Appendix D – Principal Laws and Regulations

CONTENTS

ACRONYMS AND ABBREVIATIONS

ACS	Aquatic Conservation Strategy
BiOp	biological opinion
BLM	Bureau of Land Management
CC	California Coastal
CDFW	California Department of Fish and Wildlife
CESA	California Endangered Species Act
FGC	California Fish and Game Commission
CRHR	California Register of Historical Resources
CCH	coho salmon critical habitat
CM	conservation measure
ESA	Endangered Species Act
EFH	essential fish habitat
ESU	evolutionarily significant unit
EO	Executive Order
FWCA	Fish and Wildlife Coordination Act
FYL	foothill yellow-legged frog
GPMs	general protection measures
LRMP	Land Resource Management Plan
MSA	Magnuson-Stevens Fishery Conservation and Management Act
NEPA	National Environmental Policy Act
NFMA	National Forest Management Act
NFS	National Forest Service
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NWFP	Northwest Forest Plan
ORV	Outstandingly Remarkable Values
ROD	Record of Decision
MAMU	Recovery Plan for the marbled murrelet
Recovery Strategy	Recovery Strategy for California Coho Salmon
NSO	Revised Recovery Plan for Northern Spotted Owl
STNF	Shasta-Trinity National Forest
SHPO	State Historic Preservation Officer
SWAP	State Wildlife Action Plan
SM	Survey and Manage
SONCC	The Southern Oregon/Northern California Coast (coho)
TMDL	total maximum daily load
TRRP	Trinity River Restoration Program
ITARA	Indian Trust Asset Reform Act
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
DOI	U.S. Department of the Interior
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service

WCRF	Watershed Condition Restoration Framework
WSR	Wild and Scenic River
WSRA	Wild and Scenic Rivers Act

1 USDA Forest Service Regulatory Framework

1.1 National Forest Management Act

The National Forest Management Act (NFMA), the primary statute governing the administration of National Forest Service (NFS) lands, requires the maintenance of productivity of the land and the protection and, where appropriate, improvement of the quality of the soil and water resources. The act specifies that substantial and permanent impairment of productivity (not defined) shall be avoided. Furthermore, activities shall be monitored to ensure that productivity is protected. This law led to subsequent regulation and policy to execute the law at various levels of management.

1.2 Shasta-Trinity National Forest (STNF) Land Resource Management Plan (LRMP)

The STNF manages NFS lands in the Trinity River Basin in accordance with its LRMP. The LRMP discusses the general current and desired condition of natural resources in the plan area and prescribes appropriate land use management and protections to achieve them. As part of the USFS decision-making process, the agency must evaluate the consistency of the Proposed Action with the LRMP, as amended. This project supports specific LRMP resource goals to "provide for the protection, maintenance, and improvement of wild trout and salmon habitat"; to "coordinate rehabilitation and enhancement projects with cooperating agencies involved in the Model Steelhead Stream Demonstration Project Plan and the Trinity River Basin Fish and Wildlife Management Program"; and to "identify and treat riparian areas that are in a degraded condition" (USDA Forest Service 1995, p. 4-4, 4-18). In so doing, the project also meets NWFP guidelines to "design and implement fish and wildlife habitat restoration and enhancement activities in a manner that contributes to the attainment of Aquatic Conservation Strategy objectives" (USDA Forest Service 1995, p. 4-58), as well as the riparian management prescription objective that "fish habitats will be maintained and enhanced" (USDA Forest Service 1995, p. 4-58 ,4-59).

1.3 Watershed Condition Restoration Framework Assessment

The Watershed Condition Restoration Framework (WCRF) is a comprehensive approach for proactively implementing integrated restoration on priority watersheds on national forests and grasslands. It is a means and strategy to identify restoration priorities and monitor program accomplishments per the FY 2015-2020 USDA Forest Service Strategic Plan (Forest Service Strategic Plan; USDA 2015).

