request from the City of Eureka (Lead Agency) pursuant to Public Resources Code section 21080.56, subdivision (e) (Request). The Request seeks the CDFW Director's concurrence with the Lead Agency's determination on January 31, 2023, that the Project meets certain qualifying criteria set forth in subdivisions (a) to (d), inclusive, of the same section of the Public Resources Code (Lead Agency Determination). The CDFW Director's concurrence is

required for the Lead Agency to approve the Project relying on this section of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

Concurrence Determination

The CDFW Director concurs with the Lead Agency Determination that the Project meets the qualifying criteria set forth in Public Resources Code section 21080.56, subdivisions (a) to (d), inclusive (Concurrence).

Specifically, the CDFW Director concurs with the Lead Agency that the Project meets all of the following conditions: (1) the Project is exclusively to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend; or is exclusively to restore or provide habitat for California native fish and wildlife; (2) the Project may have public benefits incidental to the Project's fundamental purpose; (3) the Project will result in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery; and includes procedures and ongoing management for the protection of the environment; and (4) Project construction activities are solely related to habitat restoration. Pursuant to Public Resources Code section 21080.56, subdivision (g), CDFW will post this Concurrence on its CEQA Notices and Documents internet page: <https://wildlife.ca.gov/Notices/CEQA>.

This Concurrence is based on best available science and supported, as described below, by substantial evidence in CDFW's administrative record of proceedings for the Project.

This Concurrence is also based on a finding that the Project is consistent with and that its implementation will further CDFW's mandate as California's trustee agency for fish and wildlife, including the responsibility to hold and manage these resources in trust for all the people of California.

Discussion

- A. Pursuant to Public Resources Code section 21080.56, subdivision (a), the CDFW Director concurs with the Lead Agency that the Project will exclusively conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend; or restore or provide habitat for California native fish and wildlife.

The Project will address known fish passage barriers and will also increase salmonid habitat quality and extent in the First Slough watershed, all of which are present constraints to salmonids and stream function, consistent with CDFW and National Oceanic and Atmospheric Administration (NOAA) recovery plans and recommended actions.

- B. Pursuant to Public Resources Code section 21080.56, subdivision (b), the CDFW Director concurs with the Lead Agency that the Project may have incidental public benefits, such as public access and recreation.

The Project may have incidental public recreation benefits. The Cooper Gulch reach of the Project is located in a popular public park, alongside an existing recreational trail, playing fields, a skate park, and disc golf course. As a result, park users who are visiting the park and who value the habitat enhancements may experience an improved aesthetic and/or wildlife-viewing incidental public recreational benefit.

The City will also incorporate signage at the park to communicate the restoration activities to the public. As a result, the Project may have an incidental public education benefit.

- C. Pursuant to Public Resources Code section 21080.56, subdivision (c), the CDFW Director concurs with the Lead Agency that the Project will result in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery, and includes procedures and ongoing management for the protection of the environment.

Long-term Net Benefits to Climate Resiliency:

The effects of changes in precipitation and runoff because of increasing global temperatures will affect Humboldt Bay, including Eureka Slough and its tributary, First Slough. Overall, climate change is anticipated to result in more intense storms, which may increase flood runoff, erosion potential, and flood depths. The culvert replacement activities of the Project will result in long-term net benefits to climate resiliency by improving hydraulics and reducing flooding risk, in addition to improving the overall fish, wildlife, and plant habitat within the Project area.

Also, the divide between brackish and freshwater habitat is currently located at the downstream boundary of the Project. With predicted sea level rise as a result of climate change, it is expected over a long period of time that brackish habitats could ultimately migrate upstream in First Slough. The Project is designed to address this migration by maximizing the amount of potential estuarine habitat in the Cooper Gulch reach by increasing the amount of aquatic habitat through channel reconfiguration and alcove configuration, thus protecting this critical ecotone for salmonids and resulting in further long-term benefits to climate resiliency into the foreseeable future.

Finally, salmonids are already affected by river temperature increases across the state. The Project is designed to enable future fish passage improvements to take place on First Slough to open one mile of upstream habitat currently blocked to salmonids. By removing fish barriers on First Slough and creating new off-channel habitats with groundwater connectivity, aquatic species are afforded additional options to find refugia habitat with cooler temperatures and adequate water. This Project helps aquatic species adapt to temperature and precipitation fluctuations in a changing climate through expanded habitat availability and quality.

Long-term Net Benefits to Biodiversity:

The Project will result in long-term net benefits to biodiversity by enhancing the riparian, instream, coastal, and floodplain habitat within the Cooper Gulch reach of the Project. The Project will accomplish this by the addition of large woody debris, alcoves, and channel modifications to increase floodplain. In addition to benefiting coho

salmon, the habitat enhancements are also designed to benefit steelhead and coast cutthroat trout.

