



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
 Region 1 – Habitat Conservation Planning
 Lake and Streambed Alteration (LSA) Program
 619 2nd Street
 Eureka, CA 95501
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



April 9, 2025

Danny J. Ballard
 Fenario LLC.
 P.O. Box 997
 Garberville, CA 95542
starlightstudioglass@gmail.com

Dear Danny J. Ballard:

Extension of Lake or Streambed Alteration Agreement, Notification No. 1600-2019-0183-R1

The California Department of Fish and Wildlife (CDFW) received your request to extend the above referenced Lake or Streambed Alteration Agreement (Agreement) and extension fee, associated with Assessor's Parcel Number (APN) 223-034-003. You requested to extend the expiration date of your Agreement from February 13, 2025, to February 13, 2030. Your request to extend the Agreement includes the following activities (Table 1):

Table 1. Project Encroachments Covered by this Agreement with Description

ID	Latitude/Longitude	Description
Crossing-1	40.02724, -123.73354	Decommission an existing fill crossing on a legacy logging road.
Crossing-6	40.03168, -123.73194	Replace an existing plugged 8" culvert with a rocked ford crossing.
POD-1	40.02724, -123.73354	Water diversion from an unnamed tributary to Horse Pasture Creek, for domestic use. Work completion by October 2025 , for the diversion structure to achieve compliance under this agreement Domestic Use Water diversion for domestic use year-round. Permittee shall implement Seasonal Diversion Minimization: No more than 200 gallons per day cumulatively from POD's 1-3 from April 1 – November 15.
POD-2	40.02922, -123.73129	Water diversion from an unnamed spring, for domestic use and irrigation. Work completion by October 2025 , for the diversion structure to achieve compliance under this agreement Cannabis Irrigation Diversion to storage for cannabis irrigation from November 16 – March 31 when sufficient flows exist. Water shall not be diverted outside of the diversion period (above).

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ID	Latitude/Longitude	Description
		<p>Domestic Use Water diversion for domestic use year-round. Permittee shall implement Seasonal Diversion Minimization: No more than 200 gallons per day cumulatively from POD's 1-3 from April 1 – November 15.</p>
<p>POD-3</p>	<p>40.02968, -123.73077</p>	<p>Water diversion from an unnamed spring, for domestic use and irrigation. Work completion by October 2025, for the diversion structure to achieve compliance under this agreement</p> <p>Cannabis Irrigation Diversion to storage for cannabis irrigation from November 16 – March 31 when sufficient flows exist. Water shall not be diverted outside of the diversion period (above).</p> <p>Domestic Use Water diversion for domestic use year-round. Permittee shall implement Seasonal Diversion Minimization: No more than 200 gallons per day cumulatively from POD's 1-3 from April 1 – November 15.</p>
<p>Pond/Stream Restoration</p>	<p>40.03051, -123.73060</p>	<p>An estimated 900,000-gallon pond that was lined with plastic and disconnected from the adjacent streams, that historically flowed into the pond before it was lined.</p> <p>Currently, two Class II streams are routed around and under the pond via three 24" culverts, and flow into one stream channel downstream of the pond. Additional flow is contributed to the stream though an 18-inch ditch relief culvert (DRC).</p> <p>The two culverted stream channels require restoration. Additionally, the existing DRC will need to be hydrologically disconnected from the streams. A Stream Restoration Plan shall be prepared by a California state licensed engineer and submitted no later than July 31, 2025. The work completion date for the project is October 15, 2026.</p>

CDFW has determined that an extension will require modifications to the Agreement because the measures contained therein no longer adequately protect fish and wildlife resources that the activity may substantially adversely affect. CDFW hereby agrees to extend the term of the Agreement to February 13, 2030, with addition of the following measures to protect fish and wildlife resources:

1. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, the Permittee shall implement each measure listed below.

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Project Timing

- 1.1 **Work Period.** All work, not including authorized diversion of water, shall be confined to the period **June 1 through October 31** of each year. Work within the active channel of a stream shall be restricted to periods of dry weather. Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease, and all necessary erosion control measures shall be implemented prior to the onset of precipitation.
- 1.2 **Work Completion.** The proposed work for Stream remediation project (Pond) shall be completed in two parts: The Pond Decommission and Stream Restoration Report shall be completed by **July 31, 2025**, and the project shall be completed no later than **October 31, 2026**. Water diversion structure compliance for the three PODs is to be completed by **October 31, 2025**. Stream Crossing #1 and Stream Crossing #6 shall be completed prior to the expiration of this agreement. A notice of completed work, including photographs of each site, shall be submitted to CDFW within seven (7) days of work completion for each encroachment.
- 1.3 **Extension of the Work Period.** If weather conditions permit, and the Permittee wishes to extend the work period before June 1 or after October 31, a written request shall be made to CDFW at least five (5) working days before the proposed work period variance. **Written approval (letter or e-mail) for the proposed time extension must be received from CDFW prior to activities beginning before June 1 or continuing past October 31.**
- 1.4 **Avoidance of Nesting Birds.** Fish and Game Code sections 3503 and 3503.5 prohibits the taking or destroying of native bird's nests or eggs. Vegetation maintenance or removal (e.g., clearing and grubbing) shall occur between September 1 and March 15. Removal areas should be managed once cleared to reduce nesting potential during the breeding season.

Water Diversion

- 1.5 **Maximum Diversion Rate.** The maximum instantaneous diversion rate from the water intake shall not exceed **three (3) gallons per minute (gpm)** at any time.
- 1.6 **Bypass Flow.** The Permittee shall pass **80% of the flow** at all times to keep all aquatic species including fish and other aquatic life in good condition below the point of diversion.
- 1.7 **Seasonal Diversion Minimization – Domestic Use.** No more than **200 gallons of water per day** shall be cumulatively diverted during the low flow season from **April 1 to November 15** of each year. Water shall be diverted only if Permittee can adhere to the maximum diversion rate and bypass flow conditions (measure 1.5 and 1.6).

