

Malibu Creek Ecosystem Restoration Study
Los Angeles and Ventura Counties, California

Appendix V

EFH Coordination



U.S. Army Corps of Engineers
Los Angeles District



November 2020

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

March 28, 2017

Eduardo T. Demesa
Chief, Planning Division
U.S. Army Corps of Engineers
Los Angeles District
ATTN: Mr. Jesse Ray (CESPL-PDR-L)
915 Wilshire Blvd., Suite 930
Los Angeles, California 90017

Dear Mr. Demesa:

NOAA's National Marine Fisheries Service (NMFS) has reviewed the Malibu Creek Ecosystem Restoration Study Draft Integrated Feasibility Report with Environmental Impact Statement / Environmental Impact Report (EIS) and the 2016 Malibu Creek Nearshore Habitat Characterization Study (Habitat Characterization). NMFS previously submitted comments on February 27, 2017, pursuant to the Endangered Species Act and our steelhead recovery efforts. NMFS is providing additional comment pursuant to our responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Proposed Project

The EIS analyzed a range of measures and alternatives to restore aquatic habitat connectivity along Malibu Creek and tributaries, establish a more natural sediment regime from the watershed to the shoreline, and restore aquatic habitat of sufficient quality along Malibu Creek and tributaries to sustain or enhance indigenous populations of aquatic species (e.g., steelhead). Two alternative plans have been proposed that would satisfy project objectives. The National Ecosystem Restoration (NER) plan is identified as Alternative 2d1, with removal of the Rindge Dam arch concurrent with trucking of the impounded sediment to several placement sites over 7 years. Approximately 276,000 cubic yards (cy) of shoreline-compatible sediment would be temporarily stockpiled at an upland location until delivery to the shoreline in front of the Malibu Pier parking lot using trucks during non-peak use times, after Labor Day and before Memorial Day, for three consecutive construction years. Material not compatible with shoreline placement would be disposed of at the Calabasas Landfill. Several aquatic habitat barriers along the Cold Creek and Las Virgenes Creek tributaries would be modified or removed to provide access to additional miles of quality habitat. The Locally Preferred Plan (LPP) is Alternative 2b2, and differs from the NER plan by including removal of the Rindge Dam spillway in addition to the dam arch over approximately 8 years. In addition, shoreline compatible sediment would be trucked directly to Ventura Harbor with transport by barge to the nearshore environment off the coast of the Malibu Pier parking lot.



The proposed sediment disposal locations are both downcoast of the mouth of Malibu Creek, which closely match locations that would be subject to natural sedimentation from the watershed if the dam was not present. The sediment disposal location for the “National Ecosystem Restoration Plan” is on the shoreline adjacent and to the east of the Malibu Pier. Alternatively, the sediment disposal location for the LPP is in the nearshore (shallower than -20 feet Mean Lower Low Water, but seaward of the surf/swash zone) to the east of the Malibu pier. Sediment placement would take place over a period of three years of the total seven-to-eight year construction window, during the late fall to early spring months. Based on construction scheduling for removal of impounded sediment at Rindge Dam, up to 120,000 cy would be transported to these sites for the second of three years, and much less for the other years (60,000 to 80,000 cy each).

Magnuson-Stevens Fishery Conservation and Management Act Comments

Action Area

The Project’s sediment disposal activities occur within EFH for various federally managed fish species within Coastal Pelagic Species and Pacific Coast Groundfish Fishery Management Plans (FMPs). In addition, the project occurs within areas designated as habitat areas of particular concern (HAPC) for various federally managed fish species within the Pacific Groundfish FMP. HAPC are described in the regulations as subsets of EFH which are rare, particularly susceptible to human-induced degradation, especially ecologically important, or located in an environmentally stressed area. Designated HAPC are not afforded any additional regulatory protection under MSA; however, federal projects with potential adverse impacts to HAPC will be more carefully scrutinized during the consultation process. As defined in the Pacific Groundfish FMP, the project vicinity contains the following types of HAPC: seagrass, rocky reef and canopy kelp.

Effects of the Action

Sediment disposal on the beach or in the nearshore may adversely affect EFH by 1) impacting or destroying benthic communities; 2) impacting adjacent sensitive habitats; 3) creating turbidity plumes and 4) introducing contaminants and/or nutrients. Of most concern to NMFS is the effect of indirect sedimentation on rocky reef and surfgrass HAPC.

The transport of the sand has been modeled at the shoreline site in order to characterize the timing and extent of distribution. The dispersion of sediment at the nearshore site was not modeled, but similar trends associated with the timing and extent of distribution are expected. The model results show a relatively rapid redistribution of sands stretching downcoast, with an approximate 70-100 foot increase in beach width for the first four years after initial placement, tapering off to background levels within 9 years. The downcoast influence would extend approximately a mile from the placement sites. The shoreline placement site conditions are expected to return to approximate pre-project conditions at the beginning of each construction season over the estimated three year fall-to-spring placement timeframe.

