

COASTAL CONSERVANCY

Staff Recommendation
October 5, 2006

FIVE COUNTIES FISH PASSAGE IMPROVEMENT PROGRAM

File No. 05-041-01
Project Manager: Michael Bowen

RECOMMENDED ACTION Authorization to disburse previously authorized Conservancy funds to implement fish-passage improvement projects at Yonkers Creek (\$75,000) and Salmon Creek (\$45,000) within the counties of Del Norte and Humboldt, respectively.

LOCATION: Yonkers Creek, tributary to Lake Earl, and Salmon Creek, tributary to Humboldt Bay, within the counties of Del Norte and Humboldt, respectively (Exhibit 1).

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

- Exhibit 1: Project Location and Site Maps
 - Exhibit 2: March 2, 2006 Staff Recommendation
 - Exhibit 3: Letters of Support
 - Exhibit 4: 2005 Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan (Yonkers Creek)
 - Exhibit 5: CEQA Exemption Filing (Salmon Creek)
 - Exhibit 6: NMFS Biological Opinion (Salmon Creek)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31220 and 31251-31270 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of previously authorized Conservancy funds for the County of Trinity’s Five Counties Salmonid Conservation Program to implement fish passage improvement projects at Yonkers Creek (up to \$75,000) and Salmon Creek (up to \$45,000) within the counties of Del Norte and Humboldt, respectively, subject to the following conditions:

1. Prior to the implementation of and the disbursement of funds for either project, the County shall submit for the review and written approval of the Executive Officer of the

Conservancy:

- a. A work program, including schedule, budget and detailed site plans for the project and a plan for post-implementation monitoring to evaluate the success of the project.
 - b. A sign plan to acknowledge Conservancy and any Proposition 12 funding for the project.
 - c. The names and qualifications of any contractors to be employed on the project.
 - d. Documentation that all permits and approvals necessary to the completion of the project have been obtained.
2. All project work shall be undertaken in full compliance with the requirements of all permits and approvals and the County of Trinity shall assure implementation of all relevant mitigation measures and the relevant portions of the mitigation monitoring and reporting program for the implementation of the Yonkers Creek fish passage project contained in the Final Mitigated Negative Declaration for the 2005 Fisheries Restoration Grant Program (Mitigated Negative Declaration) and the Mitigation Monitoring and Reporting Program (MMRP) (attached to the accompanying staff recommendation as Exhibit 4) adopted by the Department of Fish and Game on May 19, 2005.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed projects are consistent with the purposes and criteria set forth in Chapter 5.5 of Division 21 (section 31220) of the Public Resources Code, regarding watershed enhancement, and set forth in Chapter 6 of Division 21 (sections 31251 – 31270) of the Public Resources Code, regarding the enhancement of coastal resources.
2. The proposed authorization is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. The Conservancy has independently reviewed the Mitigated Negative Declaration and the MMRP (Exhibit 4) with respect to the implementation of the fish passage project at Yonkers Creek. The Conservancy finds that there is no substantial evidence that the project will have a significant effect on the environment, as defined in 14 California Code of Regulations Section 15382. ”

PROJECT SUMMARY:

At its March 2, 2006 meeting, the Conservancy authorized the disbursement of up to \$700,000 for the County of Trinity's Five Counties Salmonid Conservation Program to implement several fish passage improvement projects. The March 2, 2006 staff recommendation is attached as Exhibit 2. A condition of that authorization was that, prior to implementation of any specific fish passage improvement project, the County would return to the Conservancy for approval.

The proposed authorization would enable the County to proceed with two fish passage improvement projects under the Five Counties Salmonid Conservation Program. The proposed projects are located at Yonkers Creek and Salmon Creek, within the counties of Del Norte and Humboldt, and would require the disbursement of up to \$75,000 for the Yonkers Creek project and up to \$45,000 for the Salmon Creek project. The purpose of these projects is to improve fish passage in streams where barriers to fish passage have resulted from the inappropriate design and construction of road crossings, tidegates, or other instream structures. Historically, road crossings, culverts, and other structures were inappropriately constructed, inadvertently preventing the upstream passage of anadromous fish, such as salmon, steelhead and coastal cutthroat trout.

