

Attachment to Notice of Exemption

The project associated with application A033395 (Application Project) is part of the San Mateo Resource Conservation District's (RCD) Butano Creek Backfield Floodplain and Streamflow Enhancement Project (Backfield Project). On June 6, 2022 the California Department of Fish and Wildlife (CDFW) Director concurred with the RCD's determination as Lead Agency that the Backfield Project meets the qualifying criteria set forth in [Public Resources Code section 21080.56](#), subdivisions (a) to (d), inclusive (Concurrence). The Concurrence is included as Appendix A to this document.

The Backfield Project will conserve, restore, protect, or enhance and assist in the recovery of California native fish and wildlife, and the habitat on which they depend. This project includes floodplain reconnection and flow enhancement component, both of which will have direct and indirect benefits to instream and adjacent floodplain and terrestrial habitats.

The Application Project is a component of the larger Backfield Project. The following provides a brief description of the Application Project and an explanation for why the project has qualified for the Statutory Exemption for Restoration Projects (SERP).

Project Description

The RCD designed the Backfield Project to benefit Central California Coast coho salmon, Central California Coast steelhead trout, California red-legged frog, San Francisco garter snake, and other native species as well as implement recommendations from the Pescadero-Butano Sediment Total Maximum Daily Load (TMDL). The Backfield Project includes floodplain reconnection and flow enhancement components, both of which will have direct and indirect benefits to instream and adjacent floodplain and terrestrial habitats.

The Application Project fulfills the Backfield Project's second objective, which is to increase dry-season (June-October) flows in Butano Creek. Restoring flow during this critical window and meeting the farm's existing irrigation needs requires a substantial change in water diversion practices from the present regime, which relies on dry-season withdrawals, to one requiring only wet-season withdrawals by improving water storage for subsequent dry-season irrigation. With implementation of the Application Project, dry-season diversions will no longer occur. The Application Project will facilitate this transition by expanding capacity at an existing off-channel storage pond, from 5.2 to 13 acre-feet, and establishing a forbearance agreement that institutes this new regime. The Application Project will reduce instantaneous diversion rates by 0.22 cubic feet per second from April to May and 0.51 cubic feet per second from June to October, returning an estimated 2 acre-feet of water to the stream each month and increasing dry-season flows by 124 percent.

Statutory Exemption for Restoration Projects (SERP)

The Backfield Project meets the qualifying criteria set forth in Public Resources Code section 21080.56, subdivisions (a) to (d): (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. The project is consistent with and 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.

The Application Project is a component of the Backfield Project. As described in CDFW's Concurrence for the Backfield Project, if any public agency other than the RCD proposes to carry out or approve the Backfield Project, subsequent to this CDFW 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 Backfield Project as described by the RCD's Lead Agency Determination and the request for concurrence submitted to CDFW on April 15, 2022, and no Project changes or changes in condition could affect that Lead Agency Determination.

The Application Project (1) is consistent with the Backfield Project described in the RCD's Lead Agency Determination and the request for concurrence submitted to CDFW on April 15, 2022 and (2) will not result in any Backfield Project changes or changes in condition that could affect the RCD's Lead Agency Determination. Therefore, CDFW's June 20, 2022 Concurrence remains in effect for the Application Project.

Appendix A

CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR
RESTORATION PROJECTS

CONCURRENCE NO. 21080.56-2022-005-R3

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
DIRECTOR'S OFFICE
POST OFFICE BOX 944209
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**CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTORY EXEMPTION FOR
RESTORATION PROJECTS
CONCURRENCE NO. 21080.56-2022-005-R3**

Project: Butano Creek Backfield Floodplain and Streamflow Enhancement Project
Location: San Mateo County
Lead Agency: San Mateo Resource Conservation District
Lead Agency Contact: Jarrad Fisher, Senior Program Manager, jarrad@sanmateorcd.org