The WCRF also established a nationally consistent approach for classifying watershed condition using a comprehensive set of 12 indicators that are surrogate variables representing the underlying ecological functions that affect watershed condition and watershed health. The primary emphasis is on aquatic and terrestrial processes and conditions that can be influenced by USFS management activities.

The STNF would follow the WCRF's nationally consistent approach in designing the Watershed Restoration Project's proposed activities to improve aquatic conditions (Forest Service Strategic Plan).

2 DOI Regulatory Framework

2.1 BLM Redding Field Office Northwestern California Integrated Resource Management Plan (NCIP)

BLM's Redding Field Office manages federal lands in the Trinity River Basin in accordance with its 2024 Northwest California Integrated Resource Management Plan (NCIP) and Record of Decision (ROD, BLM 2024). The NCIP discusses the general condition of natural and cultural resources in the plan area and prescribes appropriate land use management for BLM-administered lands. The NCIP includes the ACS' Riparian Reserves but renamed them riparian management areas and identifies watershed restoration as an important priority (Section 2.3.5 of the NCIP). The Trinity River from Lewiston Dam to Weitchpec is federally designated as a Wild and Scenic River (WSR; recreational designation) for its fisheries and recreational values. BLM is the federal river manager from the Lewiston Dam to the North Fork Trinity River (Section 2.5.3.3 of the NCIP). The ACS for the project is provided in Appendix C, and a WSR determination for the project is included in Appendix F. As part of its decision-making process, BLM must evaluate the consistency of the Proposed Action with the 2024 NCIP.

3 ACS Compliance

Project NEPA decisions must be consistent with the ACS, including consistency with the nine ACS objectives described in the 1994 NWFP ROD (p. B-10) and in the May 22, 2007 Memorandum (USDA 1994). The NEPA decisions must assess alignment with the nearly identical ACS objectives from the 2024 NCIP completed by the BLM's Redding and Arcata Field Offices. These objectives and analysis of the Project's consistency with the ACS is in Appendix C.

The proposed instream and riparian restoration activities included in the Project were designed to implement the ACS reflected in the NWFP ROD (USDA 1994), as incorporated into the STNF's LRMP and the ACS objectives of the BLM's NCIP.

4 Survey and Manage Standards and Guidelines

The NWFP includes guidance for managing species associated with late-successional forests (USDA and DOI 2001; USDA 1994), termed Survey and Manage (SM) species, as incorporated into the STNF's LRMP. The Project's compliance with the Survey and Manage Standards and Guidelines is outlined in Appendix E.

5 Wild and Scenic Rivers Act (WSRA)

The Trinity River was designated by the Secretary of the Interior as a federal Wild and Scenic River in 1981 under the 1968 Federal WSRA at the request of the State of California under Section 2(a)(ii) of the Wild and Scenic Rivers Act (WSRA). In the Trinity River watershed, 203 miles of river including the North and South Forks of the Trinity River and the New River, are part of the National Wild and Scenic Rivers System. As a "2(a)(ii) river" the Trinity WSR is primarily administered by the state. The Bureau of Land Management (BLM) and Forest Service manage segments of the Trinity WSR on federal lands they manage and, along with the National Park Service (NPS), are

responsible for implementing Section 7 of the WSRA for the entire Trinity WSR including federal and non-federal lands, which they cooperate to carry out. A Wild and Scenic River Act compliance analysis of the Project activities is in Appendix F.

The National Wild and Scenic Rivers System preserves certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations. The WSRA is notable for safeguarding the special character of these rivers, while also recognizing the potential for their appropriate use and development. The WSRA is a non-degradation and enhancement policy. Each river in the National Wild and Scenic Rivers System is administered with the goal of protecting and enhancing the values that caused it to be designated. These river values are free-flowing condition, water quality, and, specific to each river segment, its outstandingly remarkable values (ORVs). The ORV for all segments of the Trinity WSR is anadromous fish. Each segment was given a classification as a wild, scenic, or recreational river based on the level of development along the river at the time of designation. For the Trinity WSR, 44 miles are classified as wild, 39 miles are classified as scenic, and 120 miles are classified as recreational. Some agency management direction may be specific to wild rivers, scenic rivers, or recreational rivers to ensure activities are consistent with maintaining the classification.