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- 1.8 Seasonal Diversion Forbearance – Cannabis Irrigation. No water shall be diverted during the low flow season from **April 1 to November 15** of each year.
- 1.9 Measurement of Diverted Flow. Permittee shall install and maintain an adequate measuring device (i.e., flow totalizer) for measuring the instantaneous and cumulative rate of diversion. This measurement shall begin as soon as this Agreement is signed by the Permittee. The device shall be installed within the in-line flow of diverted water. The Permittee shall maintain records of diversion, and provide information including, but not limited to the following:
 - 1.9.1 The date diversion occurred.
 - 1.9.2 The amount of water used per week for domestic purposes. Delineate whether water is diverted directly from the POD or diverted from storage.
 - 1.9.3 The amount of water used per week for cannabis cultivation separated out from the amount of water used for other irrigation purposes and other uses of water (e.g., domestic use or fire protection).
 - 1.9.4 At the CDFW's request, Permittee shall make available for review any diversion records required by the State Water Resources Control Board.
- 1.10 Water Management Plan. The Permittee shall submit a Water Management Plan no later than **October 31, 2025**, that describes how compliance will be achieved under this Agreement. The Water Management Plan shall include details on water storage, water conservation, or other relevant material to maintain water needs in coordination with seasonal diversion minimization and/or forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement.

Water Diversion Facility

- 1.11 Water Diversion Structure Compliance. The Permittee shall demonstrate that the water diversion structure(s) meets applicable conditions of the LSA Agreement, by **October 31, 2025**. Labeled photographs and a short project description, demonstrating LSAA compliance, shall be submitted to CDFW within ten (10) days of project implementation.
- 1.12 Intake Structure. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.
- 1.13 Intake Structure Placement. Infrastructure installed in the streambed (e.g., cistern or spring box) shall not exceed 10 percent of the active channel width and shall

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not be located in the deepest portion of the channel. The depth of the intake shall be no greater than six inches below the streambed.

- 1.14 Intake Screening. The Permittee shall regularly inspect, clean, and maintain screens in good condition.
 - 1.14.1 The water intake screens shall be securely fitted and attached (e.g., threaded or clamped) to the intake line.
 - 1.14.2 A water intake screen with round openings shall not exceed 3/32-inch diameter; a screen with square openings shall not exceed 3/32-inch measured diagonally; and a screen with slotted openings shall not exceed 0.069 inches in width. Slots must be evenly distributed on the screen area.
 - 1.14.3 The screen shall be designed to distribute the flow uniformly over the entire screen area.
 - 1.14.4 The water intake screen may be constructed of any rigid material, perforated, woven, or slotted. Stainless steel or other corrosion-resistant material is recommended to reduce clogging due to corrosion. Care should be taken to not use materials deemed deleterious to aquatic species.
- 1.15 Intake Shall Not Impede Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.
- 1.16 Exclusionary Devices. Permittee shall keep the diversion structures (e.g., cistern) covered at all times to prevent the entrance and entrapment of amphibians and other wildlife.
- 1.17 Water Line Placement. Except where the water line joins the point of diversion, all water lines shall be placed outside of the stream channel.
- 1.18 Seasonal Diversion Disconnection – Cannabis Irrigation. Permittee shall disconnect all water lines from the point of diversion (e.g., cistern, spring box, etc.) and water storage facilities at the end of each diversion season.
- 1.19 Heavy Equipment Use. No heavy equipment shall be used in the excavation or replacement of the existing water diversion structure. The Permittee shall use hand tools or other low impact methods of removal/replacement. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.

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Diversion to Storage

- 1.20 Water Storage. All water storage facilities (WSF; e.g., reservoirs, storage tanks, and bladders tanks) should be located outside bed, bank or channel of a stream. Covers/lids shall be securely affixed to water tanks at all times to prevent entry by wildlife. Permittee shall cease all water diversion at the point of diversion when WSFs are filled to capacity.
- 1.21 Storage Maintenance. Water storage facilities shall have a float valve to shut off the diversion when tanks are full to prevent overflow. Water shall not leak, overflow, or overtop WSFs at any time. Permittee shall regularly inspect all water storage facilities and infrastructure used to divert water to storage and repair any leaks.
- 1.22 Limitations on Impoundment and Use of Diverted Water. The Permittee shall impound and use water in accordance with a valid water right, including any limitations on when water may be impounded and used, the purpose for which it may be impounded and used, and the location(s) where water may be impounded and used.
- 1.23 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 1.24 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 et seq. as appropriate for the water diversion and water storage.

Stream Restoration

- 1.25 Stream Restoration Plan. The Permittee shall submit a Stream Restoration Plan to CDFW prior to conducting restoration activities. The Stream Restoration Plan (SRP) shall be prepared by a California licensed engineer and detail the dimensions and slopes of the stream channel to be remediated. The SRP shall describe any material utilized to restore the channel to a natural condition. The SRP shall include a Revegetation Plan for restoration of the impacted channel reach. A copy of the **Stream Restoration Plan** shall be submitted to CDFW by **July 1, 2025**.

Project Inspection

- 1.26 Project Inspection Report. Work shall be inspected by a California licensed engineer, or other qualified professional with appropriate license or qualifications, to ensure the projects were implemented as designed, and in compliance with this Agreement. A copy of the Project Inspection Report shall be submitted to CDFW within ninety (90) days of completion of the Project.

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Information to be disclosed shall include, but not be limited to, the Agreement number, upstream and downstream photos of each work site (labeled with the LSAA project ID), a detailed description of the work completed, and comments related to the performance of the completed project(s).

