

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. 21080.56-2023-042-R1**

Project: East Fork Mill Creek Floodplain Restoration Project
Location: Del Norte County
Lead Agency: California Department of Parks and Recreation
Lead Agency Contact: Shannon Dempsey; Shannon.Dempsey@parks.ca.gov

Background

Project Location: The East Fork Mill Creek Floodplain Restoration Project (Project) is located on East Fork Mill Creek, a tributary to Mill Creek, approximately six miles east-southeast of Crescent City, California, at latitude 41.725502 and longitude -124.075654. Access is 4.1 miles by road from Highway 101 along Hamilton Road and then 0.1 miles on Rock Creek Road at kilometer post 20.63.

Project Description: The California Department of Parks and Recreation (CDPR) 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 restore or provide habitat for California native fish and wildlife. The proposed Project is designed to restore process and ecological function across stream and floodplain habitat in East Fork Mill Creek and will benefit Coho Salmon (*Oncorhynchus kisutch*) and many other native fish and wildlife species. The Project includes removing the existing road and bridge, reoccupation of an abandoned roadbed, installing a new bridge, creating and connecting off-channel habitat, and installing large wood features.

The Project will implement designs developed to restore natural channel form, floodplain connectivity, and provide low velocity salmonid rearing habitat on the East Fork Mill Creek by relocating a stretch of Rock Creek Road and the Rock Creek Road Bridge. The existing East Fork Mill Creek crossing relies on a 550-foot-long levee with earthen fill that crosses a broad floodplain and dramatically constricts the flow of the creek to a confined channel where the road crosses at Rock Creek Road Bridge. The existing road directs streamflow into a straightened, simplified channel with minimal floodplain connectivity and little habitat complexity. Historic aerials of this reach taken before the current alignment show a broad floodplain, a natural meandering channel form, and multiple braided channels. The Project is designed to restore the floodplain by removing the existing Rock Creek Road Bridge and associated elevated roadbed, reoccupying an abandoned roadbed, and installing a new bridge 600 feet upstream of the existing crossing. The location of the proposed new crossing is at a natural constriction point in the floodplain, so all structural components of the new

bridge can be placed outside of the active channel and floodplain. The proposed new bridge will accommodate a 100-year flood, and the road realignment along a previously used logging roadbed re-establishes floodplain connectivity and utilizes the maximum amount of existing and historic roadbeds to minimize environmental impacts of moving the facility upstream.

The Project will connect the channel to a naturally wide, low-gradient, and low-elevation floodplain, and will thus significantly improve habitat for salmonids and other native species. By reconnecting the floodplain, the Project will also restore dynamic fluvial processes to the adjacent confluence of Kelly Creek. Additionally, the Project includes installation of at least 42 pieces of large wood with rootwads and minor floodplain recontouring to provide in-stream habitat that will increase habitat complexity and promote floodplain connectivity.

Tribal Engagement: During the design phase beginning in early 2021, the Project team conducted outreach and sought input from local tribes, including the Tolowa Dee-ni' Nation and Elk Valley Rancheria. Both tribes were invited to and attended meetings onsite and virtually throughout the design process, and in summer 2023 were notified about plans to restore the Project area in summer 2024. Furthermore, the Native American Heritage Commission has provided a contact list for the Project. The contacts were notified in summer 2023 and communication with these tribes is ongoing. Additionally, a Cultural Resources Inventory will be shared with the interested tribes when completed. Tribal monitoring will also be coordinated with local tribes during Project implementation.

Interested Party Coordination: The Project team has conducted outreach and sought input from state and federal agencies including the California Department of Fish and Wildlife (CDFW), the National Marine Fisheries Service, the North Coast Regional Water Quality Control Board, and the United States Army Corps of Engineers. Additionally, CDPR has engaged and collaborated with non-profit groups such as Save the Redwoods League and the Smith River Alliance.

Anticipated Project Implementation Timeframes:

Start date: February 2024

Completion date: December 2026

Lead Agency Request for CDFW Concurrence: On November 7, 2023, the Director of CDFW (CDFW Director) received a concurrence request from CDPR (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 November 7, 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.

This Project will restore and enhance in-stream, off-channel, and floodplain habitat in the East Fork Mill Creek, and will assist in the recovery of Coho Salmon in the Smith River watershed. The Project will remove a 511-foot stretch of Rock Creek Road and the existing Rock Creek Road Bridge and relocate these features upstream onto an existing and unutilized old roadbed, outside of the 100-year floodplain. Additionally, floodplain channels will be created, and large wood features will be installed across the Project site. The Project will enhance floodplain connection and in-channel complexity thus providing and supporting the creation of important rearing and spawning habitat for native salmonids.

- 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 relocated road may have incidental health and safety benefits by being farther out of the floodplain and will remain as a safe access route during increased storm events. In addition, this route will benefit access to important power lines for a disadvantaged community, improve access to remote areas during the event of fire, and support CDFW staff in watershed wide restoration initiatives, including monitoring and maintenance of the Project. Additionally, the Project may have incidental benefits to the local fishing and tourism industries that provide important jobs in Del Norte County. Because the Project supports recovery of salmonid species, these industries may realize benefit in the long term, as well.