In addition to the designated Trinity WSR, six rivers on the Shasta-Trinity National Forest have been identified by the Forest Service as "suitable rivers" under WSRA Section 5(d)(1), meaning they were found suitable for potential future addition to the National Wild and Scenic Rivers System (National System). These include portions of Canyon Creek, Hayfork Creek, Upper North Fork Trinity, Upper South Fork Trinity, and Virgin Creek. Five rivers on BLM-administered lands were found suitable for addition to the National System as part of the 2024 Northwest California Integrated Resource Management Plan (NCIP) that considered river and stream segments for eligibility and suitability for inclusion in the National System. The BLM segments identified as suitable, include Indian Creek 1 (Trinity River Tributary) Segment A, B, and C, West Weaver Creek, West Weaver Creek Tributary, Grub Gulch, and Canyon Creek. Suitable rivers are protected through management direction in the USFS and BLM land use management plans as well as interim measures for protected management in the WSRA, Forest Service Handbook (FSH) 1909.12, Chapter 80 and in BLM Manual 6400, Wild and Scenic Rivers – Policy and Program Direction for Identification, Evaluation, Planning, and Management. While WSRA Section 7 does not apply to these rivers, agency interim measures say that any water resources projects proposed on suitable rivers "shall be analyzed as to their effect on a river's free-flow, water quality, and outstandingly remarkable values, with adverse effects to be prevented to the extent of existing agency authorities (such as special-use authority" (FSH 1909.12, 84.3, item 1).

Section 7 is a key provision of the WSRA that directs federal agencies to protect a WSR's free-flowing condition, water quality, and ORVs. When a project occurs within the proximity of a Wild and Scenic River, Section 7 requires review and evaluation of federally assisted water resources projects and determination of effects by the federal river managing agency to ensure that (1) for projects proposed on a WSR, the project would not have a "direct and adverse effect" on river values (free-flowing condition, water quality, ORVs) or (2) for projects proposed above, below, or on a tributary to a WSR, the project would not invade the WSR or unreasonably diminish the WSR's scenic, recreational, and fish and wildlife values. The "Section 7 determination" from the federal river managing agency is required before federal assistance can be provided, including permits or funding. In the rare case of an adverse Section 7 determination, federal assistance is prohibited. Early communication and coordination between project proponents, federal assisting agencies, and the federal river managing agency will minimize likelihood of project redesign, adverse Section 7 determinations, and permitting or funding delays.

- **Water resources projects** are defined in 36 CFR part 297. Water resources projects are federally assisted actions in the bed and banks. Examples include but are not limited to dams; water diversion projects; fisheries habitat and watershed restoration/enhancement projects; bridges and other roadway construction/reconstruction projects; bank stabilization projects; channelization projects; levee construction; recreation facilities such as boat ramps and fishing piers; and activities that require a 404 permit from the US Army Corps of Engineers.
- **Federal assistance** is assistance by a federal agency such as a license, preliminary permit, permit, authorization, or federal funding including a loan or grant. Common examples include FERC licenses, Section 404 permits granted by the US Army Corps of Engineers, Department of Transportation funding of state highway proposals, or activities undertaken or authorized by a federal agency such as the Forest Service or BLM.
- **Federal assisting agency** is the federal agency or agencies providing assistance (e.g., license, permit, funding, authorization). Commonly, this is the FERC, US Army Corps of Engineers, and/or Department of Transportation. For the Trinity River Watershed Restoration Project, the BOR is a federal assisting agency. Federal land management agencies such as the Forest Service and BLM may be federal assisting agencies if they are providing authorization or funding, including cases where they may be the project proponent.
- **Federal river managing agency** is the federal agency or agencies responsible for implementing WSRA Section 7, including the Section 7 determination. For the Trinity WSR: for projects on federal lands, the BLM or Forest Service is the federal river managing agency for projects on the respective lands they administer; for projects on non-federal lands, the BLM and Forest Service cooperate with the NPS to identity which among the three agencies is best positioned to be responsible for Section 7.
- **Free-flowing** as it applies to WSRs is defined in WSRA Section 16 as “existing or flowing in a natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway.”