Background

Project Location: The Butano Creek Backfield Floodplain and Streamflow Enhancement Project (Project) is located along Butano Creek in Pescadero, San Mateo County, California, at 37°14'13.55" N and 122°22'43.23" W, on an actively farmed property owned by the Peninsula Open Space Trust (POST). The Project is part of a larger, coordinated effort to improve flow, connectivity, and both instream and floodplain habitat conditions within the Pescadero-Butano watershed, and builds upon recent floodplain reconnection and flow improvement projects that were implemented at downstream parcels and points of diversion. The Project site encompasses 4.2 acres of disconnected floodplain and 1,800 feet of stream channel and is expected to provide instream flow benefits that extend more than 4 miles downstream to Pescadero Marsh. The Project site is located within a watershed identified as a high priority for the protection and recovery of state- and federally protected salmonids.

Project Description: San Mateo Resource Conservation District (SMRCD) 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. The Project is designed to benefit Central California Coast coho salmon (*Oncorhynchus kisutch*) and Central California Coast steelhead trout (*Oncorhynchus mykiss*) and will also benefit other special-status species, including California red-legged frog (*Rana draytonii*) and San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).

The Project includes floodplain reconnection and flow enhancement components, both of which will have direct and indirect benefits to instream and adjacent floodplain and terrestrial habitats. First, the Project will create 4.2 acres of stage zero floodplain by lowering the current floodplain surface by as much as several feet, allowing the stream to access the lowered floodplain during winter baseflow conditions. This improved connection will also increase the stream's access to an additional 100 acres of historic floodplain, providing access 2.5 times as frequently as current conditions allow and offering low velocity aquatic

habitat for juvenile coho salmon and steelhead. More frequent inundation of Butano Creek's floodplain environment will also enhance adjacent wetlands and is expected to benefit special-status herptiles.

In addition to restoring floodplain connection, the Project design includes the placement of 15 to 20 habitat structures (roughness elements) within the newly created floodplain surface and adds in-channel habitat features, including one engineered logjam and several post-assisted log structures/living riffles. Additionally, the native vegetation that is removed during floodplain grading will be reused in planting, except for senescent alders which will be used to add roughness in select bank and floodplain areas. Together, these features will increase habitat complexity, disperse energy during high flows, help reverse channel incision, and restore geomorphic processes such as aggradation and floodplain storage of sediment.

The Project's second objective is to increase dry-season (June-October) flows in Butano Creek. Restoring flow during this critical window and meeting the farm's existing irrigation needs requires a substantial change in water diversion practices, from the present regime, which relies on dry-season withdrawals, to one requiring wet-season withdrawals only by improving water storage for subsequent dry-season irrigation. With implementation of the Project, dry-season diversions will no longer occur. The Project will facilitate this transition by expanding capacity at an existing off-channel storage pond, from 5.2 to 13 acre-feet, and establishing a forbearance agreement that institutes this new regime. The Project will reduce instantaneous diversion rates by 0.22 cubic feet per second from April to May and 0.51 cubic feet per second from June to October, returning an estimated 2 acre-feet of water to the stream each month and increasing dry-season flows by 124 percent. The flow benefits resulting from the Project will be realized all the way to the stream's terminus at Pescadero Marsh. The two known active diversions on Butano Creek downstream of the Project site both have storage ponds and diversion seasons of December 1 to April 1 and December 1 to June 1, respectively. The Project's flow enhancement benefits will be ensured into the future via a 20-year (or longer) forbearance agreement that will be signed by the Project site landowner, SMRCD, and Trout Unlimited before Project implementation. That forbearance agreement will be registered with San Mateo County and recorded against the Project site property.

Stakeholder and Tribal Coordination: In the preceding year, Project proponents conducted extensive outreach to neighboring landowners, resource management agencies (including the California Department of Fish and Wildlife [CDFW]), and the Association of Ramaytush Ohlone, sharing Project designs and related documents at different stages of development. To date, no issues have been identified through this outreach. Project proponents have committed to further engagement with the Association of Ramaytush Ohlone and contracted an archaeological/cultural resources consultant to conduct a cultural resources investigation within the area of potential effect. Project proponents will also conduct outreach to Native American groups identified on a Sacred Lands File requested from the Native American Heritage Commission.