- 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 Smith River basin will be affected by future changes in rainfall, streamflow, and air temperature due to climate change. These stressors are interrelated, with rainfall and air temperature affecting the volume and timing of streamflow patterns that is critical to salmonids. East Fork Mill Creek is an important stream within the Smith River watershed, as it provides cold summer rearing habitat, even in drought years. This Project is designed to maximize the area of productive freshwater habitat within the wettest coastal watershed in the State of California which will improve the long-term outlook for native species as climate conditions continue to change through time.

Long-term Net Benefits to Biodiversity: The Project will restore and enhance habitat for threatened Coho Salmon as well as all anadromous species in the Smith River basin including Chinook Salmon (*O. tshawytscha*), steelhead trout (*O. mykiss*), Coastal Cutthroat Trout (*O. clarkii clarkii*), and Pacific Lamprey (*Entosphenus tridentatus*). Other resident aquatic species documented in the Mill Creek basin that are expected to benefit from the Project include: northern red-legged frog (*Rana aurora*), foothill yellow-legged frog (*R. boylei*), northwestern salamander (*Ambystoma gracile*), rough-skinned newt (*Taricha granulosa*), western toad (*Anaxyrus boreas*), and coastal giant salamander (*Dicamptodon tenebrosus*). The natural channel processes will create a diversity of habitats throughout the Project site that can be utilized by various life stages of these fishes and amphibians. Finally, a diversity of plant taxa will benefit from the enhanced wetland and floodplain habitats, including Sensitive Natural Communities. Species documented on site that are expected to benefit from the Project include seaside bittercress (*Cardamine angulate*), Pacific golden saxifrage (*Chrysosplenium glechomifolium*), leafy-stemmed mitrewort (*Mitellastra caulescens*), Suksdorf's wood-sorrel (*Oxalis suksdorfii*), and nodding semaphore grass (*Pleuropogon refractus*).

Long-term Net Benefits to Sensitive Species Recovery: The Project will restore and enhance important off-channel and low velocity salmonid rearing habitat, which has been shown to increase juvenile salmonid carrying capacity during winter months. The Project will implement recovery actions for Coho Salmon identified in both federal and state recovery plans including restoring channel form and floodplain connectivity,

improving off-channel habitat to create refugia habitat, and improving instream wood recruitment.

Procedures for the Protection of the Environment: The Project includes procedures for the protection of the environment during Project implementation. A list of some of these procedures is shown below. In addition to these listed, implementation will follow all protective measures outlined in all necessary permits secured from state and federal agencies.

1. To avoid impacts to aquatic habitats the construction activities will be carried out in the summer dry season, likely after June 15th, and be completed by November 1st or the first significant rainfall, whichever comes first.
2. All staging/storage areas for equipment, materials, fuels, lubricants, and solvents, will be located outside of the stream's high-water channel and associated riparian area where it cannot enter the stream channel.
3. Stationary equipment such as motors, pumps, generators, compressors, and welders located within the dry portion of the stream channel or adjacent to the stream will be positioned over drip-pans.
4. Vehicles will be moved out of the normal high-water area of the stream prior to refueling and lubricating.
5. The number of access routes, number and size of staging areas, and the total area of the work site activity shall be limited to the minimum necessary to complete the restoration action while minimizing riparian disturbance without affecting less-stable areas.
6. The access and work area limits shall be identified with brightly colored flagging or fencing with particular emphasis on avoiding impacts to sensitive and rare plant species.
7. Any work within the stream channel shall be performed in isolation from the flowing stream, and erosion protection measures shall be in place before work begins.
8. Any turbid water pumped from the work site will be disposed of in an approved location that prevents turbid water from reentering the active channel.
9. Dewatering shall be coordinated with a qualified fisheries biologist to perform fish and wildlife relocation activities.
10. When bypassing streamflow around the work area, streamflow below the construction site shall be maintained similar to the unimpeded flow at all times.
11. Fish shall be excluded by blocking the stream channel above and below the work area with fine-meshed net or screen. The mesh size shall be no greater than 1/8-inch diameter, and the bottom edge of the net or screen shall be completely secured to the channel bed to prevent fish from reentering the work area.

Ongoing Management for the Protection of the Environment: The Mill Creek Watershed Plan outlines restoration, protection, and management actions for CDPR to conduct in line with this mission and to restore the health of the watershed, which was negatively impacted during past land management focused on timber operations under private ownership. Beginning in 2003, the entire Mill Creek watershed has been protected under state and federal ownership. Since that time CDPR has worked to stabilize sediment from old logging roads, remove fish barriers, and conduct forest recovery actions directed toward resilient late-seral conditions. Along with these

actions CDPR has conducted monitoring to assess Project progress and direct adaptive management. As with these past projects, this Project will continue to be managed and protected for environmental benefits and be monitored post-implementation to evaluate effectiveness and salmonid use of the enhanced and restored habitats. Monitoring will include continued annual winter spawner surveys in partnership with CDFW, and other Project specific monitoring through 2027 including winter juvenile salmonid sample surveys across the Project site, and hydrologic monitoring to evaluate inundation frequency and extent across the Project site.

- 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.

Without implementing the restoration activities of the Project, including the road and bridge relocation measures, the Project would not be able to effectively restore the Project site to provide the designed aquatic habitat improvements of enhanced instream and off-channel habitat and improved floodplain connectivity. Therefore, to enhance and restore habitat at the Project site, the road and bridge must be realigned to a previous existing road system.

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

Date: 