6 Wilderness Act

In the Wilderness Act of 1964 (16 U.S.C. § 1133), the law’s Statement of Policy (Section 2(a)) declares that wilderness areas “shall be administered ... so as to provide for the protection of these areas, the preservation of their wilderness character.” Section 4(b) of the Wilderness Act further specifies that the wilderness-managing agencies’ primary mandate under the law is to preserve wilderness character. These and other provisions of the Wilderness Act provide the affirmative mandate for stewarding Congressionally designated wilderness areas differently from non-wilderness lands. “Wilderness character” is a holistic concept based on the interaction of: (1) biophysical environments primarily free from modern human manipulation and impact, (2) personal experiences in natural environments relatively free from the encumbrances and signs of modern society, and (3) symbolic meanings of humility, restraint, and interdependence that inspire human connection with nature. Taken together, these tangible and intangible values define wilderness character and distinguish wilderness from all other lands.

Section 4(c) of the Wilderness Act prohibits certain uses in wilderness and wilderness study areas (WSAs) outright (permanent roads and commercial enterprise) but allows others (temporary roads, use of motor

vehicles, motorized equipment or motorboats, landing of aircraft, other forms of mechanical transport, structures, or installations) only if they are necessary to meet minimum requirements for the administration of the area for the purposes of the Wilderness Act. Some common examples of Section 4(c) uses include but are not limited to motorized equipment such as chainsaws, motorized drills and augers, and portable pumps; installations such as monitoring equipment or fencing; mechanical transport such as wheelbarrows, carts, or bicycles; helicopter landings or slingload deliveries; piloting or landing of drones; or heavy equipment such as bulldozers.

Wilderness managers prepare a Minimum Requirements Analysis (MRA) to evaluate whether a use otherwise prohibited by Section 4(c) needs to occur in wilderness (however, not required for WSAs), and if so, how to accomplish it with the least impact to the wilderness resource. The Minimum Requirements Analysis Framework (MRAF)—the interagency tool that wilderness managers typically use to conduct the MRA—helps to meet the substantive requirement of Section 4(c). The MRAF consists of two steps: Step 1 evaluates whether administrative action may be necessary in wilderness; if so, Step 2 provides guidance for determining the minimum technique, timing, or amount of a prohibited use necessary to address the wilderness stewardship issue at hand. The MRAF's selected alternative is a determination that represents the minimum requirement necessary to administer the area as wilderness.

7 Fish and Wildlife Coordination Act

Enacted in 1934 then amended in 1946 and 1958, the Fish and Wildlife Coordination Act (16 U.S.C. 661-666[e]) directs the U.S. Fish and Wildlife Service (USFWS) to investigate and report on proposed Federal actions, such as the Project, that may affect any stream or other body of water, including the Trinity River and its tributaries, and give recommendations that minimize impacts on fish and wildlife resources. Executive Order 11990 and 11988

The purpose of Executive Order (EO) 11990 – Protection of Wetlands (as amended) is to "minimize the destruction, loss or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands." To meet these objectives, the EO requires federal agencies, in planning their actions, to consider alternatives to wetland sites and limit potential damage if an activity affecting a wetland cannot be avoided.