2. Reporting Measures

All reports shall be submitted by e-mail to CDFW at R1LSAEureka@wildlife.ca.gov. **Failure to meet work completion dates or reporting requirements shall result in suspension or revocation of this Agreement.**

- 2.1 **Notice of Work Completion.** The proposed work for POD #4 (Pond) shall be completed in two parts: The Stream Restoration Plan shall be completed by **July 1, 2025** and the earthwork shall be completed no later than **October 31, 2026**. Water diversion structure compliance for the three PODs is to be completed by **October 31, 2025**. Stream Crossing #1 and Stream Crossing #6 shall be completed by the life of this agreement. A notice of completed work (measure 1.2) shall be submitted to CDFW **within seven (7) days** of work completion. Information to be disclosed shall include Agreement number, photos of each work site labeled with the project ID, and a short description of the work completed.
- 2.2 **Measurement of Diverted Flow.** Copies of the Water Diversion Records (measure 1.9) shall be submitted to CDFW no later than **March 31** of each year beginning in **2025**.
- 2.3 **Water Management Plan.** The Permittee shall submit a Water Management Plan (measure 1.10) by **October 31, 2025**.
- 2.4 **Diversion Structure Compliance and Work Completion.** The Permittee shall submit a Work Completion Report (WCR) demonstrating that the water diversion structure has been modified to meet conditions of the Agreement by **October 31, 2025** (condition 1.11). The WCR shall include labeled photographs and a short project description, demonstrating LSAA compliance. The WCR shall be submitted to CDFW within ten (10) days of work completion.
- 2.5 **Stream Restoration Plan.** The Permittee shall submit a **Stream Restoration Plan by July 1, 2025**, for review and approval prior to implementation of stream channel restoration activities (measure 1.25). The Stream Restoration Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.
- 2.6 **Project Inspection.** The Permittee shall submit the Project Inspection Report (measure 1.26) to CDFW **within ninety (90) days** of completion of the Project.

All terms and conditions in the Agreement remain in effect unless otherwise noted herein.

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Please sign and return one copy of this letter to CDFW at R1LSAEureka@wildlife.ca.gov, **within 30 days of receipt**, to acknowledge the extension and additional measures to protect fish and wildlife resources. Copies of the Agreement and this Extension letter must be readily available at project work sites and must be presented when requested by a CDFW representative or agency with inspection authority.

If you have any questions regarding this letter, please contact Environmental Scientist Georgia Hamer by email at georgia.hamer@wildlife.ca.gov

Sincerely,

DocuSigned by:

1B5E42F730224D2

David Manthorne
Senior Environmental Scientist Supervisor

ec: Georgia Hamer
Region 1 – Habitat Conservation Planning
Humboldt/Del Norte Cannabis LSA Team

Kathy Moley
Pacific Watershed Associates
kathym@pacificwatershed.com

ACKNOWLEDGEMENT

I hereby agree to the above-referenced amendment.

Print Name: Danny J. Ballard Date: 4/14/2025

Signature: 

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
REGION 1 – NORTHERN REGION
619 Second Street
Eureka, CA 95501



STREAMBED ALTERATION AGREEMENT

NOTIFICATION No. 1600-2019-0183-R1

Unnamed Tributary to Horse Pasture Creek, Tributary to the South Fork
Eel River and the Pacific Ocean

Danny Ballard
Ballard Stream Crossings and Water Diversions
11 Encroachments

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Danny Ballard (Permittee).

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on March 11, 2019, revised on April 17, 2019, with additional information obtained during a December 4, 2019 CDFW site visit, that the Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, the Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, the Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project to be completed is located within the South Fork Eel River watershed, approximately 6 miles south east of the town of Garberville, County of Humboldt, State of California. The project is located in Section 29, T5S, R4E, Humboldt Base and Meridian; in the Harris U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel 223-034-003; latitude 40.028977 N and longitude 123.726285 W.

PROJECT DESCRIPTION

The project is limited to 11 encroachments (Table 1). Seven of the encroachments are to upgrade or remove failing and undersized culverts. Work for these encroachments will include excavation, removal of the failing culverts, replacement with new properly

sized culverts, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. One of these crossings will be decommissioned, and the natural stream bed and bank restored. Four of the encroachments are points of diversion including a wooden spring box on a stream, two perennial springs, and an onstream pond.

The Notification also discloses Crossing-4 (Lat. 40.030284, Long. -123.731011) that is also referenced as Site #88 in 2005 PWA report as being legally permitted through CDFW FRGP and completed in 2005. The consultant, PWA, asserts the crossings- 4 and 8 are of sufficient capacity to convey 100-year discharge and associated debris, crossings are installed at or near the base of the fill and the fillslopes are well armored.

The site visit conducted by CDFW revealed that no stream crossing currently exists at location designated in the Notification as crossing-3 (40.03082, -123.73341). This feature previously conveyed stream flow via an inboard road ditch from a diverted stream off-parcel at 40.03087, -123.73374. Prior culvert replacement at the off-parcel stream crossing corrected the stream diversion and the location designated as crossing-3 currently functions as a ditch relief culvert. CDFW anticipates that tires and debris at the outlet of the ditch relief culvert will be removed and monitored as part of the project's Site Management Plan.

Additionally, CDFW determined during the site visit that a feature described in the Notification as a 15" diameter ditch relief culvert at 40.03025, -123.73079 is a class III stream crossing with an approximately 18" active channel width that flows into an on-stream pond. This Agreement designates this stream crossing as crossing-3b.

Culverts that were disclosed in the Notification, but not included as 1602 projects with fees, are not covered under this Agreement. If maintenance (such as armoring) and/or replacement is necessary, that work will need to be covered under a major amendment or a separate Agreement.

No other projects that may be subject to FGC section 1602 were disclosed. This Agreement does not retroactively permit any stream crossings, water diversions or other encroachments not described in Table 1.

Table 1. Project Encroachments with Description

ID	Latitude/Longitude	Description
Crossing-1	40.027243, -123.733536	Dirt fill stream crossing on a legacy logging road that has partially washout-out and is currently diverting down the road; will be decommissioned by excavating fill and restoring natural stream bed and banks. POD-1 is also located at this site.
Crossing-2	40.029763, -123.733491	Replace undersized 18" culvert stream crossing placed high in the fill with minimum 24" diameter culvert
Crossing-3b	40.03025, -123.73079	Replace an undersized 15" culvert with minimum 18" culvert in accordance with this Agreement.

