

COHO HELP ACT

Project Request Process and Instructions

On January 1, 2013, the Coho Salmon Habitat Enhancement Leading to Preservation Act (“Coho HELP Act” or “act”) went into effect. The Coho HELP Act (Fish and Game Code section 6950, et seq.) allows persons, public agencies, and nonprofit organizations to request approval from the Department of Fish and Wildlife for coho salmon habitat enhancement projects in lieu of any other Department permit, license, or approval the project proponent would otherwise need to obtain. Such approvals include, but are not limited to, an incidental take permit under the California Endangered Species Act (Fish and Game Code section 6950 et seq.) and a lake or streambed alteration agreement under Fish and Game Code section 1600 et seq.

PART 1: REQUEST REQUIREMENT

To obtain approval by the Department for a coho salmon habitat enhancement project (project) under the act, the project proponent, or a natural person acting on behalf of the proponent, must submit a written request to the Department that contains all the information the act requires; the project must meet the definition of “coho salmon habitat enhancement project”; and the project must meet certain substantive requirements. The Department recommends all project proponents to consult with Department staff in the region where the project will occur or with Mary Olswang in the Department’s Fisheries Branch at (916) 445-7633 or mary.olswang@wildlife.ca.gov.

To request Department approval for your project, complete the following steps:

Step 1: Fill out the Coho HELP Act Project Request Form (DFW 739 (New 1/13)). See Part II for instructions to complete the request form.

Note: *You may only include one project in the request form. “Project” means either of the following: 1) a single project type (i.e., fish passage, streambank restoration, or wood placement) in a single location (e.g., between river mile 10 and 10.5); or 2) the same project type or more than one project type at different locations, **provided** the individual project types that together comprise the project (as a whole) are interrelated, located in or adjacent to the same river or stream, and in reasonable proximity to each other.*

Step 2: Determine the fee you will need to submit with the request form by referring to the current fee schedule (below).

Step 3: Submit a copy of the request form and all enclosures, and the fee to:

Coho HELP Program
California Department of Fish and Wildlife
Fisheries Branch
830 S Street
Sacramento, CA 95811

PART II: INSTRUCTIONS FOR COMPLETING REQUEST FORM

The Department will not process your request until it determines it is complete. For the request to be complete, you must:

- 1) Complete all fields in the form, whether on the form itself or on separate pages where required, in accordance with the instructions below.
- 2) The request must include all the information specified in Fish and Game Code section 6953, subdivision (e), including, but not limited to, a full description of how the project will result in a net benefit to coho salmon.
- 3) Provide as much detail as possible so the Department can properly evaluate the project to determine whether it meets the requirements for approval in the act.
- 4) Number and submit all pages and other enclosures and the fee with the form.
- 5) Ensure that all the information you provide, whether on the form or on separate pages or other enclosures, is legible.
- 6) Enclose all necessary access agreements, as explained in the instructions for box 13 below.
- 7) Sign the form.

Instructions to complete the form are outlined below.

1. Applicant Proposing Project

Complete all fields in this box. For the purpose of the form, “applicant” is defined as the person, public agency, or non-profit organization proposing the project, and “person” is defined as “any natural person or any partnership, corporation, limited liability company, trust, or other type of association in accordance with Fish and Game Code section 67.

2. Contact Person

Complete all fields in this box **only** if the contact person is different from the applicant.

3. Property Owner

Complete all fields in this box **only** if the owner of the property where the project will take place is different from the applicant. If the project will take place on multiple properties with different owners, identify all other owners on a separate page under the heading, “3. Property Owner.”

4. Project Name and Term

a. Project Name

Provide the project name or title. If the project does not have a formal name or title, use a name that best describes the project. For example, if the project is the replacement of a culvert on the Smith property, you might name the project “Culvert Replacement Project on Smith Property.”

b. Term Requested

Specify the year the project will begin and the year the project will end.

Note: Fish and Game section 6953, subdivision (a)(4), requires all phases of the project to be completed within 5 years from the date the Department approves the project.

c. Seasonal Work Period

Specify the time period (months, days, and years) you intend to work on the project and the number of days of actual work that will be needed to complete the project. If the work period will exceed one year, specify the time periods for each year of the project in the boxes (e.g., Start date (mm/dd/yyyy): 08/01/2013 to End date (mm/dd/yyyy): 10/15/2013). This should be consistent with 4.b. above.