EO 11988 – Floodplain Management (as amended) requires federal agencies to avoid the long- and short-term adverse impacts associated with the occupancy and modification of floodplains, and to avoid the support of floodplain development. If an action must be located in a floodplain, EO 11988 requires that agencies minimize potential harm to people, property, and to natural and beneficial floodplain values.

8 Executive Order 13112 and 13751

EO 13112 – Invasive Species called upon executive departments and agencies to take steps to prevent the introduction and spread of invasive species, and to support efforts to eradicate and control invasive species that are established. The EO also created a coordinating body, the Invasive Species Council, also referred to as the National Invasive Species Council, to oversee implementation of the order, encourage proactive planning and action, develop recommendations for international cooperation, and take other steps to improve the federal

response to invasive species. Past efforts at preventing, eradicating, and controlling invasive species demonstrated that collaboration across federal, state, local, tribal, and territorial government; stakeholders; and the private sector is critical to minimizing the spread of invasive species and that coordinated action is necessary to protect the assets and security of the United States.

EO 13751 - Safeguarding the Nation from the Impacts of Invasive Species amends Executive Order 13112 by directing actions to continue coordinated Federal prevention and control efforts of invasive species. This order maintains the National Invasive Species Council and Invasive Species Advisory Committee (ISAC); expands and clarifies the membership of the Council; incorporates considerations of human and environmental health, climate change, technological innovation, and other emerging priorities into Federal efforts to address invasive species; and strengthens coordinated, cost-efficient Federal actions.

9 Magnuson-Stevens Fishery Conservation and Management Act (MSA)

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) was adopted in 1976 and requires federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions that may adversely affect essential fish habitat (EFH), including coho and Chinook salmon EFH. The MSA was amended in 2006 under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). The MSRA required NMFS to develop a recovery plan for Klamath River coho salmon in 2007 and submit annual reports in regard to both coho and Chinook salmon to Congress beginning in 2009. The *MSRA Klamath River Coho Salmon Recovery Plan* presents long-range guidance for various agencies, organizations, and individuals to use as they consider taking actions or pursuing projects that may affect Klamath River coho salmon. These actions are consistent with and implement the *MSRA Klamath River Coho Salmon Recovery Plan*.

10 Migratory Bird Treaty Act of 1918

The Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-712) was signed to ensure the sustainability of populations of all protected migratory bird species. The act implements four international conservation treaties that the U.S. entered into with Canada 1916, Mexico 1936, Japan 1972, and Russia 1976. The MBTA prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the USFWS. The need for a take permit would be determined during the site-specific project planning and would be obtained directly from the USFWS, prior to any activity that result in take of migratory birds protected under this act.

11 Endangered Species Act (ESA)

It is USDA and DOI policy to implement the Endangered Species Act of 1973 (ESA) as amended “to seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.” Forest Service manual direction (2670.21) directs that NFS habitats and activities for threatened and endangered species shall be managed to achieve recovery objectives, so that special protection measures under the ESA are no longer necessary. This Proposed Action implements recovery items in the

federal and state recovery plans (described below) for The Southern Oregon/Northern California Coast (SONCC) coho salmon ESU[1], and the federal multispecies recovery plan for the Northern California steelhead DPS[2] and California coastal Chinook salmon ESU.

The Proposed Action also meets the 2011 Revised Recovery Plan for northern spotted owl (NSO) and the Recovery Plan for the marbled murrelet (MAMU) in Washington, Oregon, and California (USFWS 2011; USFWS 1997) by ensuring the Proposed Action implements design features to maintain habitat components for ESA-listed terrestrial species.

11.1 2020 Trinity River Restoration Program Biological Opinion

TRRP has completed formal consultation with NMFS on the effects of floodplain restoration work throughout the Trinity River watershed. The NMFS' August 2020 Trinity River Restoration Program Biological Opinion (BiOp; NMFS 2020), herein referred to as the 2020 TRRP BiOp, describes the implementation strategies and conservation measures that would be employed during watershed restoration projects. Implementation strategies and conservation measures described in the 2020 TRRP BiOp would be employed as part of the design guidelines for all site-specific projects that are part of the Proposed Action.