Anticipated Project Implementation Timeframes:

Start date: September 2022
Completion date: October 2023¹

Lead Agency Request for CDFW Concurrence: On April 15, 2022, the Director of the CDFW received a concurrence request from the San Mateo Resource Conservation District (Lead Agency) pursuant to Public Resources Code section 21080.56, subdivision (e). The request seeks the CDFW Director's concurrence with the Lead Agency's determination on April 15, 2022, 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, CDFW 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>.

The CDFW Director's 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.

The Director's determination 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 restore and

¹ Project proponents are currently seeking implementation funding, dates are approximate. Depending on resources, an additional three years of monitoring and adaptive management may be included.

enhance habitat for native fish and wildlife. The Project includes floodplain reconnection, in-channel and floodplain habitat restoration, and flow enhancement components, which will address current habitat limitations for coho salmon and steelhead within the high-priority Pescadero-Butano watershed. Notably, this watershed is just one of three that may be capable of supporting an independent population of endangered coho salmon south of the Golden Gate, the contemporary southern extent of the species' range. The watershed is similarly critical to the protection and recovery of steelhead within the Central California Coast distinct population segment. Both species will benefit from the Project's efforts to improve summer flow conditions, create newly accessible floodplain refugia that can be used during the winter high-flow months, create in-channel habitat complexity, and promote natural habitat-forming processes. The Project will have tangential benefits for other sensitive species, such as San Francisco garter snake and California red-legged frog, owing to the establishment of more frequently inundated, complex, and productive aquatic and floodplain environments, as well as the localized increase in habitat diversity.

- 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. The Project is located on private land, where the landowner operates a small organic farm. The expanded off-channel storage pond may improve water availability during the dry season without the need for the landowner to divert water from the stream during the dry season. In addition, the Project will dispose of excavated floodplain soils on an existing farm field, avoiding the costs and potential impacts of offsite fill disposal. The downstream community may additionally benefit from greater flood attenuation resulting from the increase in floodplain capacity within Butano Creek. However, all these benefits are incidental to the Project's restoration objectives.
- 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 create net benefits to the climate resiliency of both the habitats within and species dependent on Butano Creek. Namely, reconnecting the stream with its floodplain, along with the installation of in-channel and floodplain roughness elements, will help attenuate anticipated high flows, disperse energy, and promote both aggradation and the restoration of habitat-forming processes. These Project functions will become increasingly important as high flows occur more frequently and at greater extremes in a changing climate. Similarly, as drought and low-flow conditions become an increasingly common feature of the region's climate, the Project's dry-season flow enhancement benefits will be increasingly vital to the climate resiliency of the stream and its biota. For example, maintaining a wetted channel through the dry season may allow fish to move between low flow refugia above and below the Project site and/or increase aquatic production supportive of the stream's food web.

Long-term net benefits to biodiversity: In addition to offering benefits for specific special-status species (see below) through its habitat and flow-enhancement actions, the Project will create long-term net benefits to biodiversity more generally through the creation of 4.2 acres of stage zero floodplain and, relatedly, by facilitating a greater inundation frequency at more than 100 additional acres of historic floodplain. Floodplain environments are among the most biologically diverse habitats globally and serve as an interface between aquatic and upland/terrestrial environments. Given this, as well as the contribution of newly created and enhanced floodplain habitats to a larger-scale habitat mosaic, the Project is expected to have clear long-term benefits to biodiversity.