Yonkers Creek, a tributary to Lake Earl, in Del Norte County, is a small coastal stream that drains into Lake Earl north of Crescent City. Yonkers Creek historically sustained populations of coho salmon and steelhead trout. The declines of coho salmon, steelhead trout, and coastal cutthroat trout in this watershed are largely the result of two migration barriers, the lowermost of which was removed last year. The site proposed for action remains the only barrier to migration. A county-wide assessment of barriers to fish passage found this site on Yonkers Creek to pose a complete barrier to adult coastal cutthroat trout and all juvenile salmonid species. The proposed project would restore a natural stream channel in the project area, and thereby improve salmonid access to 1.7 miles of the highest quality habitat within the watershed, thus facilitating the recovery of salmonids within the watershed. This crossing is the last "high priority" fish barrier within the Del Norte County maintained road system identified in Ross Taylor's 2001 assessment of barriers to fish passage. The proposed project would replace the existing six-foot diameter steel culvert with an open-bottom culvert consisting of an aluminum arch set on concrete footings with an aluminum headwall and wingwall structures.

Salmon Creek, a tributary to south Humboldt Bay, is located ten miles south of Eureka. The proposed fish passage implementation project on Salmon Creek, the Salmon Creek Tidegates project, is located at the mouth of Salmon Creek within the Salmon Creek Unit of the Humboldt Bay National Wildlife Refuge. An evaluation of conditions effecting salmonid habitat and access in the lower reaches of Salmon Creek was conducted in 2002-2003, and the existing tidegates were identified as being partial barriers to migration and impediments to tidal circulation, thereby exacerbating poor water quality conditions in the lower reaches of the creek. The proposed project consists of replacing two existing sets of tidegates within the Salmon Creek estuary, and installing an additional tidegate where one had previously existed. The replacement of the existing structures with more "fish friendly" structures capable of passing higher flows for longer durations, will increase tidal circulation into lower Salmon creek, thereby improving fish passage for adults and juveniles into and out of the lower creek, while improving water quality

conditions upstream of the tidegates. The new, adjustable sluice gates will allow greater quantities of tidewater to enter the estuary during each flooding tide. This muted tide cycle would, by virtue of tidal scouring and water conveyance, enlarge the size of the estuary and substantially improve sediment routing and water quality. The replacement will be done in a manner that avoids impacts to listed salmonids through utilization of erosion control measures and careful selection of field season to avoid presence of listed species.

Like many such fish passage barrier structures, both the Yonkers Creek and Salmon Creek structures have fragmented stream habitat, and prevented fish from ascending streams due to excessive heights between culvert outlets and plunge pools below, impassably high flow velocities within the culverts themselves, or outright blockage by tidegates. Fish capable of ascending barriers are often too fatigued to spawn. Fish prevented from ascending such structures typically congregate in discharge pools or other areas below the structure, where they may fall prey to predators or poachers. Moreover, culvert failures often result in road failure, mass failure of slopes, resultant erosion, property damage, and the degradation of waters and salmonid habitat downstream. Tidegates for their part tend to mute the tidal cycle, reduce scouring, and contribute to channel aggradation above the tidegates, which in turn contributes to flooding and diminished estuarine habitat value on either side of the structure.

These and thousands of other such barriers to fish passage have been identified, and are cited in the Conservancy's report, "Inventory of Barriers to Fish Passage in California's Coastal Watersheds."

The opportunity to recover fish populations while improving local roads and infrastructure and diminishing future maintenance costs has made county governments keen participants in fish passage improvement projects. However, the ability of county governments or private entities to implement fish passage improvement projects is limited. This grant would implement two high priority fish passage improvement projects, thereby expediting the recovery of habitat for anadromous fish and other aquatic species found in coastal watersheds.

Site Description: Yonkers Creek is located East of and tributary to Lake Earl, in Del Norte County. The project site is located north of Crescent City along the eastern shore of Lake Earl on Wonderstump Road, near the confluence of Yonkers Creek and Lake Earl.

Salmon Creek, tributary to southern Humboldt Bay, is located in Humboldt County ten miles south of Eureka. The project site is located at the mouth of Salmon Creek within the Salmon Creek Unit of the Humboldt Bay National Wildlife Refuge.