Furthermore, as a result of the habitat improvements and culvert replacements the restoration measures of the Project may also benefit the northern red-legged frog (*Rana aurora*) and other amphibians. Native amphibians will benefit from the increase in quantity and quality of aquatic habitat, cover, and habitat diversity provided by large wood augmentation, removal of invasive botanical species, planting of native species, improved floodplain connectivity, channel daylighting, and restored passage through the two culverts at 14th Street and the M Street right of way. At present, the existing 14th Street culvert has no identifiable outlet and currently impedes amphibian passage.

The Project is also intended to restore the overall health of the First Slough watershed within the surrounding urban and rural areas and provide additional ecosystem services including shade, evaporative cooling, and pollinator habitat and refuge. The Project includes a revegetation strategy that involves removing invasive plants and revegetating the Project area with locally sourced and native Humboldt County plant species.

Long-term Net Benefits to Sensitive Species Recovery:

The Project is supported by federal and state fisheries recovery plans and will result in long-term net benefits to sensitive species by improving access and habitat quality for coho salmon and other sensitive aquatic species. The Project's restoration measures will directly benefit coho salmon and northern California steelhead. Coho salmon is listed as threatened under the California Endangered Species Act (CESA) from Punta Gorda (Humboldt County) to the northern border of California and threatened under the federal Endangered Species Act from Punta Gorda to Cape Blanco, Oregon. Northern California summer steelhead is listed as endangered under CESA, and a northern California Steelhead Distinct Population Segment is listed as endangered under the federal Endangered Species Act. The Project's benefits to these species will be realized across all life stages and could be most beneficial to natal and non-natal coho salmon winter and over-summer rearing habitat, especially given that coastal stream temperatures remain desirably cool even during summer months.

The Project is located within the range and may also benefit northern red-legged frog, a state species of special concern, by creating suitable long-term habitat.

Procedures for the Protection of the Environment:

The Project will implement multiple procedures in the form of best management practices and avoidance and minimization measures to protect sensitive species and the environment. The general construction season is proposed to be from June 15 to October 15, which will greatly reduce negative effects on water quality within First Slough. Sediment-laden water will be treated by filtration or placement in settling ponds. Additionally, fish and amphibians will be relocated prior to stream dewatering and restoration activities.

Ongoing Management for the Protection of the Environment

Ongoing management for the protection of the environment will be implemented. The Project has been designed to be self-sustaining based on the current designs and hydraulic modeling. The City will monitor, manage, and maintain the new culverts at 14th and M Streets. Vegetation monitoring and maintenance will occur post-project. Additionally, the City's General Plan will support long-term management of the Project area.

- D. Pursuant to Public Resources Code section 21080.56, subdivision (d), the CDFW Director concurs with the Lead Agency that the Project does not include any construction activities, except those solely related to habitat restoration. The Project-related construction activities described are all related to the overall goal of the Project to restore or enhance habitat in the Project area.

All Project construction activities are related to the protection, restoration, or enhancement of habitat in the Project area. Construction activities will include the following as part of the restoration Project:

- Clearing, grubbing, and tree removal – To clear channel realignment and off-channel habitat.
- Grading/Excavation – Throughout the Project area to achieve grade and dimensions to accommodate channel realignment and off-channel habitat.
- Paving – As required, to accommodate the watercourse-crossing/culvert improvements on paved roads.
- Installation of rock slope protection – In locations where concentrated stormwater discharge would occur or steep embankment slopes.
- Hauling – Transport of material to and from the Project area.


Scope and Reservation of Concurrence

This Concurrence is based on the proposed Project as described by the Lead Agency Determination and the Request. If there are any subsequent changes to the Project that affect or otherwise change the Lead Agency Determination, the Lead Agency, or any other public agency that proposes to carry out or approve the Project, shall submit a new lead agency determination and request for concurrence from CDFW pursuant to Public Resources Code section 21080.56. If any other public agency proposes to carry out or approve the Project subsequent to the effective date of this Concurrence, this Concurrence shall remain in effect and no separate concurrence from CDFW shall be required so long as the other public agency is carrying out or approving the Project as described by the Lead Agency Determination and the Request.

Other Legal Obligations

The Project shall remain subject to all other applicable federal, state, and local laws and regulations, and this Concurrence shall not weaken or violate any applicable environmental or public health standards. (Pub. Resources Code, § 21080.56, subd. (f).)

CDFW Director's Certification

By: 

Date: 5/30/23

Charlton H. Bonham, Director
California Department of Fish and Wildlife