Long-term net benefits to sensitive species recovery: The Project's primary emphasis is to create and enhance habitat, including augmenting dry-season flows, for two state- and federally protected fish species, coho salmon and steelhead. In its aim to reverse incision and restore floodplain connection, by design the Project will promote natural geomorphic processes like aggradation, scour and fill, channel anastomosing, and more, which will support Project benefits that persist in the long term. The Project's flow enhancement benefits are also expected to persist for a minimum of two decades, through the establishment of a 20-year (or longer) forbearance agreement. The Project's instream flow benefits are expected to extend more than 4 miles downstream from the Project site to Pescadero Marsh. Given that the Project is part of a larger, coordinated plan for habitat and flow restoration within the Butano-Pescadero watershed, it may have long-term benefits that exceed what the Project in isolation may yield. Lastly, the restoration and improvement of the stream's floodplain will create breeding and foraging habitat for California red-legged frog and San Francisco garter snake.

Procedures and Ongoing Management for the Protection of the Environment: The Project includes both general and species-specific avoidance and minimization measures, including a dry-season work window (June-October), that will aim to protect the environment during Project implementation. For example, prior to commencing ground-disturbing activities, qualified biologists will conduct herpetological, nesting-bird, and plant surveys within the Project site to identify and relocate out of harm's way sensitive species, and a biological monitor will remain onsite during initial construction activities and on-call thereafter. Similarly, fish will be captured and relocated before in-channel work commences and excluded from the site until it is complete. All actions involving special-status species encountered before or during construction will occur according to the provisions of state and federal permits.

During all construction, measures will be in place to prevent turbid water from entering flowing water in the active channel, and best management practices for erosion control, as described in Project documents, will be followed. Additionally, an approved biologist will survey the pond before it is drained (within two days) to ensure no pre-metamorphic frogs are stranded.

The Project also includes monitoring and mitigation activities that extend beyond the construction phase. Instream flow benefits will be monitored by SMRCD and Trout

Unlimited, who will also review license reports, verify that meters are operational, conduct photo monitoring, and remain in regular communication with the Project site landowner/farmer as needed. Project proponents have also prepared a three-year post-implementation monitoring plan that aims to characterize the physical and biological conditions of the Project site through time, using a combination of survey methods (e.g., photo points, topographic surveys, plant surveys, and fish surveys). The landowner, in consultation with the SMRCD, will also implement a bullfrog (*Lithobates catesbeianus*) monitoring and control plan to prevent the future establishment of the species at the Project location.

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 in the Lead Agency Determination are all related to the overall goal of the Project to restore or enhance habitat. The following construction activities are proposed, and will occur during a single dry season work period:

- Access and Staging. The contractor will prepare the access and staging areas for construction, limiting all staging and equipment storage to previously disturbed areas to the extent feasible. Access routes sufficient to handle construction traffic have been identified in construction plans.
- Floodplain Grading and Off-Channel Storage Pond. The contractor will excavate 4.2 acres of the Butano Creek floodplain and enlarge the pond capacity from 5.2 to 13 acre-feet and water surface area from 0.5 to 1.9 acres. The sole purpose of the improved pond is to provide alternative irrigation water which will enable reduced stream diversions during the dry season. Enlarging the storage pond is the only known feasible method to improve dry season flows without reducing the annual diversion volume. Floodplain excavation has been designed so that soil cut and fill quantities are balanced.
- Revegetation. The contractor will salvage, stockpile, and replace selected native plants at the Project site. In riparian areas, the top 18 inches of soil, including roots, will be salvaged, and replaced after construction. Willow cuttings will also be salvaged and reused at the Project site. All remaining areas disturbed by Project activities, excluding the farm field, will be replanted using native plantings and a native seed mix.

Scope and Reservation of Concurrence

This Concurrence is based on the proposed Project as described by the Lead Agency Determination and the request for concurrence submitted to CDFW on April 15, 2022. If there are any subsequent changes to the Project that affect or otherwise change the Lead Agency's Determination on April 15, 2022, 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 this CDFW 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 for concurrence submitted to CDFW on April 15, 2022, and no Project changes or changes in condition could affect that Lead Agency Determination.

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: 06/20/2022

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