

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DIRECTOR'S OFFICE
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**CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR
RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2023-047-R1**

Project: Battle Creek Salmon and Steelhead Restoration Project Phase 2
No Regrets

Location: Shasta and Tehama Counties

Lead Agency: State Water Resources Control Board

Lead Agency Contact: Savannah Downey; Savannah.Downey@waterboards.ca.gov

Background

Project Location: The Battle Creek Salmon and Steelhead Restoration Project Phase 2 No Regrets Project (Project) is located at South Fork Battle Creek, a tributary to the Sacramento River, in Shasta and Tehama Counties. The upstream Project limit is Angel Falls, and the downstream limit is the confluence of the Coleman Powerhouse tailrace channel and mainstem Battle Creek. The Project area is located on land owned by Pacific Gas and Electric Company (PG&E). The Project area spans 48 river miles.

Project Description: PG&E 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. This Project is the third component of a larger project called the Battle Creek Salmon and Steelhead Restoration Project and continues from phases 1A and 1B. Phase 1A, completed in 2013, included installation of a fish barrier to protect the Darrah Springs State Trout Hatchery from disease as well as fish screens and fish ladders at Battle Creek Hydroelectric Project dams on North Fork Battle Creek and its tributaries. Phase 1B, completed in 2012, involved construction of the Inskip penstock bypass and tailrace connector. This Project will build upon work previously completed during phases 1A and 1B and will involve removing four dams and one canal along South Fork Battle Creek. Once completed, the Project will, in addition to restoring the areas of impact and infrastructure removal, provide unimpaired access to approximately 42 miles of habitat in Battle Creek and an additional 6 miles of habitat in its tributaries to native fish and wildlife.

Specific Project activities will include removal of the Coleman Diversion Dam, Lower Ripley Creek Feeder Diversion Dam, Soap Creek Feeder Diversion Dam, and South Diversion Dam. The dams adversely impact river flow, geomorphic processes, fish passage, and limit habitat for aquatic resources. The South Canal will also be removed. The removal of the canal is expected to restore the land, within its footprint, to previous conditions. Approximately 6.3 ft of the canal's tunnels will be salvaged to provide roosting habitat for native bat species.

The dam structures will be removed to the existing streambed grade utilizing drilling and blasting equipment. Concrete materials will be removed from the site, except for the foundation key that will remain in place flush with the streambed. The metal canal flume sections along the South Canal will be disassembled and bundled for removal by helicopter. Spillway sections, feeder pipes, access walkways, stairways, and other miscellaneous metalwork also will be removed from the work sites and salvaged or disposed of offsite. The majority of the open channel canal will be backfilled using material excavated from the adjacent access road embankment. The road grade will be lowered, and the South Canal will be filled in a balanced cut-fill manner, creating a flat bench area with a slight cross slope for drainage purposes.

Dam materials not containing steel may be broken up into pieces no larger than 1 to 2 feet in diameter, hauled to the nearest South Canal open-channel site, and buried. These materials may be temporarily stockpiled until the South Canal open-channel sections are backfilled. Materials containing steel will be removed and disposed of offsite.

The Project will benefit anadromous fish including Sacramento winter-run Chinook salmon (*Oncorhynchus tshawytscha*), Central Valley spring-run Chinook salmon (*O. tshawytscha*), Central Valley fall-run/late-fall-run Chinook salmon (*O. tshawytscha*), and Central Valley steelhead (*O. mykiss irideus*) and other resident native fish. The restoration of a drought-resistant, spring-fed system like Battle Creek is important to winter-run and spring-run Chinook salmon and steelhead, which are dependent on cool water stream habitats. Historically, winter-run Chinook salmon populations occurred in Battle creek. The entire Battle Creek Salmon and Steelhead Restoration Project will assist in the recovery of the watershed by restoring drought resistant refugia available in the upper Sacramento River system for populations sensitive to drought conditions like winter-run and spring-run Chinook salmon.

Other species that will benefit from the Project include foothill yellow-legged frog (*Rana boylei*) and western pond turtle (*Emys marmorata*). Native birds and plant communities will also benefit from the Project. The Project will benefit plant communities by restoring the stream channel to pre-project conditions, which will provide additional riparian habitat. The Project will likely establish a more diverse riparian community, similar to the species composition present before the Project was built.

Tribal Engagement: Engagement has been conducted with the following tribes: Redding Rancheria, Berry Creek Rancheria, Enterprise Rancheria, Mooretown Rancheria, and Chico Band of Mechoopda Indians. Tribal engagement has involved over 30 separate communications via phone, email, and in-person meetings.

Interested Party Coordination: PG&E and U.S. Bureau of Reclamation (USBR) have been working with federal agencies, state agencies, nongovernmental organizations, and the public for input on the Project since 1999. These stakeholders include USBR, United States Environmental Protection Agency, Federal Energy Regulatory Commission, National Marine Fisheries Service (NMFS), United States Fish and Wildlife Service, California Bay-Delta Authority, California Department of Fish and Wildlife (CDFW), California Wildlife Conservation Board, State Water Resources Control Board (State Water Board), Battle Creek Watershed

Conservancy, Greater Battle Creek Watershed Working Group, and The Nature Conservancy.