11.2 2025 California Statewide Restoration Activities Biological Opinion

In 2022, the USFWS issued a programmatic BiOp that covers ESA-listed species (under the jurisdiction of USFWS) for watershed restoration activities in California. In February 2025, the reinitiation of BiOp was completed (USFWS 2025) to include additional species such as the northwestern pond turtle. Watershed restoration activities included in the 2025 USFWS Statewide Restoration BiOp include instream habitat restoration, native riparian and wetland restoration, and fish passage improvements. The Project activities analyzed in the Project EA that fall under these categories and use the 2025 USFWS Statewide Restoration BiOp for ESA coverage would conform to the BiOp. General protection measures (GPMs), design guidelines, and conservation measures (CMs) described in the 2025 USFWS Statewide Restoration BiOp would be employed as part of the environmental commitments for all site-specific projects that are part of the Project's Proposed Action.

11.3 SONCC Coho Salmon Recovery Plan and Designated Critical Habitat

The SONCC Coho Salmon Recovery Plan (NMFS 2014) provides a roadmap guiding implementation of restoration based on the best available science; targeting identified threats and stresses to coho.

Coho salmon critical habitat (CCH) for SONCC coho salmon was designated by NMFS, on May 5, 1999. Coho salmon critical habitat is defined in §3(5)(A) of the ESA as "the specific areas within the geographical area occupied by the species ... on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection." Critical habitat was designated to include the water, substrate, and adjacent riparian zones of estuarine and riverine reaches (including off-channel habitats); not limited to, spawning sites, food resources, water quality

[1] Evolutionarily significant unit

[2] Distinct population segment

and quantity, water temperature, water velocity, cover/shelter, food, riparian vegetation, space, and safe passage conditions (64 FR 24049, May 5, 1999).

11.4 Pacific Lamprey Conservation Agreement

The Pacific Lamprey Conservation Agreement (PLCI 2022) is a voluntary commitment by the interested parties, to collaborate on efforts that reduce or eliminate threats to Pacific lamprey to the greatest extent possible. The goal of the agreement is to achieve long-term persistence and support traditional tribal cultural use of Pacific lamprey throughout their range. This agreement provides a mechanism for interested parties to collaborate and pool available resources to expeditiously and effectively implement conservation actions, including restoration actions.

11.5 Foothill Yellow-Legged Frog Conservation Assessment

The Foothill Yellow-Legged Frog Conservation Assessment in California (Hayes et al. 2016) provides a review of foothill yellow-legged (FYL) frog status across federal lands in California and evaluates risk factors likely to impact the FYL frog and its habitat. The assessment informs a future conservation strategy for the species and includes a number of potential actions for future conservation and management of the species, including waterflow management, stream restoration and non-native species management, and watershed management.

12 California Department of Fish and Wildlife Documents

12.1 State ESA-Listed Threatened and Endangered Species

The California Endangered Species Act (CESA) of 1970 created the categories of endangered and rare. Species with a state list date of June 27, 1971, were protected under this statute. The Act was amended in 1984, at which time the rare status was changed to threatened. On January 1, 1985, all animal species previously designated as rare were reclassified as threatened. The official California listing of endangered and threatened animals is contained in CCR Title 14 §670.5. The current legal status for non-plant species is provided online[3] and is updated quarterly. The current legal status for botanical species is available upon request from the CDFW.

12.2 Recovery Strategy for California Coho Salmon

In February 2004, the California Fish and Game Commission (FGC) adopted the Recovery Strategy for California Coho Salmon (Recovery Strategy). The primary objective of the Recovery Strategy is to return coho salmon to a level of sustained viability, while protecting the genetic integrity of both the SONCC and Central California Coast (CCC) ESUs with the goals of delisting, thus making regulations or other protections under the CESA and ESA no longer necessary. A second objective of the Recovery Strategy is to achieve harvestable populations of coho salmon for tribal, recreational, and commercial fisheries (CDFG 2004).

