

Salmonid Restoration Federation
Restoration Permitting Workshop (Mendocino)
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Permit Coordination Programs

“The Navarro Permit Coordination Program”

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Introduction

Natural Resource Conservation Service (NRCS) is a small agency within the federal Dept. of Agriculture (USDA), which primarily works with private landowners to assist them in conserving natural resources on property that they manage. NRCS does not make decisions for landowners. It tries to help them make the best decision by giving them the best information available.

I work closely with the Mendocino Resource Conservation District (RCD), which is a special district within the California state charter (like a school district) but it is administered on a local basis. The Mendocino RCD is an entity that also works with private landowners. It acts to try to get different resources channeled into assisting private landowners to conserve resources on their property. It also works with different watershed groups.

Challenge

In the process of working together with landowners, one of the frustrations that came out is that we may have funding to do with restoration projects, and we may have a technically developed plan, and an idea of where we are heading that enjoys the support of the community and the agencies that have provided the funding. Yet, when it comes down to putting things down on the ground we are still required to get individual permits.

More often than not, these permits are not just from one agency. When we first did a lot of restoration work, if a project had a CDFG 1603 Agreement, this project was probably in pretty good shape. (In the coastal zone, you needed a coastal permit and a 1603.) But over time, as the different local, state and federal entities began to carry out the charges they were given to protect resources (some them very specific in scope, some of them much broader), this provided a number of overlapping processes that a restoration project had to go through. In many cases, the landowners that we were working with were quite intimidated by this permitting process. They didn't have the knowledge of it, they didn't have the patience, and they didn't have the time.

We found that these pressures were a barrier to helping landowners to engage in restoration projects. Restoration can often be expensive, too. You want to be working as efficiently as possible and complying with the different regulations. In many cases, the regulating agencies are also those that are providing the funding.

The Mendocino county RCD had worked closely with the *Navarro Watershed Restoration Plan* and the community that developed it. When it came to implementing the restoration recommendations of the Plan, that's where the rubber hit the road. We wrestled with the permits, and knew that the landowners needed help with this process. We found that once we got to a "program level," where the funding was consistent enough to implement these restoration projects, there was an opportunity to help make government agencies more efficient and honor the rules and regulations that were formulated to protect the environment.

What we did and how we did it

We started asking around about what "programmatic permit coordination programs" had worked because we could tell that the individual approach for permits was going to be cumbersome. We heard about Elkhorn Slough where this area's NRCS, local RCD, and a group called *Sustainable Conservation* (SRF Workshop Presenter) got together. (*Sustainable Conservation* is a private non-profit out of San Francisco, which tries to remove bottlenecks to achieving conservation across the state. They have worked in rural and urban settings.)

Sustainable Conservation was interested in working with us because we had a watershed plan. *Sustainable Conservation* felt this was critical to implementing a "programmatic" approach to permit coordination. (In the absence of a watershed plan, they felt that the agencies could not have something they could look at to see if what we were proposing was really "ground-truthed.")

Recommendation: If you have an opportunity to be a part of an overall assessment for a watershed, even if it is on a smaller sub-watershed, this will strengthen your ability to move a restoration project through the permitting process.

The agency permits we felt were critical to include in the program were CDFG's Streambed Alteration Agreement (under Public Resources Code 1600); the Army Corps of Engineers 404 (jurisdiction at the high water mark, roughly equivalent to a two-year flow event); Regional Water Quality 401 Certification (for any impact of discharge material if you are putting in boulders or stabilizing a bank). (Note: 401 and 404 are Sections of the federal *Clean Water Act*). If you are working within the Coastal Zone, the Coastal Commission has jurisdiction for coastal permits. You should be aware of any county grading ordinances. One of the few areas that Mendocino county's environmental and Farm Bureau stakeholders agree is that restoration could be exempt from a Mendocino county grading ordinance because it would be redundant to the state and federal permits. In Sonoma county it would be necessary to obtain a local grading permit.

Because USDA-NRCS is a federal agency this provides a federal nexus. Under the *Navarro Permit Coordination Program*, coordination of all of the entities into one vehicle was an important step for the agencies that will save the agencies some footsteps. The agencies saw this as to their advantage and as "good government."

