



West Coast Region

# Safe Harbor Agreements for Private Landowners

## Assistance and incentives for landowners to help salmon and steelhead

Are you a landowner committed to stewardship and interested in deepening your connection with the landscape and wildlife? Your land may be able to support at-risk salmon and steelhead and help their populations recover.

We can explore this potential with you. We offer assistance and incentives to help landowners enhance creeks and streams to support endangered and threatened salmon and steelhead.

We understand many landowners are interested in helping these species recover, but are wary of potential legal issues regarding endangered and threatened species. This is where a Safe Harbor Agreement can help – it provides regulatory assurances to private landowners engaged with NOAA Fisheries in carrying out recovery actions.

Throughout their lives anadromous fish travel thousands of miles and cross multiple jurisdictions. There is not one single entity that can give them all the support they need or address all the issues they face. To successfully recover and conserve salmon and steelhead, it takes collaboration among federal, state, and local government; nongovernmental organizations; and private landowners.

## Safe Harbor Agreements in Sonoma County, California

### Katie Jackson of Jackson Family Wines:



*“My parents envisioned a family-owned, multi-generation business. Part of that long-term vision, is the preservation of resources entrusted to our care. Managing our lands responsibly to ensure the ongoing viability of ecosystems is the foundation of how we farm and make wine. My hope is that my children will be able to watch once-endangered fish swim alongside our vineyards at the Kellogg Ranch.”*

*Left: Katie Jackson of Jackson Family Wines and MaryAnn King of Trout Unlimited inspecting the newly created step pools replacing a 100 year old fish barrier in Yellowjacket Creek in the Russian River, Sonoma County. Right: Removing the fish passage barrier. Photos courtesy of Jackson Family Wines*



## Susan Hart, of Hart Ranch:

*Little Shasta River within the Hart Ranch in Siskiyou County*

*“Building a property stewardship program that encompasses aggressive wildlife habitat conservation and management techniques while raising superior quality beef through humane and sustainable processes is what the Hart Ranch seeks to represent and promote.”*

*Our Safe Harbor Agreement with NOAA Fisheries allows us the opportunity to help recover coho salmon while providing the flexibility we need to manage our ranch in a sustainable manner.*

*Utilizing socially compelled decision making to ensure economically viable agricultural operations while supporting environmentally sound conservation practices is where we can all find common ground. As with many agricultural properties, long held stewardship practices have provided a wealth of wildlife.*

*Forming partnerships like the one we’ve memorialized with NOAA Fisheries is one of the most effective ways we’ve found to enable our future mission of scientifically guided property stewardship. This partnership has not only availed us to working relationships within the scientific community in our effort to enhance coho salmon habitat, it has also provided an effective model as we move forward in generating conservation benefit for other species who find security within the Hart Ranch agricultural operations. Truly, a win-win for all.”*



## David Manning, Environmental Resources Manager, Sonoma County Water Agency:

*“The condition of salmon and steelhead habitat within our service area is a measure of our water supply reliability. To ensure a reliable water supply for our customers, we must work with private landowners to enhance salmonid habitat that is affected by our water operations.*

*Our Safe Harbor Agreement with NOAA Fisheries gives us a pathway to not only help recover ESA-listed salmonids and advance our mission, but also build cooperative public/private partnerships within our service area.”*

*Newly created backwater alcove and floodplain along Dry Creek at Dry Creek Vineyards and Farrow family properties. Photo: Courtesy of Sonoma Water*



# About Safe Harbor Agreements

## What can you, the property owner, do to help salmon and steelhead recovery under an SHA?

Examples of stewardship practices to support anadromous fish that could be included in an SHA:

- Removing fish passage barriers to habitat (e.g. undersized culverts, water diversion structures, small dams)
- Planting riparian vegetation
- Maintaining a vegetated buffer along streams
- Adding wood to streams
- Enhancing streamflow
- Improving access to and function of floodplains

## What is a Safe Harbor Agreement?

A Safe Harbor Agreement (SHA) is a voluntary agreement providing regulatory assurances to private property owners whose actions contribute to the recovery of species listed as threatened or endangered under the Endangered Species Act (ESA). The agreement is between property owners and NOAA Fisheries.

In exchange for adopting conservation practices that contribute to the recovery of ESA-listed species on private lands, participating property owners receive formal assurances that NOAA Fisheries will not ask for any additional land use restrictions without their consent. In addition, at the end of the agreement period, landowners may return the enrolled property to its original, or baseline, habitat conditions.