[3] http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405

In California, prior coastal watershed recovery projects are considered complementary to the objectives of the Aquatic Restoration Project, as they acted to: 1) restore and enhance suitable habitat conditions for juveniles and adults; 2) upgrade permitting and regulatory enforcement to protect coho salmon populations and their habitats; 3) promote continuation and further development of captive rearing programs at Warm Springs and Kingfisher Flat conservation hatcheries to help re-establish coho salmon in depleted streams north and south of San Francisco Bay, respectively; and, 4) implement range-wide and watershed-scale recovery actions.

12.3 State Wildlife Action Plan (SWAP)

In all regions of the state, aquatic, wetland, and riparian habitats support rich biological communities, including many special status species, and restoration of these habitats represents an important step for the state's biological heritage. The CDFW has a fundamental objective with regard to California's native anadromous fish species: to manage and conserve these species and the habitats they occupy for their ecological significance, recreation, commercial, and tribal values and for enjoyment by current and future residents and visitors. The State Wildlife Action Plan (SWAP, CDFW 2015) has six (6) core principles for managing these populations and their habitat. Four (4) of these principles are pertinent to this decision: water conservation, habitat restoration, species recovery and promoting partnerships. The permitting agency (USFS, BLM, or TRRP) would work closely with CDFW to reach these mutual goals. In addition, the SWAP has developed conservation strategies for conservation targets in the North Coast and Klamath Province, including a 5 percent increase in riparian and montane woodland habitat, a 5 percent increase in acres or stream miles with natural floodplain connectivity, and a 5 percent increase in acres or stream miles with natural hydrologic regime.

12.4 Steelhead Restoration and Management Plan for California (1996)

Steelhead are an important and valued resource to California's citizens and are an important component of the vast biodiversity of the state. Like many of the state's anadromous fish resources, steelhead are declining. Decline of steelhead populations is but one aspect of the present statewide decline in biodiversity, caused by California's burgeoning human population and the ever-increasing demand on natural resources. This plan focuses on restoration of native and naturally produced (i.e., wild) stocks because these stocks have the greatest value for maintaining genetic and biological diversity.

Steelhead restoration and management goals 1) increase natural production, as mandated by the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act of 1988, so that steelhead populations are self-sustaining and maintained in good condition, and 2) enhance angling opportunities and non-consumptive uses. The strategies to accomplish these goals are to 1) restore degraded habitat; 2) restore access to historic habitat that is presently blocked; 3) review angling regulations to ensure that steelhead adults and juveniles are not over-harvested; 4) maintain and improve hatchery runs, where appropriate; and 5) develop and facilitate research to address deficiencies in information on fresh water and ocean life history, behavior, habitat requirements, and other aspects of steelhead biology.

12.5 CDFW Section 1600 State Waters

The need for a lake or streambed alteration agreement would be determined during the site-specific project planning and would be obtained from the CDFW, prior to any activity that could substantially modify the bed,

bank, or channel of a stream. Where state funding is involved, incidental take authorization pursuant to the CESA would be obtained before activities that may result in take of state ESA-listed species.

12.6 Clean Water Act Section 401

The Clean Water Act (CWA) Section 401 (33 U.S.C. 1341) requires that applicants obtain a Section 401 water quality certification for activities that result in a discharge into waters of the United States (WOTUS). Such certifications are typically issued by a certifying authority, usually a state or tribe, that can attest that the discharge complies with applicable provisions of the CWA. In California, water quality certifications are issued by one of nine Regional Water Quality Control Boards (Regional Boards) that collectively with the State Water Resources Control Board, have the authority to regulate discharges under CWA Section 401 and the Porter-Cologne Water Quality Control Act (Porter-Cologne). Under California's Porter-Cologne Act discharges to waters of the state require filing a report of waste discharge (WDR). In certain cases, a Regional Board may issue a combined 401 certification/wavier of WDRs application. The applicability of existing 401 certifications and/or WDR Waiver will be evaluated based on project-specific requirements and pursuant to current state and federal regulatory requirements.