Crossing-5	40.030209, -123.730676	Replace undersized 18" culvert stream crossing with minimum 24" diameter culvert. WRPP reports it was 50% plugged at the time of inspection.
Crossing-6	40.03168, -123.73194	Replace 8" culvert on ephemeral stream with rock ford/dip crossing. The road shall only used during the dry season (summer and fall).
Crossing-7	40.029619, -123.726678	24" culvert stream crossing that is presented as appropriately sized but requires removal of fill/debris at the inlet and a rock apron.
Crossing-8	40.030387, -123.730628	CDFW inspected a 24" culvert stream diversion that conveys flow from a spring and a class II stream around and under pond and back into natural stream channel. CDFW anticipates receiving technical geologic, engineering, and biological evaluations of this pond and crossing feature. CDFW also anticipates a pending Joint Determination with the Division of Water Rights to evaluate the use of this pond for cannabis irrigation. Additional measures/modifications may be required to comply with Fish and Game Code as a result of further site evaluation.
POD-1	40.027243, -123.733536	Wooden spring box on unnamed tributary to Horse Pasture Creek placed in stream bed that will be upgraded to a new spring box. POD is the primary domestic water supply. Crossing-1 is also located at this site.
POD-2	40.02922, -123.73129	Vertically emplaced 20" plastic pipe in 4" of concrete on a perennial spring that will be upgraded to a spring box. This POD is used for domestic use and irrigation.
POD-3	40.029676, -123.730767	2.5 gal bucket in perennial spring that will be upgraded to a spring box. This POD is used for domestic use and irrigation.
POD-4 (Pond)	40.030510, -123.730597	Unpermitted on-stream, ~ 3 acre foot capacity, lined pond with class III stream that contributes flow; pond is presented as primary source of irrigation during summer. Current configuration bypasses flow from the two class II streams entering the pond by diverting them in culverts around the pond and back into their channels. Permittee will have a licensed engineering geologist conduct a stability analysis of the pond, embankment and spillway and a professional biological evaluation to determine extent of aquatic habitat impaired and potential impacts to aquatic species. CDFW anticipates a pending Joint Determination with the Division of Water Rights to evaluate the use of this pond for cannabis irrigation. Additional measures/modifications may be required to comply with Fish and Game Code as a result of further site evaluation.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Western Brook Lamprey (*Lampetra richardsoni*), Pacific Lamprey (*Entosphenus tridentatus*), Southern Torrent Salamander (*Rhyacotriton variegatus*), Pacific Giant Salamander (*Dicamptodon tenebrosus*), Foothill Yellow-legged Frog (*Rana boylei*), Coastal Tailed Frog (*Ascaphus truei*), Western Pond Turtle (*Actinemys*

marmorata marmorata) amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

The adverse effects the project could have on the fish or wildlife resources identified above include:

Impacts to water quality:

increased water temperature;
reduced instream flow;
temporary increase in fine sediment transport;

Impacts to bed, channel, or bank and direct effects on fish, wildlife, and their habitat:

loss or decline of riparian habitat;
direct impacts on benthic organisms;

Impacts to natural flow and effects on habitat structure and process:

cumulative effect when other diversions on the same stream are considered;
diversion of flow from activity site;
direct and/or incidental take;
indirect impacts;
impediment of up- or down-stream migration;
water quality degradation; and
damage to aquatic habitat and function.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

The Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict

with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.

- 1.4 **Project Site Entry.** The Permittee agrees to allow CDFW employees access to any property it owns and/or manages for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.
- 1.5 **Adherence to Existing Authorizations.** All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.
- 1.6 **Other Agency Permitting Requirements.** The U.S. Army Corps of Engineers (Corps) has permitting requirements for certain instream projects under Section 404 of the Federal Clean Water Act. If this project features the placement of dredged or fill materials into the channels of streams (below the ordinary high water mark) that are waters of the United States, a permit may be required by the Corps. If your project needs a permit from the Corps, you will also need to obtain a Water Quality Certification pursuant to Section 401 of the Federal Clean Water Act from the Regional Water Quality Control Board (Regional Water Board). In addition, if your project will involve disturbance within or discharges of pollutants to Waters of the State of California, the Regional Water Boards may require a permit, whether or not the Corps requires a permit. If there is any question regarding the possibility of the project meeting the above limitations, the Permittee should contact the Corps and the Regional Water Board prior to beginning work. This Agreement in no way represents permitting requirements by the Corps or the Regional Water Board. It is the responsibility of the Permittee to contact the Corps, and to comply with the provisions of any Section 404 permit issued, if required by the Corps. Similarly, it is the responsibility of the Permittee to contact the Regional Water Board and to comply with the provisions of any Section 401 Certification, Regional Water Board Waste Discharge Requirements or waiver of Waste Discharge Requirements issued by the Regional Water Board.
- 1.7 **Change of Conditions and Need to Cease Operations.** If conditions arise, or change, in such a manner as to be considered deleterious by CDFW to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates bypass flows, diversion rates or other measures provided in this Agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid "take" or "incidental take" of federal or State listed species.
- 1.8 **CDFW Notification of Work Initiation and Completion.** The Permittee shall contact CDFW within the 7-day period preceding the beginning of work permitted by this Agreement. Information to be disclosed shall include Agreement number, and the

anticipated start date. Subsequently, the Permittee shall notify CDFW no later than seven (7) days after the project is fully completed. **Notification of completion will include photographs of the completed work, erosion control measures, waste containment and disposal, and a summary of any CNDDDB submissions as required below.**

- 1.9 Notification to the California Natural Diversity Database. If any special status species are observed at any time during the project, a qualified Biologist shall submit California Natural Diversity Data Base (CNDDDB) forms to the CNDDDB within five (5) working days of the sightings. A summary of CNDDDB submissions shall be included with the completion notification. Forms and instructions for submissions to the CNDDDB may be found at: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.
- 1.10 Cannabis Cultivation Policy. If Cannabis is or becomes cultivated on the project parcel, Permittee shall comply with all requirements of the State Water Resource Control Board (SWRCB) Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation (Cannabis Cultivation Policy), dated April 16, 2019, or the latest version.
 - 1.10.1 Site Management Plan and Related Technical Reports. Permittee shall submit to CDFW the initial preparation and subsequent updates to the project's Site Management Plan and related technical reports that are prepared in conformance with the SWRCB Cannabis Cultivation Policy.
- 1.11 Agreement Compliance. The proposed work shall comply with the measures of this Agreement. Failure to comply with these measures shall result in suspension or revocation of this Agreement.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, the Permittee shall implement each measure listed below.