Note: Work periods are seasonally restricted to minimize adverse impacts to fish and wildlife resources and to protect the physical environment upon which these resources are dependent. Work period measures also guard against impacts to water quality and critical life-stages of aquatic and terrestrial biota. This includes, but is not limited to, the spawning of fish, nesting of birds, and recruitment of riparian vegetation. If variances in work periods are allowed they need to be evaluated primarily for the potential of any biological impacts. Protocol for work period variances or the allowances thereof, are determined regionally. Regional offices/staff should have the specifics for each region.

5. Fees

Identify the project cost and project fee in the corresponding boxes. Calculate the fee based on the project cost using the following fee schedule:

- \$224.00 if the project costs less than \$5,000.
- \$280.25 if the project costs from \$5,000 to less than \$10,000.
- \$560.25 if the project costs from \$10,000 to less than \$25,000.
- \$840.25 if the project costs from \$25,000 to less than \$100,000.
- \$1,233.25 if the project costs from \$100,000 to less than \$200,000.
- \$1,673.00 if the project costs from \$200,000 to less than \$350,000.
- \$2,521.50 if the project costs from \$350,000 to less than \$500,000.
- \$4,482.75 if the project costs \$500,000 or more.

The Department will not process your request unless you include the fee. The fee must be paid in the form of a check payable to “California Department of Fish and Wildlife.”

6. Project Type

Identify the type of project you are proposing by checking the applicable box(es). The Department will deny your request if the project does not qualify under the act, as described below.

Under Fish and Game Code section 6952, subdivision (b), in order to qualify under the Coho HELP Act, your project must be a restoration project in a region described in an adopted state or federal coho salmon recovery plan as defined under the act in Fish and Game Code section 6952, subdivision (c), with the primary purpose of accomplishing one or more of the following:

a. Fish Passage

The removal of a road crossing and/or the replacement of a culvert either of which prevents, impedes, or tends to prevent or impede the passing of fish up and down stream.

b. Streambank Restoration

The restoration of eroded or denuded streambanks using predominantly nonrock bioengineering practices and revegetating stream corridors with native riparian species. The focus of the restoration must be on promoting tree establishment along the active channel and on streambanks for the purposes of bank stabilization, bank development, and live wood complexity.

c. Wood Placement

Wood placement that benefits naturally reproducing fish stocks by creating or enhancing fish habitat and/or increasing stream complexity.

7. Project Location

a. Address or description of project location

On a separate page under the heading, “7. Project Location,” provide the street address where the project will take place (describe the location if there is no street address) and driving directions from the nearest major road or highway, known landmarks, access roads, and any other information that would allow a person not familiar with the area to find the project site. Enclose a map that clearly identifies the project location and denotes a north arrow and map scale.

b. Latitude, longitude

Provide latitude and longitude in decimal degrees NAD83 of the property where the project will be located. Latitude and longitude information can be obtained using a Global Positioning System (GPS) or Google earth (e.g., 40.38490, -122.56890).

Note: If your project will occupy more than one location, provide the information described in the instructions above for boxes 7.a. and 7.b. for each location.

c. Stream name

Provide the name of the river or stream in which or near where the project will take place. If the watercourse is not named, please write “unnamed tributary” in the box.

d. Tributary to

Provide the name of the watercourse or water body to which the river or stream specified in box 7.c. is tributary.

e. Wild and Scenic Rivers

Check the applicable box to specify whether or not the river or stream segment where the project is located is designated (wild, scenic, or recreational) in the state or federal Wild and Scenic River Act (WRSA). The state WRSA is Public Resources Code section 5093.5 et seq. and is available at <http://www.leginfo.ca.gov/calaw.html>. The federal WRSA is United States Code section 1271 et seq. and is available at <http://uscode.house.gov/download/pls/16C28.txt>.

Note: Your project might not be approved if it is inconsistent with the state or federal WRSA.

f. County

Provide the name of the county where the project will take place.

8. Project Description

Provide a full description of the project on a separate page or separate pages **with page numbers** under the heading, “**8. Project Description.**” In accordance with Fish and Game Code section 6953, subdivision (e)(2), you must provide a full description of the project and include the following information:

- Describe the need for the project, the tools used to measure and quantify the need (e.g., habitat surveys), and how you plan to address the need.
- Enclose color photographs of the project site, at least 4” by 6” in size, including photographs of the water crossing(s) to be removed or replaced, the streambank(s) to be restored, and the locations where wood will be placed that demonstrate the need for the project. Each photograph must include a descriptive title, date taken, photographic site, and photographic orientation.
- The restoration or enhancement methods that will be used or employed. Include drawings, engineer plans, and/or designs from the restoration manual or other peer-reviewed sources.
- An estimate of temporary restoration or enhancement-related disturbance.
- The project implementation and monitoring schedule.
- Where (by page number and/or section) in an adopted state or federal coho salmon recovery plan the project is described and an explanation of how the project will result in a net benefit to coho salmon and other affected species.
- Provide a copy of the Monitoring Plan submitted to the State Water Resources Control Board (State Water Board) and/or the appropriate Regional Water Quality Control Board with the Notice of Intent (NOI) to discharge in compliance with the terms and conditions of the State Water Board’s Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects (Order) for the project. If a NOI has not been submitted for the project, you must submit a separate monitoring plan that meets the Monitoring Plan and Monitoring Report requirements in sections B.4 and B.5 in the State Water Board’s Order.

Note: Under Fish and Game Code section 6953, subdivision (a)(1), your project must be consistent with “fish passage guidelines” and “coho salmon recovery plans,” both as defined in Fish and Game Code section 6952, subdivisions (c) and (d), under the act. In regard to the Department’s Salmonid Stream Habitat

Restoration Manual,¹ if your project addresses fish passage, refer to Part IX (for evaluation) and Part XII (for design) in the manual. If your project addresses streambank restoration and revegetation, refer to Parts VII and XI of the manual. If your project is a wood placement project, refer to Part VII of the manual. Current guidelines and plans are available on the Department's Coho HELP Act web page at www.dfg.ca.gov/fish/Resources/Coho/HELP.

In addition to the above information, you will need to provide the following information:

- If your project is **fish passage** project, you must provide engineering designs acceptable to a Department engineer.
- If your project is a **streambank restoration** project, you may need to provide landscape architectural or engineering designs acceptable to a Department engineer depending on the size and scope of the project.
- If your project is a **wood placement** project, review by a Department engineer may be required on a case-by-case basis.

All required engineering designs must include the information specified in the “Fisheries Engineering Review Checklist for Coho HELP Act Projects” attached to these instructions as Attachment A and available on the Department's Coho HELP Act web page at www.dfg.ca.gov/fish/Resources/Coho/HELP.

9. Project Area Assessment

Provide an assessment of the project area on a separate page or separate pages **with page numbers** under the heading, “**9. Project Area Assessment.**”

In accordance with Fish and Game Code section 6953, subdivision (e)(4), you must provide the information below.

- An assessment of the project area that describes the existing flora and fauna and the potential presence of sensitive species or habitat. A search on the California Natural Diversity Database (CNDDDB) may be adequate in determining whether or not the project area contains sensitive species. The CNDDDB is available on the Department's Coho HELP Act web page at www.dfg.ca.gov/fish/Resources/Coho/HELP. However, additional surveys may be needed on a case-by-case basis.
- A determination on whether or not the project could adversely affect the existing flora and fauna within the project area.

¹Fish and Game Code section 6952, subdivision (d), incorrectly identifies the manual as the “Coho Salmon Stream Restoration Manual.” The correct title is the “Salmonid Stream Habitat Restoration Manual, 4th edition.”

“Sensitive species” includes any species that meets the definition of “endangered, rare, or threatened species” under section 15380 in the Guidelines for the California Environmental Quality Act (CEQA Guidelines) (Cal. Code Regs., tit. 14, § 15380). This definition and all other definitions in the CEQA Guidelines are available at http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art20.html.

10. Environmental Protection Measures

Provide a full description of all environmental protection measures that have been incorporated into the project design on a separate page or separate pages **with page numbers** under the heading, “**10. Environmental Protection Measures.**”

In accordance with Fish and Game Code section 6953, subdivision (e)(5), you must describe environmental protection measures that have been incorporated into the project design to ensure that the project has no potential to cause a “significant effect on the environment,” as defined in CEQA Guidelines section 15382 (Cal. Code Regs., tit. 14, § 15382). Environmental protection measures include, but are not limited to, measures to avoid and minimize impacts to water quality and species protected by state or federal law, such as seasonal work restrictions and measures to avoid the spread of invasive species, and similar measures from federal biological opinions and the Department’s Salmonid Stream Habitat Restoration Manual, 4th edition.