12.7 Clean Water Act Section 404

Section 404 of the CWA (33 U.S.C. 1344) regulates the discharge of dredged or fill material into WOTUS, including wetlands. Under the Section 404 program, a permit is required before dredge or fill material is discharged into WOTUS, unless the activity is exempt from Section 404 regulation. Under provisions of the CWA, the United States Army Corp of Engineers (USACE) administers the day-to-day Section 404 program, which includes general and individual permit decisions, jurisdictional determinations, developing policy and guidance, and enforcing the provisions of Section 404. WOTUS are defined in 33 CFR 328.3, which has been clarified following multiple Supreme Court decisions and supplemental guidance documents issued by USACE and the Environmental Protection Agency (EPA), the agency that is responsible for developing and interpreting policy, guidance, and environmental criteria for the Section 404 program. The need for a Section 404 permit would be determined during the site-specific project planning prior to commencing in-stream channel alterations and would be the responsibility of the project proponent.

12.8 Section 106 of the National Historic Preservation Act (NHPA)

Federal agencies are required to consider the effects of their actions on historic properties in compliance with 36 CFR Part 800, commonly referred to as Section 106 of the National Historic Preservation Act (NHPA) of 1966, found at Title 54 USC § 306108. The Section 106 process is often used to satisfy the requirements for cultural resources under the National Environmental Policy Act (NEPA), and includes identification, consultations, and, if needed, mitigation measures for determining adverse effects. It requires that federal agencies consider the effects of an undertaking on historic properties, which are defined as cultural resources (including prehistoric, historic, archaeological, and tribal cultural resources) listed in or eligible for listing in the National Register of Historic Places (NRHP).

A cultural resource is a broad term that includes prehistoric, historic, architectural, and traditional cultural properties. Cultural resources that meet criteria for listing on the California Register of Historical Resources

(CRHR) (defined at 14 CCR Section 15064.5[a]) are called "historical resources," and cultural resources that meet the criteria for listing on the National Register of Historic Places (NRHP) (as defined by 36 CFR Section 60.4) are called "historic properties." While the CRHR and NRHP significance criteria are similar, the NRHP is given precedence in this analysis because many cultural resources eligible for the NRHP are also eligible for inclusion in the CRHR, but the reverse is not necessarily true (California PRC Section 5024.1[c]).

Cultural resources found not eligible for the NRHP must still be considered in planning and NEPA actions following other laws, regulations and EOs, including: the Archaeological Resources Protection Act, Native American Graves Protection and Repatriation Act, Historic Sites Act of 1935, Antiquities Act, American Indian Religious Freedom Act, EO 13007 (Indian Sacred Sites), EO 13175 (consultation and coordination with Indian tribal governments), and EO 13287 (Preserve America).

12.9 Indian Trust Asset Reform Act and Executive Order 13007

The Indian Asset Reform Act (ITARA) authorizes the Secretary of the Interior to establish and carry out an Indian trust management for tribal forestry and surface leasing programs. Indian Trust Assets (ITAs) are held in trust by the federal government on behalf of a Native American individual or Tribe. Site-specific restoration projects associated with the Proposed Action may affect ITAs and would require site-specific reviews by USFS, BLM, and/or Reclamation.

EO 13007 – Indian Sacred Sites requires federal land managing agencies to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and to avoid adversely affecting the physical integrity of such sacred sites. Site-specific restoration projects associated with the Proposed Action may affect ceremonial use of Indian sacred sites on federal lands or adversely affect the physical integrity of such sacred sites and would require site-specific reviews by USFS, BLM, and/or Reclamation.

13 References

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