- 2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with Permittee Notification, together with all maps, Best Management Practices (BMPs), photographs, drawings, and other supporting documents submitted with the Notification and received on March 11, 2019, revised on April 17, 2019, with additional information obtained during a December 4, 2019 CDFW site visit.
- 2.2 Listed Species. This Agreement does not allow for the take, or incidental take of any state or federal listed threatened, endangered, or candidate species. No direct or indirect impacts shall occur to any threatened or endangered species as a result of implementing the project or the project's activities. If the project could result in the "take" of a state listed threatened or endangered species, the Permittee has

the responsibility to obtain from CDFW, a California Endangered Species Act Permit (CESA section 2081).

- 2.3 **Nesting Birds.** Actively nesting birds and their nests shall not be disturbed by project activities. If construction, grading, vegetation removal, or other project-related improvements are necessary during the nesting season of protected raptors and migratory birds (**March 1 through August 15**), the Permittee shall notify CDFW of proposed work and a focused survey for bird nests and/or nesting behavior shall be conducted by a qualified biologist within seven (7) days prior to the beginning of project-related activities. Surveys should encompass the area up to 50 feet from disturbance to account for songbirds, and up to 250 feet from disturbance for raptors. If a nest is found or suspected to be present, Permittee shall consult with CDFW regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and FGC. If a lapse in project-related work of seven (7) days or longer occurs, another focused survey, and if required, consultation with CDFW shall be required before project work can be reinitiated.
- 2.4 **Cannabis Cultivation Policy.** If Cannabis is or becomes cultivated on the project parcel, Permittee shall comply with all requirements of the State Water Resource Control Board (SWRCB) Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation (Cannabis Cultivation Policy), dated April 16, 2019, or the latest version.

Project Timing

- 2.5 **Work Period.** All work, not including diversion of water, shall be confined to the period **June 15 through October 15** of each year. Work within the active channel of a stream shall be restricted to periods of **dry weather**. Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease and all necessary erosion control measures shall be implemented prior to the onset of precipitation. Limited vegetation removal may occur outside of this work period as per Measure 2.3.
- 2.6 **Extension of the Work Period.** If weather conditions permit, and the Permittee wishes to extend the work period after October 15, a written request shall be made to CDFW **at least 10-working days before the proposed work period variance**. Written approval (letter or e-mail) for the proposed time extension must be received from CDFW prior to activities continuing past October 15.
- 2.7 **Work Completion.** The proposed work shall be completed by no later than **October 15, 2021**. A notice of completed work, including photographs of each site, shall be submitted to CDFW within seven (7) days of project completion.

Vegetation Management

- 2.8 **Prohibited Plant Species.** Permittee shall not plant, seed or otherwise introduce invasive plant species within the Project area. Prohibited invasive plant species include those identified in the California Invasive Plant Council's inventory database, which is accessible at: <https://www.cal-ipc.org/plants/inventory/>.
- 2.9 **Minimum Vegetation Removal.** No native riparian vegetation shall be removed from the bank of the stream, except where authorized by CDFW. Permittee shall limit the disturbance or removal of native vegetation to the minimum necessary to achieve design guidelines and standards for the Authorized Activity. Permittee shall take precautions to avoid damage to vegetation outside the work area.
- 2.10 **Vegetation Maintenance.** Permittee shall limit vegetation management (e.g., trimming, pruning, or limbing) and removal for the purpose of Authorized Activity to the use of hand tools. Vegetation management shall not include treatment with herbicides.
- 2.11 **Avoidance of Nesting Birds.** Vegetation maintenance/removal as necessary within the scope of the project shall be confined to the period commencing August 16 and ending February 28, of any year in which this Agreement is valid, provided the work area is outside of the actively flowing stream. Work may continue during precipitation events provided stream flows have not risen into work areas and sediment delivery will not result.

General Stream Protection Measures

- 2.12 **Fish and Aquatic Amphibians.** If possible, work shall be conducted when the affected stream channel is void of surface water. If surface water is present during construction, the Permittee shall: a) have a biologist or other qualified professional survey the site and adjacent area for fish, amphibians, and turtles three (3) days or less before commencing project activities and b) if fish, amphibians, or turtles are detected, CDFW will be contacted and work shall not commence until authorized by a CDFW representative.
- 2.13 **Stream Protection.** No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other material deleterious to fish, plant life, mammals or bird life shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream.
- 2.14 **No Dumping.** Permittee shall not deposit, permit to pass into, or place where it can pass into a stream, lake, or other Waters of the State any material deleterious to fish and wildlife, or abandon, dispose of, or throw away within 150 feet of a stream, lake, or other Waters of the State any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.

- 2.15 Maintain Aquatic Life. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to FGC section 5937.
- 2.16 Maintain Passing of Fish Up and Down Stream. It is unlawful to construct or maintain in any stream any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish (*wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn or ovum of any of those animals*) up and down stream pursuant to FGC section 5901.
- 2.17 Equipment Maintenance. Refueling of machinery or heavy equipment, or adding or draining oil, lubricants, coolants or hydraulic fluids shall not take place within stream bed, channel and bank. All such fluids and containers shall be disposed of properly off-site. Heavy equipment used or stored within stream bed, channel and bank shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.18 Hazardous Spills. Any material, which could be hazardous or toxic to aquatic life and enters a stream (i.e. a piece of equipment tipping-over in a stream and dumping oil, fuel or hydraulic fluid), the Permittee shall immediately notify the California Emergency Management Agency State Warning Center at 1-800-852-7550, and immediately initiate clean-up activities. CDFW shall be notified by the Permittee within 24 hours at 707-445-6493 and consulted regarding clean-up procedures.
- 2.19 Clean-up. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the ordinary high water mark before such flows occur or the end of the yearly work period, whichever comes first. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.
- 2.20 Erosion Control Measures
- 2.20.1 Seed and Mulch. Upon completion of construction operations and/or the onset of wet weather, Permittee shall stabilize exposed soil areas within the work area by applying mulch and seed. Permittee shall restore all exposed or disturbed areas and access points within the stream and riparian zone by applying local native and weed free erosion control grass seeds. Locally native wildflower and/or shrub seeds may also be included in the seed mix. Permittee shall mulch restored areas using at least two (2) to four (4) inches of weed-free clean straw or similar biodegradable mulch over the seeded area. Alternately, Permittee may cover seeding with jute netting, coconut fiber blanket, or similar non-synthetic monofilament netting

erosion control blanket.