Project History: The history of the Five Counties Salmonid Conservation Program ("FCSCP"), of which the proposed projects are a part, was described in detail in the March 6, 2006 staff recommendation (see Exhibit 2).

PROJECT FINANCING:

Total for Five Counties Salmonid Program

Coastal Conservancy (*prior authorization*) \$700,000

Total \$700,000

Yonkers Creek Project

Coastal Conservancy (*from prior authorization*) \$75,000

Salmon Creek Project

Coastal Conservancy (*from prior authorization*) \$45,000

The expected source of Conservancy funds for the Yonkers Creek and Salmon Creek implementation projects, \$75,000 and \$45,000, respectively, is the Conservancy's fiscal year 2002-2003 appropriation from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002 (Proposition 40). As discussed in detail in the March 6, 2006 staff recommendation, these projects are consistent with this funding source because they will improve hydraulic connectivity and habitat quality in coastal watersheds, in accordance with Division 21 of the Public Resources Code.

The County will ensure the provision of adequate matching funds and in-kind contributions to ensure project completion at both sites.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

The proposed projects are undertaken pursuant to Chapter 5.5 and Chapter 6 of Division 21 of the Public Resources Code (Sections 31220 and 31251-31270). For the reasons specified in the March 6, 2006 staff recommendation (Exhibit 2), the projects are consistent with the purposes and criteria of these Chapters. In addition, as required by Section 31220(c), the projects include as a condition of funding the requirement that there be a post-implementation monitoring plan approved by the Conservancy that will evaluate the success of the project. Further, as required by Section 31220(a), the Conservancy has consulted with the State Water Resources Control Board to ensure consistency of the proposed projects with Chapter 3 of Division 20.4 of the Public Resources Code.

CONSISTENCY WITH CONSERVANCY'S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):

Consistent with **Goal 6 Objective A(4)** of the Conservancy's Strategic Plan, the proposed authorization will implement projects that improve habitat for anadromous fish through the removal of existing barriers to fish passage

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, as detailed in the March 6, 2006 staff recommendation (Exhibit 2).

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The Yonkers Creek project, which is located outside of the Coastal Zone boundary, and the Salmon Creek project which is located within the Coastal Zone boundary, are consistent with the Del Norte County Local Coastal Program and the Humboldt Bay Local Coastal Program for the reasons specified in the March 2, 2006 staff recommendation (Exhibit 2).

COMPLIANCE WITH CEQA:

Yonkers Creek Project

The Department of Fish and Game (DFG) annually adopts an Initial Study and Mitigated Negative Declaration for fishery habitat improvement projects, including fish passage projects.

The Yonkers Creek implementation project was analyzed in the Final Mitigated Negative Declaration for the 2005 Fisheries Restoration Grant Program (MND) adopted by the Department of Fish and Game (DFG) on May 19, 2005. (See Exhibit 4). No comments were received during the comment period. The MND analyzed 110 separate proposed "major action items" that were proposed for DFG fisheries restoration grant funding. Yonkers Creek fish barrier removal project was one of these major action items. For each project, including Yonkers Creek, the MND described the project in detail, incorporating into each project elements that would avoid environmental impacts. The Yonkers Creek project, as described, includes the following conditions and restrictions:

- The grantee will adhere to erosion control measures identified in the California Salmonid Stream Habitat Restoration Manual (Flosi et. Al., 1998).
- The project will include a water diversion and fish relocation plan, and will adhere to the guidelines established by the California Department of Fish and Game and the NOAA Fisheries, as described in Volume II, Part IX of the February, 2003, third edition of the California Salmonid Stream Habitat Restoration Manual. Additionally, the proposed structures shall meet the 100-year flow bypass requirements described in the aforementioned manual.
- All work shall take place between July 1 and October 31st, or before the first significant rainfall, and tree replanting shall take place after December 1st, or when sufficient rainfall has occurred so as to ensure survival, but no later than March 1.

In addition the MND analyzed the environmental effects of the “major action items”, including the Yonkers Creek project. DFG found that the “major action items” might have the potential to cause environmental impacts in the areas of biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, and noise. The MND also identified mitigation measures to be incorporated into each “major action item” project, as relevant, in order to lessen such impacts to an insignificant level. These measures are included in the Mitigation Monitoring and Reporting Program (MMRP), accompanying the MND (Exhibit 4) to ensure that the “major action item” projects included in the MNDs have no significant environmental impacts. The impacts and associated mitigation measures are summarized below.