Beach and nearshore placement will only occur in areas where the natural habitat is sandy bottom. As the placed material is dispersed by natural wave action, some temporary burial of downcoast low relief rocky reef habitat is expected. This temporary burial of sediment should not remain for more than a few years. According to the EIS and Habitat Characterization, the adjacent intertidal and subtidal habitats that are at most risk of burial impacts are primarily sand influenced low relief rocky reef and cobble/gravel. Some temporary adverse impacts on the low relief rocky reef are likely, but no permanent effects are expected given the absence of highly sensitive habitats and that sediment will naturally move further downcoast. However, the EIS acknowledges an increased risk of adverse impacts to surfgrass associated with the shoreline placement alternative. In response to this risk, the EIS indicated that the Project Delivery Team (PDT) considered monitoring and adaptive management sufficient to address any increased risk to surfgrass. The EIS also indicated that the LPP alternative has the benefit of avoiding an area of sensitive surfgrass.

Although the Habitat Characterization provided areal estimates for the various habitat types in the project vicinity, the EIS did not provide an aerial estimate of low relief rocky reef that occurs within the modeled burial footprint. Thus, **the EIS does not provide a quantifiable estimate of the impact area of low relief rocky reef habitat affected by indirect sedimentation. NMFS recommends that the final EIS provide an estimated area of this temporary burial based upon the modeling described in Appendix O. In addition, the modeled burial impacts should be depicted on a map overlaid with the habitat characterization data.**

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EFH Conservation Recommendations

As described in the above effects analysis, NMFS has determined that the proposed action would adversely affect EFH for various federally managed fish species within the Coastal Pelagic Species and Pacific Coast Groundfish FMPs. Therefore, pursuant to section 305(b)(4)(A) of the MSA, NMFS offers the following EFH conservation recommendations to avoid, minimize, mitigate, or otherwise offset the adverse effects to EFH.

1. **If feasible, the LPP alternative should be implemented to minimize the risk of adverse impacts to surfgrass HAPC. This is consistent with our February 27, 2017, letter in which we indicated the LPP alternative appears to most fully achieve a critical recovery action identified in NMFS' Southern California Steelhead Recovery Plan.**
2. **A nearshore monitoring plan should be developed in consultation with NMFS to verify no permanent loss of rocky reef and/or surfgrass HAPC. In addition, a complementary habitat characterization survey should be conducted for the lower intertidal as the Habitat Characterization used to inform the EIS was based upon subtidal acoustic surveys and was not able to adequately characterize nearshore habitats in the lower intertidal.**
3. **An adaptive management plan should be developed to address any potential loss of rocky reef or surfgrass HAPC quality or quantity. If available within the impounded material behind Rindge Dam, the placement of impounded large boulders within the lower intertidal and/or shallow subtidal may offset any functional loss associated with sedimentation. Based upon the Habitat Characterization, boulder and large cobble habitat**

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appears most at risk, so placement of similar size rocks from behind the dam would provide an in-kind offset for any sedimentation impacts.

Statutory Response Requirement

Please be advised that regulations at section 305(b)(4)(B) of the MSA and 50 CFR 600.920(k) of the MSA require your office to provide a written response to this letter within 30 days of its receipt and at least 10 days prior to final approval of the action. A preliminary response is acceptable if final action cannot be completed within 30 days. Your final response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH conservation recommendations, you must provide an explanation of the reasons for not implementing those recommendations. The reasons must include the scientific justification for any disagreements over the anticipated effects of the proposed action and the measures needed to avoid, minimize, mitigate, or offset such effects.

Supplemental Consultation

Pursuant to 50 CFR 600.920(l), the USACE must reinitiate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations.

Thank you for considering our comments. Please contact Mr. Bryant Chesney at (562) 980-4037, or via email at Bryant.Chesney@noaa.gov, if you have any questions concerning our EFH comments.

Sincerely,



Chris Yates
Assistant Regional Administrator
for Protected Resources

cc: Administrative File: 150316WCR2017PR00079

**US Department of Commerce - National Oceanic and Atmospheric Administration –
National Marine Fisheries Service**

Commenter: Yates, Chris – Assistant Regional Administrator

Comment Number	Response	Location in IFR
1	As described in Section 5.4 of the IFR, the recommended plan now includes nearshore marine surveys for rocky reef and surf grass (Environmental Commitment BIO-16). This requirement will provide for the avoidance of these habitats during construction, and further includes an approach to monitor and address any potential impacts to rocky reef or surf grass.	Section 5.4.1
2	Thank you for your support of the LPP. The USACE has responded to EFH Conservation Recommendations by separate correspondence, dated June 21, 2017, pursuant to EFH consultation regulations. A copy of the EFH correspondence is provided as Appendix A.	No change.