- 2.20.2 Erosion and Sediment Barriers. Permittee shall monitor and maintain all erosion and sediment barriers in good operating condition throughout the work period and the following rainy season, defined herein to mean October 15 through June 15. Maintenance includes, but is not limited to, removal of accumulated sediment, replacement of damaged sediment fencing, coir rolls/logs and/or straw bale dikes and ensuring drainage structures and altered streambeds and banks remain sufficiently armored and/or stable. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and notify CDFW immediately.
- 2.20.3 Cover Spoil Piles. Permittee shall have readily available erosion control materials such as wattles, natural fiber mats, or plastic sheeting, to cover and contain exposed spoil piles and exposed areas in order to prevent sediment from moving into a stream or lake. Permittee shall apply and secure these materials prior to rain events to prevent loose soils from entering a stream, lake, or other Waters of the State.
- 2.20.4 Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
- 2.21 Waste Containment and Disposal. Permittee shall contain all operation associated refuse in enclosed, wildlife proof, storage containers, at all times, and relocate refuse to an authorized waste management facility, in compliance with State and local laws, on a regular and ongoing basis. All refuse shall be removed from the site and properly disposed of, at the close of the cultivation season and/or when the parcel is no longer in use.
- 2.22 Site Management Plan. Permittee shall submit to CDFW the initial preparation and subsequent updates to the project's Site Management Plan that is prepared in conformance with the State Water Board's Cannabis Cultivation Policy and Guidelines.

Water Diversion

- 2.23 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed **three (3) gallons per minute (gpm)** at any time.

- 2.24 **Bypass Flow**. The Permittee shall pass **90% of the flow** at all times to keep all aquatic species including fish and other aquatic life in good condition below the POD.
- 2.25 **Seasonal Diversion Minimization**. During the year 2020, no more than **600 gallons in any one day** shall be diverted cumulatively from PODs 1-3 (intended for household domestic use) during the low flow season from **May 15 to October 31**. Permittee shall install additional water storage so that by May 15, 2021 and beyond no more than **300 gallons in any one day** shall be diverted cumulatively from PODs 1-3 (intended for household domestic use) during the low flow season from **May 15 to October 31** of each year. Water shall be diverted only if the Permittee can adhere to the maximum diversion rate and bypass flow conditions of this Agreement.
- 2.26 **Measurement of Diverted Flow**. Permittee shall install and maintain an adequate measuring device for measuring the instantaneous and cumulative rate of diversion. This measurement shall begin as soon as this Agreement is signed by the Permittee. The device shall be installed within the flow of diverted water. The Permittee shall maintain records of diversion, and provide information including, but not limited to the following:
- 2.26.1 A log including the date, time and quantity of water diverted from the POD.
- 2.26.2 The amount of water used per day for cannabis cultivation separated out from the amount of water used for other irrigation purposes and other uses of water (e.g., domestic use or fire protection).
- 2.26.3 Permittee shall make available for review at the request of CDFW the diversion records required by the SWRCB Cannabis Cultivation Policy.
- 2.27 **Water Management Plan**. The Permittee shall submit a Water Management Plan no later than **sixty days** from the time this Agreement is made final that describes how compliance will be achieved under this Agreement. The Water Management Plan shall include details on water use, water storage, water conservation, or other relevant material to maintain water needs in coordination with forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement.

Water Diversion Infrastructure

- 2.28 **Intake Structure**. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.

- 2.29 **Intake Structure Placement.** Infrastructure installed in the streambed (e.g., cistern or spring box) shall not exceed 10% of the active channel width and shall not be located in the deepest portion of the channel. The depth of the intake shall be no greater than one foot (12 inches) below the streambed.
- 2.30 **Intake Screening.** The Permittee shall regularly inspect, clean, and maintain screens in good condition.
- 2.30.1 The water intake screens shall be securely attached (e.g., threaded or clamped) to the intake line and have a minimum wetted area of 0.25 square feet.
- 2.30.2 A water intake screen with round openings shall not exceed 3/32" diameter; a screen with square openings shall not exceed 3/32" measured diagonally; and a screen with slotted openings shall not exceed 0.069 inches in width. Slots must be evenly distributed on the screen area.
- 2.30.3 The water intake screen may be constructed of any rigid material, perforated, woven, or slotted and should have a minimum of 27% open area. Stainless steel or other corrosion-resistant material is recommended to reduce clogging due to corrosion. Care should be taken not to use materials deemed deleterious to aquatic species.
- 2.30.4 The screen shall be designed to distribute the flow uniformly over the entire screen area.
- 2.30.5 The water intake screen shall be placed in fast moving water with the long axis of the screen parallel to the streamflow. The water intake shall not be placed in pool habitat.
- 2.31 **Intake Shall Not Impede Aquatic Species Passage.** The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.
- 2.32 **Intake Maintenance.** Intakes shall be kept in good repair. Intakes shall be inspected periodically and kept clean and free of accumulated algae, leaves or other debris, which could block portions of the screen surface and increase approach velocities at any point on the screen. No part of screen surfaces shall be obstructed.
- 2.33 **Exclusionary Devices.** Permittee shall keep the diversion structures covered at all times to prevent the entrance and entrapment of amphibians and other wildlife.
- 2.34 **Diversion Intake Removal.** Permittee shall plug, cap, block (e.g., with a shut-off valve), or remove all intakes when water is not diverted for more than one week.

- 2.35 Heavy Equipment Use. No heavy equipment shall be used in the excavation or replacement of the existing water diversion structure. The Permittee shall use hand tools or other low impact methods of removal/replacement. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.
- 2.36 Diversion Infrastructure Plan (DIP). The Permittee shall submit a DIP for CDFW review and approval prior to diverting water. The DIP shall include a narrative describing the different elements of the water diversion infrastructure, supporting photographs and/or diagrams, and justification of how compliance with the **Water Diversion Infrastructure** conditions will be achieved under this Agreement.