11. Supporting Documentation

In accordance with Fish and Game Code section 6953, subdivision (e)(6), on a separate page or separate pages **with page numbers** under the heading, “**11. Supporting Documentation,**” provide the Department “substantial evidence,” as defined CEQA Guidelines section 15384 (Cal. Code Regs., tit. 14, § 15384), to support a conclusion that the project meets the criteria set forth Fish and Game Code section 6953 under the act, specifically the following:

- The project will maintain existing levels of human health and safety protection, including, but not limited to, flood protection.
- The project is consistent with the fish passage guidelines and coho salmon recovery plans, as defined in Fish and Game Code section 6952, subdivisions (c) and (d), respectively, under the act. Current state and federal recovery plans for coho salmon are available on the Department’s Coho HELP Act web page at: www.dfg.ca.gov/fish/Resources/Coho/HELP . Substantial evidence to support this conclusion must include relevant design criteria and environmental protection measures that are set forth in the applicable

guidelines and plans, and also include section and page numbers in the guidelines and plans for reference.

- The primary purpose of the project is voluntary restoration. Signing the certification in box 14 will serve as substantial evidence that the project meets this criterion.
- The project is no larger than five acres or 500 linear feet in size, measured by calculating the direct area of impact.
- Completion of all phases of the project will not exceed five years.
- The project will not result in a “cumulative impact” or “significant effect on the environment,” as defined in CEQA Guidelines sections 15355 and 15382, respectively (Cal. Code Regs., tit. 14, §§ 15355, 15382).

Please provide any documents that support the conclusion that the project meets the criteria set forth Fish and Game Code section 6953 under the act on a compact disc with the request.

12. Permits

Please indicate whether a “Notice of Intent to Comply with the Terms of General 401 Water Quality Certification Order for Small Habitat Restoration Projects, Order Number: SB12006GN” has been filed with the State Water Resources Control Board for the project, by checking the applicable box. The order is available on the Department’s Coho HELP Act web page at www.dfg.ca.gov/fish/Resources/Coho/HELP. If a notice has been filed, please submit a copy of the notice and all attachments and enclosures with the form. Also identify other local, state, or federal permits that must be obtained for the project, if any, and submit with the form copies of any permits that have been issued. Submittals under this section may be provided on a compact disc with your request.

13. Access

The Department cannot approve your project unless Department staff can evaluate and monitor the project and project location(s) by accessing the project location before, during, and after completion of the project. To ensure such access, you must submit with the form a fully executed agreement (or agreements if multiple properties are involved) similar to the examples attached to these instructions as Attachment B1 (where the landowner and applicant are different) and or Attachment B2 (where the landowner and applicant are the same), or some other writing that demonstrates to the Department’s satisfaction at its sole discretion that Department staff will be allowed to traverse any private lands necessary to reach the project location(s) and to enter the location(s) after reasonable notice to the landowner.

14. Certification

If the applicant is a natural person, he or she must sign and date the certification. If a contact person or someone other than the applicant signs and dates the certification, the Department will deem the request incomplete and return it. If the applicant is not a natural person, an authorized representative must sign and date the certification.

PART III: PROCESSING YOUR REQUEST

After the Department receives your request, it will decide whether to deny or approve your request within 60 calendar days of receipt of a complete request, in accordance with the procedure described below.

Upon receipt, the Department will determine whether or not the request is complete. If the Department determines it is not complete, it will return the request to the applicant or contact person, if applicable, specifying the reason(s) the request is incomplete. If the request is incomplete because it is lacking or missing information or materials, the Department will identify the information or materials that will need to be submitted to the Department to make the request complete.

The Department will deem a request incomplete if:

- One or more of the required fields on the form is blank or incomplete.
- The information specified in Fish and Game Code section 6953, subdivision (e), **and** these instructions is missing or insufficient for the Department to properly evaluate the project.
- The fee is missing.
- The Department cannot evaluate the project because the information provided, whether on the form or on separate pages or other enclosures, is not legible.
- All necessary access agreements are not included with the form, or the Department determines the agreement(s) are not acceptable or insufficient.
- The form is not signed and dated, or the person who signed the form is not the proper signatory.
- For any other reasons consistent with the act that makes it impossible for the Department to properly evaluate the project.

After the Department receives a complete request, it will assign the request to staff who will then evaluate the project to determine it qualifies under the act and should be approved in accordance with Fish and Game Code section 6953, subdivision (a), and the instructions in Part II. If the Department approves the project, the project will be subject to the suspension and revocation provisions in Fish and Game Code section 6953, subdivision (f), under the act.

This document, the request form, all attachments mentioned herein, and other materials that relate to the Coho HELP Act are available on the Department's Coho HELP Act web page at www.dfg.ca.gov/fish/Resources/Coho/HELP.