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

June 21, 2017

Environmental Resources Branch

Mr. Chris Yates
Assistant Regional Administrator for Protected Resources
National Oceanic and Atmospheric Administration
Fisheries West Coast Region
501 West Ocean Boulevard, Suite 4200
Attention: Mr. Bryant Chesney
Long Beach, California 90802-4213

Dear Mr. Yates:


This letter is our statutory required response (50 CFR 600.920(k)) to your letter (reference 150316WCR2017PR00079) dated March 28, 2017, that provided Essential Fish Habitat (EFH) comments and Conservation Recommendations from your agency on the Draft Integrated Feasibility Report with Environmental Impact Statement / Environmental Impact Report for the Malibu Creek Ecosystem Restoration Study, Los Angeles County, California. The purpose of the proposed project is to restore aquatic habitat connectivity along Malibu Creek and tributaries, establish a more natural sediment regime from the watershed to the shoreline, and restore aquatic habitat of sufficient quality along Malibu Creek and tributaries to sustain or enhance indigenous populations of aquatic species (e.g., steelhead).

The March 28, 2017, EFH Consultation letter contained three EFH Conservation Recommendations. The Corps plans to study the three measures and implement where the selected alternative warrants inclusion. See the attached for a complete discussion of all Conservation Recommendations and the rationale behind the Corps' intended actions.

If you have any questions regarding the project, please contact Mr. Larry Smith, project biologist, at 213-452-3846 or via email at lawrence.j.smith@usace.army.mil.

Thank you for your attention to this document.

Sincerely,


Eduardo T. De Mesa
Chief, Planning Division

Enclosure

Corps Response to NMFS EFH Conservation Recommendations:

EFH Conservation Recommendation #1.

1. If feasible, the LPP alternative should be implemented to minimize the risk of adverse impacts to surf grass HAPC. This is consistent with our February 27, 2017, letter in which we indicated the LPP alternative appears to most fully achieve a critical recovery action identified in NMFS' Southern California Steelhead Recovery Plan.

Corps Response to EFH Conservation Recommendation #1.

1. The Corps is considering two alternatives that each include use of impounded sands for beach nourishment. The National Economic Restoration (NER) Plan includes placement of sand onto the beach adjacent to the surf grass in the area. This Plan seeks to avoid impacts to surf grass by placing the sand up coast of the surf grass over a three-year period minimizing chances of indirect impacts resulting from sand movement. The Locally Preferred Plan (LPP) would place the same sand in the nearshore environment off of the same beach. The Plan reduces risk to surf grass by placing the sand in deeper water thus reducing the chance of indirect burial as this sand moves onto the beach and down coast. The selected Plan will be identified in the next decision milestone for the project. NMFS's recommendation to move ahead with the LPP will be taken into consideration at that milestone by the District and upper echelon decision-makers when selecting the Plan to move ahead with into the authorization process.

EFH Conservation Recommendation #2.

2. A nearshore monitoring plan should be developed in consultation with NMFS to verify no permanent loss of rocky reef and/or surf grass HAPC. In addition, a complementary habitat characterization survey should be conducted for the lower intertidal as the Habitat Characterization used to inform the EIS was based upon subtidal acoustic surveys and was not able to adequately characterize nearshore habitats in the lower intertidal.

Corps Response to EFH Conservation Recommendation #2.

2. Prior to initial placement of sand, into either the beach or nearshore placement areas, the Corps will conduct a survey to characterize habitats in the placement area, including the lower intertidal, for purposes of determining permanent loss of rocky reef and/or surf grass habitats resulting from the placement of sand, including direct and indirect burial.

EFH Conservation Recommendation #3.

3. An adaptive management plan should be developed to address any potential loss of rocky reef or surf grass HAPC quality or quantity. If available within the impounded material behind Rindge Dam, the placement of impounded large boulders within the lower intertidal and/or shallow subtidal may offset any functional loss associated with sedimentation. Based upon the Habitat Characterization, boulder and large cobble habitat appears most at risk, so placement of similar size rocks from behind the dam would provide an in-kind offset for any sedimentation impacts.

Corps Response to EFH Conservation Recommendation #3.

3. An adaptive management plan will be developed along with the monitoring plan discussed above in recommendation number 2. The placement of boulders will be discussed with Los Angeles County Department of Beaches and Harbors, which has responsibility for the beach area. Their permission to place boulders in the intertidal would be needed before we can move forward to implement this recommendations. We also need to identify if boulders of sufficient size are available in the impound area. Those actions are likely to take place during the Preliminary Engineering Design (PED) phase of the project, following project authorization and funding. The Corps will include NMFS in discussions with the local sponsor, the Los Angeles County Department of Beaches and Harbors, and California Department of Fish and Wildlife prior to final design to include provisions of this recommendation into the final plans.