Diversion to Storage

- 2.37 Water Storage. All water storage facilities (WSFs) (e.g., reservoirs, storage tanks, mix tanks, and bladders tanks), except those specifically authorized by CDFW and included as encroachments in a current Agreement, must be located outside the active 100-year floodplain and outside the top of bank of a stream. Covers/lids shall be securely affixed to water tanks at all times to prevent potential entry by wildlife. Permittee shall cease all water diversion at the POD when WSFs are filled to capacity.
- 2.38 Water Storage Maintenance. WSFs shall have a float valve to shut off the diversion when tanks are full to prevent overflow. Water shall not leak, overflow, or overtop WSFs at any time. Permittee shall regularly inspect all WSFs and infrastructure used to divert water to storage and use and repair any leaks.
- 2.39 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.40 Limitations on Impoundment and Use of Diverted Water. The Permittee shall impound and use water in accordance with a valid water right, including any limitations on when water may be impounded and used, the purpose for which it may be impounded and used, and the location(s) where water may be impounded and used.
- 2.41 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 *et seq.* as appropriate for the water diversion and water storage. The application for this registration is found at:
https://www.waterboards.ca.gov/waterrights/water_issues/programs/registrations/

Reservoirs

- 2.42 Reservoirs. Shall be appropriately designed, sized, and managed to contain any diverted water in addition to precipitation and storm water runoff, without overtopping. The Permittee shall install an overflow spillway that will withstand a 100-year flood event, designed with a dispersal mechanism, or low-impact design, that discourages channelization and promotes dispersal and infiltration of flows to prevent surface overflow from reaching Waters of the State. The spillway shall be designed and placed to allow for a minimum of two-feet of freeboard.
- 2.43 Diversion. Water shall be diverted to reservoirs only if the Permittee can adhere to the diversion rate, bypass flow, season of diversion and all other relevant conditions of this Agreement.
- 2.44 No Stocking. Stocking of fish, wildlife, or plant of any kind, in any Waters of the State, including reservoirs, shall be prohibited without written permission from CDFW pursuant to FGC section 6400.
- 2.45 Invasive Species Management for Reservoirs. Permittee shall implement an invasive species management plan prepared by a Biologist for any existing or proposed reservoir. The plan shall include, at a minimum, an annual survey for invasive aquatic species, including the American bullfrog (*Lithobates catesbeianus* = *Rana catesbeiana*). The Biologist, if appropriate, shall implement eradication measures if invasive aquatic species are identified as part of the survey.
- 2.45.1 Bullfrog Management Plan. If bullfrogs are observed, they shall be appropriately managed. Management of bullfrogs, including annual draining and drying of ponds, shall follow the guidelines in Exhibit A. A copy of the annual monitoring report, shall be submitted to CDFW in accordance with the reporting measures described in Exhibit A and in the Reporting Measures section of this Agreement.
- 2.46 Seasonal Diversion Minimization. To minimize adverse impacts to native pond breeding amphibians (when present) the following diversion minimizations apply: From November 1 to March 31, the Permittee shall divert water at a rate no greater than the rate of water flowing into the pond (i.e., water diversion shall not decrease the pond depth). From April 1 – September 1, when native larval amphibians are present, the Permittee shall cease diverting water once the pond volume is one third of the maximum pond volume. To comply with this measure; the Permittee shall establish a fixed visual marker(s) (e.g., stage plate) in the pond as a reference for water level thresholds.
- 2.47 Wildlife Entrapment Prevention. If open reservoirs have plastic lining, slopes greater than 2:1, or if there is any potential for wildlife entrapment, Permittee shall install several exit ramps to prevent wildlife entrapment. Exit ramps shall meet the following requirements: installed at no greater than 2:1 slope, securely fixed at the

upslope end, made of solid material (e.g. wood), and be a minimum length of 1.5 times the radius of the pond.

- 2.48 Water Quality and Habitat Maintenance of On-Stream Ponds. To minimize adverse impacts to native pond breeding amphibians (when present) and downstream fish and wildlife resources, the following protection measures apply: Inflow shall equal outflow April 1 – December 1 of each year. Outflow water temperatures shall not be increased greater than 2 degrees Celsius above inflow temperatures at any time of the year. To demonstrate compliance with this measure Permittee shall submit monthly water temperature data (Celsius) for the months of May-October 2020 at the inlet of the pond or just upstream of the pond, in the pond near the outlet and just downstream of the pond. This data shall be submitted by December 31, 2020 and include Lat/Long of the three sampling locations. If water temperature exiting the pond is increased two degrees Celsius or more over the water entering the pond, Permittee shall provide a plan to remediate the increased water temperature.
- 2.49 Inspection. Ponds will be inspected by a licensed geologist or engineer and a qualified biologist to determine if the embankment and spillway are stable, appropriately designed for 100-year flows and associated debris, and to evaluate potential risks to biological resources. Additional work and amendments to the Agreement may be required.

Stream Crossings

- 2.50 Road Approaches. The Permittee shall treat road approaches to new or re-constructed permanent crossings to minimize erosion and sediment delivery to the watercourse. Permittee shall ensure road approaches are hydrologically disconnected to the maximum extent feasible to prevent sediment from entering the crossing site, including when a Stream Crossing is being constructed or reconstructed. Road approaches shall be armored from the crossing for a minimum of *50 feet in both directions*, or to the nearest effective water bar or point where road drainage does not drain to the crossing, with durable, clean, screened, angular rock.
- 2.51 Excavated Fill. Excavated fill material shall be placed in upland locations where it cannot deliver to a watercourse. To minimize the potential for material to enter the watercourse during the winter period, all excavated and relocated fill material shall be tractor contoured (to drain water) and tractor compacted to effectively incorporate and stabilize loose material into existing road and/or landing features.
- 2.52 Runoff from Steep Areas. The Permittee shall make preparations so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential or contained behind erosion control structures. Erosion control structures such as straw bales and/or siltation control fencing shall be placed and maintained

until the threat of erosion ceases. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.