Anticipated Project Implementation Timeframes:

Start date: May 2025

Completion date: September 2026

Lead Agency Request for CDFW Concurrence: On December 14, 2023, the Director of the California Department of Fish and Wildlife (CDFW Director) received a concurrence request from State Water Board (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 December 11, 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 purpose of the Project is exclusively to restore native fish and wildlife species by removing the dams and canal that impede movement by native aquatic species. By restoring fish passage to 48 miles of in-stream habitat, the Project will reconnect a sizable reach of South Fork Battle Creek that fish and other aquatic species had been prevented from accessing from downstream of the dams. As a result, the Project is expected to increase breeding, rearing, and foraging habitat for native fish and wildlife.

- 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 Project will include restoring and enhancing rainbow trout (*O. mykiss*) habitat, which could improve recreational fishing near the Project area. Additionally, the Project will restore the reach to a free-flowing stream, which may enhance the area's aesthetics. However, these benefits are not the purpose of the Project and are therefore incidental benefits only.

- 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 Project will provide climate resiliency by increasing access to suitable habitat higher in the watershed during droughts, as air and water temperatures increase due to climate change. Battle Creek is a cold-water spring-fed system that does not rely entirely on annual precipitation and has relatively consistent baseflows year-round, making it reliable habitat for temperature sensitive species. Restoring fish passage to the upper reaches of the Battle Creek watershed will provide additional opportunities for temperature-dependent anadromous species to persist in the face of climate change.

Long-term Net Benefits to Biodiversity: The Project will increase biodiversity by benefiting fish, amphibians, reptiles, bird species, and riparian plant communities. The Project will benefit anadromous fish and resident fish species by removing dams and reconnecting fish habitat and increasing the habitat quality, and as a result creating more breeding, rearing, and foraging habitat for fish.

The dam removals will allow for sediment passage and lateral migration of the stream channel, which can increase habitat complexity and connect the stream to historical floodplains. After the Project is completed, sediment that would otherwise be trapped behind the dams will be able to move and provide spawning habitat for downstream reaches. This increase in habitat complexity and breeding habitat will benefit not only fish species but amphibians and reptiles as well.

After South Diversion Dam is removed, a portion of the South Canal tunnel will be left in place and water will no longer run through it, which will provide more roosting habitat for cave-dwelling bats.

Finally, dams can inhibit nutrient mobilization and seed distribution necessary for plant communities. The dam removals will reconnect the stream to the floodplain and cause geomorphic changes due to increased sediment deposition which can increase native plant diversity in floodplains by providing new habitat. The Project will benefit plant communities by restoring the stream channel to pre-project conditions, which will provide additional riparian habitat. The Project is designed to establish a more diverse riparian community, similar to the species composition present before the Project was built.

Long-term Net Benefits to Sensitive Species Recovery: Currently anadromous salmonids are extirpated from South Fork Battle Creek. The Project is being designed to restore and enhance critical habitat to allow for recovery. The Project area will provide critical habitat for Central Valley spring-run Chinook salmon (listed as threatened under the federal Endangered Species Act (ESA) and California Endangered Species Act (CESA)) and Central Valley steelhead trout (listed as threatened under the federal ESA). The Project area also contains essential fish habitat for Sacramento winter-run Chinook salmon (listed as endangered under the federal ESA and CESA). Once the larger Battle Creek Restoration Project is complete, anadromous salmonids will have unimpeded access to these habitats, which will support spawning and juvenile rearing.

Dam removal can increase habitat complexity and, in turn, increase sensitive amphibian breeding habitat. By removing dams, the Project will allow increased sediment transport and deposition that will create breeding habitat for foothill yellow-legged frogs (California Species of Special Concern, United States Forest Service Sensitive Species, and United States Bureau of Land Management Sensitive Species). Stream restoration will create open river gravel bars and low-velocity shallow water habitat ideal for foothill yellow-legged frog tadpoles and juvenile western pond turtle rearing (California Species of Special Concern, United States Forest Service Sensitive Species, and United States Bureau of Land Management Sensitive Species).

Procedures for the Protection of the Environment: The Project includes mitigation measures for the protection of the environment that focus on construction impacts (e.g., nesting raptor buffers, biological monitors, erosion and sedimentation controls, and hazardous materials storage protocols). These include mitigation measures for the following environmental resources: fish; botanical, wetland, and wildlife resources

(e.g., amphibians, reptiles, birds, bats); geology and soils; water quality; groundwater; cultural resources; recreation; aesthetics; noise; air quality; and public health and safety.

Additionally, the State Water Board's 401 Water Quality Certification permit will include conditions for the protection of water quality and beneficial uses. These conditions will include protection measures during construction. Beneficial uses of the South Fork Battle Creek include irrigation, stock watering, power generation, contact recreation, (canoeing and rafting), non-contact recreation, warm freshwater habitat, cold freshwater habitat, cold freshwater migration, warm freshwater spawning, cold freshwater spawning, and wildlife habitat.

Ongoing Management for the Protection of the Environment: The Project will follow an adaptive management plan that was created in partnership with PG&E, USBR, NMFS, USWFS, and CDFW titled Draft Battle Creek Salmon and Steelhead Restoration Project Adaptive Management Plan (AMP). The AMP details long-term monitoring after Project implementation to assess Project impacts to salmonids and their habitat. The AMP describes monitoring for population characteristics, habitat quantity, water temperature, false attraction, fish stranding, fish passage, sediment, riparian habitat, juvenile fish rearing habitat, cold-water refuges, salmonid life histories, and fisheries community structure.

- 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's use of heavy equipment is exclusively for habitat restoration purposes, and will be used to remove four dams, adjacent infrastructure, sediment behind the dams, and the South Canal.

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: 1/26/24 _____

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