Recommendation: It is important to understand, the agencies often know that these are good projects but they don't know who you are, or what you know, what sorts of standards you'll use in your project. It isn't enough to put your

project under the umbrella of “restoration.” It’s all about trust. It’s about communication.

We suggested eight different practices (see NRCS Handout), which were out of the *Navarro Watershed Plan Technical Guide*. These involved the main areas of practices that required permits. For example, in the “Access Roads” section, there may be areas that trigger permits, but there may also be whole sections of a road that we wanted to work on that didn’t need any permits.

We met many times in the field. It took three months to coordinate getting the agencies all together. It was well worth this effort. The agencies were positive and I didn’t see any sort of turf battles. What took the most time was hammering out the conditions that we eventually accepted. We had to set up a process where we pre-agreed to conditions that the agencies set. This was a negotiated process. If we had agreed to everything they had first proposed, there would have been operational constraints that we couldn’t have survived. On the other hand, some of the practices we wanted to use would not have protected some of the species the agencies were in charge of.

The Handout is a really quick table. The actual documents with each of the different entities are quite long, thick agreements. For the CEQA document, the North Coast Regional Water Quality Control Board agreed to be the lead agency. We report to Regional Water Quality in the later part of May for projects that will be done in the summer.

We were able to come up with one form instead of repeating the same information in the forms for each one of the permits. How we were able to comply with CEQA is: we set caps on how much material would be put in, and on how many feet of road would we would work on, for example. This was difficult, but by capping our operations, we were able to insure that the affect our project would have would not be greater than that covered by our CEQA review. We got one fee structure for all the permits. We also arrange tours of the project site.

We also have “cooperator agreements” with the individual landowners. The landowner must comply with all the pre-set conditions. They must follow our design. If they don’t want to do it this way, then the landowners are on their own. Again, trust is important. The landowner has to trust us because we have contractors working on their land. Or, maybe the landowner is using their own equipment. We have to be out there making sure that things are going right.

At the end of a season we report what we have done. Out of the first run that occurred this year, three out of five projects have been installed, one will be completed next year (because of funding problems with one of the grants), and another doesn’t look like its going to be put in.

Recommendation: We accepted the presence of endangered species, whether they actually were there, or not. We didn’t say to the agencies, “You prove that they are there.” We didn’t get into all of that. ***This was a real door opener with the agencies.***

There are some unique aspects to the *Navarro Permit Coordination Program*, but there are many aspects that will apply to most projects. We knew that we were going to have money coming in for at least five or six years. So we wanted remove institutional barriers to landowners to do this work. If it’s money, you can help them with this. If its techniques, you can help them. Permitting was one of these barriers.

Diversion of flow or draining a stream was off the table. There was no way that the agencies could permit this without have much more detail. So, this didn't lend itself to a general condition. Wetted parameters are going to have to go through the individual permit process. If we ever have a project like this, we'll go to CDFG and hope that it will do the monitoring and transfer of fish stock.

Question: When you put together the conditions did this information come from the last five years of permits that you looked at and determined that these are typical conditions. Is there a data set?

TS: We did go to previous CDFG 1603 documents, and we did have a lot of informal consultation. We just accepted the conditions.

Question: So the conditions are pretty standard?

TS: Yes. Plus, what surprised us. It depends on the species. For example, if you have *tidewater gobi*, you will have certain conditions that are fairly unique to this species. We were not directly going to work in *spotted owl* habitat, but much of the forestland in the Navarro watershed is *spotted owl* habitat. We agreed to abide by the *spotted owl* breeding condition, because it fit, for the most part, within our other season. You can't cover everything before hand because you don't have the same knowledge base as each of the agencies.

Question: Are there other watershed program permit models like this in California?

TS: Yes. We plagiarized the one for Elkhorn Slough (near Watsonville, Monterey area). This area was far more degraded than ours. It is much trickier in the more natural environments. Stemple Creek in Marin county is going through a negotiated programmatic permit process. Morro Bay is working on one. There are several more.

Restoration funding administered by NRCS:
California 2003 Environmental Quality Incentives Program
<http://www.ca.nrcs.usda.gov/programs/eqip/>

Watershed Restoration and Data at California NRCS:
<http://www.ca.nrcs.usda.gov/programs/watershed/benefits.html#Watershed%20Protection>

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