Biological Resources

The projects are timed to avoid impacts to aquatic habitat, notably being carried out in the summer dry season, from June 15 through November 1, or the first rainfall. All trash is removed from the project sites and equipment and fuels are stored outside of the stream’s high water channel and riparian area. Control of invasives and exotic plants is included to avoid spreading. Access routes are limited to the minimum necessary to complete the work. Instream work is performed in isolation from the flowing stream by means of diverting the flow around the work area during the duration of the construction. Any equipment entering the active stream is preceded by an individual on foot to displace wildlife and prevent them from being crushed. Wildlife encountered during the course of construction is allowed to leave the area unharmed, and shall be directed in a safe direction away from the area. Red tree vole nests encountered at a work site will be flagged and avoided during construction. For any work sites containing western pond turtles, foothill yellow-legged frogs, or tailed frogs, the contractor shall provide a list of exclusion measures used to prevent take or injury to these species. All habitat improvements shall be done in accordance with techniques in the California Salmonid Stream Habitat Restoration Manual. DFG will survey all work sites for rare plants prior to ground disturbing activities. Rare plants will be avoided. A variety of measure are included to protect coho salmon, including avoidance of instream work by equipment, except to relocate flow, diversion of flow around project area, leaving large woody debris instream, and suitable fish relocation efforts. To avoid disturbing Northern spotted owls, no work within .25 miles of spotted owl habitat will occur between February 1 and July 31.

Geology and Soils

There is no potential for significant adverse impact to geology and soils, but a combination of inspection and erosion control measures will ensure avoidance of adverse impacts.

Hydrology and Water Quality

To adequately avoid adverse impacts to hydrology and water quality, all work shall be performed in isolation from flowing water, and inspections will ensure that turbidity control measures are in place.

Upon its independent review of the MND, staff concurs with DFG’s conclusion that the proposed Yonkers Creek project, as one of the “major action items” will not have a major impact on the environment, with the mitigation measures incorporated. Accordingly, staff recommends that the Conservancy find that the Yonkers Creek project does not have a potential for a

significant effect on the environment as defined under 14 California Code of Regulations Section 15382.

Upon Conservancy approval of the project, staff will file a Notice of Determination for the Yonkers Creek project.

Salmon Creek Project

Regarding the Salmon Creek project, the Humboldt Bay Harbor, Recreation, and Conservation District analyzed the proposed project and determined that the project is categorically exempt from review under CEQA as a project that falls within Class 33, *Small Habitat Restoration Projects*, that do not exceed five acres in size (CEQA Guidelines, Title 14, California Code of Regulations, Section 15333(a-d)). The District filed a Notice of Exemption on April 18, 2006 (Exhibit 5).

Staff concurs with this conclusion. The project, which seeks to replace tidegates for the purpose of restoration and enhancement of habitat for fish falls within the description of small scale, restoration projects that are exempt under Section 15333. In addition, as required by subsection (a), the project will not have significant adverse impact on endangered, rare or threatened salmonid species or their habitat because the project construction will largely adhere to the same set of standards and guidelines outlined in the Department's Mitigated Negative Declaration for "major action items," as described above. Erosion control measures, careful selection of field season to avoid presence of listed species, and other measures will ensure adequate protection of listed species in the project area.

For similar reasons, the project is also categorically exempt from CEQA review under Guidelines Section 15302, relating to the replacement or reconstruction of existing structures and facilities "where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced". Under the Salmon Creek project, the tidegates to be installed will replace existing or past ones that have deteriorated. The tidegates will be in the same general location, will serve the same purpose, but will create more favorable environmental condition than currently exists. In particular, the replacement will result in lessened environmental impact to threatened salmonid species. Additionally, the National Marine Fisheries Service issued a Biological Opinion June 30, 2006 determining that the project as described would not jeopardize listed salmonids (Exhibit 6).

Upon Conservancy approval, staff will file a Notice of Exemption for the Salmon Creek project.