## How does an SHA benefit the property owner?

By entering into a SHA, property owners receive assurances that their land will not be subjected to increased land-use restrictions resulting from their efforts to attract ESA-listed species to their property or to increase the population of listed species already on their property.

NOAA Fisheries provides these assurances by issuing an Enhancement of Survival Permit to the property owner, under the authority of section 10(a)(1)(A) of the ESA. This permit authorizes the “incidental take” of species that may result from actions undertaken by the landowner participating in the SHA, including actions that return the habitat to baseline conditions near the end of the permit term.

## Why does NOAA Fisheries offer Safe Harbor Agreements?

NOAA Fisheries is responsible for guiding the recovery of endangered and threatened salmon and steelhead. Our recovery plans for salmon and steelhead identify priority habitat restoration and enhancement activities, and much of this vital habitat is located on private land.

While some landowners are already active partners in these habitat stewardship efforts, others may be reluctant to undertake such activities due to concern about future land-use limitations related to the ESA. This is why we offer SHAs. These agreements encourage voluntary contributions supporting salmon and steelhead recovery on private lands. By participating, property owners help enhance vital habitat for fish. SHAs give the species the time and space they need to restore populations to healthy, thriving numbers.

## What is the process for entering in to a SHA?

Generally, the steps are:

1. An interested property owner contacts the nearest NOAA Fisheries office.
2. The property owner, with the aid of NOAA Fisheries, gathers information about the listed species and habitat on the property. With this information, NOAA Fisheries assists the property owner in identifying stewardship activities that could be voluntarily undertaken to support listed species, or actions that the property owner could forego to aid listed species’ survival.
3. NOAA Fisheries and the property owner work together to develop a description of the baseline conditions, identify habitat improvement activities, and create land-use objectives for the property. For an SHA contributing to salmon and steelhead recovery, baseline conditions are generally the current condition and accessibility of stream habitat on the property.
4. NOAA Fisheries and the property owner develop a draft SHA.
5. The property owner submits an application with the draft SHA to NOAA Fisheries for an ESA Enhancement of Survival Permit.
6. NOAA Fisheries conducts an internal review, allows opportunity for public comment, and formally determines whether the agreement complies with the ESA and contributes to the recovery of the listed species involved.
7. NOAA Fisheries issues an Enhancement of Survival Permit to the property owner and the SHA is finalized.



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## How long does it take to develop and finalize a SHA?

The timeline depends on the complexity of the project, including the size of the area involved, types of stewardship activities to be conducted, and the number of parties to the agreement. Once NOAA Fisheries and the property owner(s) understand and agree upon the scope of the project, NOAA Fisheries and the property owner(s) will develop a timeline for SHA completion that meets all parties' objectives. Property owners can help expedite the development of the SHA by identifying proposed stewardship activities and describing current and potential future land uses early in the process.

## Can I sell or transfer property enrolled with a SHA?

Yes. If a property owner sells or gives away lands enrolled in the SHA, the new owner is not obligated to enter into the SHA. If the new property owner agrees to become a party to the original SHA and Enhancement of Survival Permit, then NOAA Fisheries will regard the new owner as having the same rights and obligations with respect to the enrolled property as the original property owner.

## What happens when the SHA expires?

The SHA can be renewed for a new term if the landowner and NOAA Fisheries mutually agree. If the landowner does not seek to renew the agreement before the agreement expires, then the landowner may bring the property to baseline conditions and the assurances tied to the Enhancement of Survival Permit expire. The owner would then no longer be protected from the "take" prohibitions of the ESA that were allowed under the permit.



*Representatives from NOAA Fisheries, Sonoma County Board of Supervisors, Sonoma Water, California Department of Fish and Wildlife, U.S. Army Corps of Engineers, and Dry Creek Vineyards signing the Dry Creek Valley Programmatic Safe Harbor Agreement*

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## Who should I contact for more information?

Please contact your nearest NOAA Fisheries office:

[www.westcoast.fisheries.noaa.gov/about\\_us/our\\_locations.html](http://www.westcoast.fisheries.noaa.gov/about_us/our_locations.html)

**More information on SHAs and descriptions of existing SHAs with NOAA Fisheries are available at:**

[www.westcoast.fisheries.noaa.gov/habitat/conservation\\_plans/habitat\\_conservation\\_agreements\\_on\\_the\\_wc.html](http://www.westcoast.fisheries.noaa.gov/habitat/conservation_plans/habitat_conservation_agreements_on_the_wc.html)