2.53 Crossing Maintenance. The Permittee shall provide site maintenance for the life of the structures, including, but not limited to, re-applying erosion control to minimize surface erosion and ensuring drainage structures, streambeds and banks remain sufficiently armored and/or stable.

2.53.1 The placement of armoring shall be confined to the work period when the stream is dry or at its lowest flow.

2.53.2 No heavy equipment shall enter the wetted stream channel.

2.53.3 No fill material, other than clean rock, shall be placed in the stream channel.

2.53.4 Rock shall be sized to withstand washout from high stream flows, and extend above the ordinary high water level.

2.53.5 Rock armoring shall not constrict the natural stream channel width and shall be keyed into a footing trench with a depth sufficient to prevent instability.

2.54 Isolation of Work Site. Only when work in a flowing stream is unavoidable (e.g., perennial streams), Permittee shall divert the stream flow around or through the work area during construction operations. Permittee shall adhere to the following conditions:

2.54.1 **Stream Diversion.** Stream flow shall be diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.

2.54.2 **Coffer Dams.** Prior to the start of construction, Permittee shall isolate the work area. Cofferdams shall be installed to divert stream flow; isolate and dewater the work site; catch and retain sediment-laden water; and minimize sediment transport downstream. Water tight coffer dams shall be constructed upstream and downstream of the work area and water diverted, through a suitably sized pipe, from upstream of the upstream coffer dam and discharge downstream of the downstream coffer dam. Cofferdams and the stream diversion system shall remain in place and functional throughout the construction period. Cofferdams or stream diversions that fail for any reason shall be repaired immediately. Permittee shall use only clean, non-erodible materials such as sand bags, on-site rock, and/or plastic sheeting. Mineral soil shall not be used in the construction of cofferdams.

2.54.3 **Stranded Aquatic Life.** Once coffer dams are installed, a qualified biologist or other qualified professional trained to identify listed species shall check daily for stranded aquatic life as the water level in the dewatering area

drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets and by hand. Captured aquatic life shall be released immediately in the closest suitable aquatic habitat adjacent to the work site. This condition does not allow for the take or disturbance of any State or federally listed species, or State listed species of special concern. CDFW staff who prepared this Agreement shall be contacted immediately if any of these species are detected.

2.54.4 Dewatering. Permittee shall catch and retain sediment-laden water and minimize sediment transport downstream. Flowing water shall be cleanly bypassed and/or prevented from entering the work area through pumping or gravity flow, and cleanly returned to the stream below the work area. Permittee shall divert stream flow around the work site in a manner that minimizes turbidity, siltation, and pollution, and does not result in erosion or scour downstream of the diversion.

2.54.5 Remove any Materials upon Completion. Permittee shall remove any turbid water and sediment present in the work area prior to restoring water flow through the project site, and place them in a location where they cannot enter the Waters of the State. Permittee shall remove all materials used for the temporary stream flow bypass after the Authorized Activity is completed.

2.54.6 Restore Normal Flows. Permittee shall restore normal flows to the effected stream immediately upon completion of work at that location.

2.55 Culvert Installation.

2.55.1 Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i.e. ≥ 1.0 times the width of the bankfull channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads.

2.55.1 Where diversion potential exists, a critical dip shall be installed to direct flood flow over the crossing fill and back into the channel. Critical dips shall be constructed to accommodate the entire estimated 100-year flood flow and may be installed by lowering the existing fill over the crossing or by constructing a deep, broad rolling dip over the crossing surface to prevent flood flow from diverting down the road.

2.55.2 If the project is located in a high to very high Fire Hazard Severity Zone as designated by CAL FIRE, CDFW recommends culvert materials consist of corrugated metal pipe (CMP). Use of High Density Polyethylene (HDPE) pipe is discouraged.

http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones_maps

- 2.55.3 Existing fill material in the crossing shall be excavated down vertically to the approximate original channel and outwards horizontally to the approximate crossing hinge points (transition between naturally occurring soil and remnant temporary crossing fill material) to remove any potential unstable debris and voids in the older fill prism.
- 2.55.4 Culvert shall be installed to grade (not perched or suspended), aligned with the natural stream channel, and extend lengthwise completely beyond the toe of fill. If culvert cannot be set to grade, it shall be oriented in the lower third of the fill face, and a downspout or energy dissipator (such as boulders, rip-rap, or rocks) shall be installed above or below the outfall as needed to effectively control stream bed, channel, or bank erosion (scouring, headcutting, or downcutting). The Permittee shall ensure basins are not constructed and channels are not be widened at culvert inlets.
- 2.55.5 Culvert bed shall be composed of either compacted rock-free soil or crushed gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe, and allow for natural settling and compaction to help the pipe settle into a straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe, and shall be compacted.
- 2.55.6 Culvert inlet, outlet (including the outfall area), and fill faces shall be armored where stream flow, road runoff, or rainfall energy is likely to erode fill material and the outfall area.
- 2.55.7 Project Inspection. The Project shall be inspected by a licensed professional to ensure that the stream crossings were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

2.56 Fords, Armored Fill and Vented Crossings.

- 2.56.1 Fords, armored and vented crossings are considered permanent watercourse encroachments and shall be designed and sized to accommodate the 100-year flood flow plus associated sediment and debris.
- 2.56.2 Fords, armored and vented crossings and hydrologically-connected road approaches shall be maintained as necessary to avoid delivery of fine sediment to the watercourse below.
- 2.56.3 Fords, armored and vented crossings shall be sufficiently outsloped to minimize aggradation of suspended sediments at the crossing.

- 2.56.4 The lowest point of fords, armored and vented crossings shall be constructed within or directly over the original stream channel, to the extent feasible, in order to contain high flows up to twice bank-full and to avoid diversion potential.
- 2.56.5 Armor material shall be comprised of durable angular screened quarry rock of sufficient size and placement to minimize mobilization during a 100-year storm event. Wood may be used for armoring if sound, tight-grained, redwood is applied and sufficiently keyed into the fillslope to resist movement during a 100-year storm event.
- 2.56.6 If maximum fill heights exceed 15 feet or fills exceed 500 cubic yards of fill, rock sizing, armoring thickness, chute width and chute depth shall be calculated and sized using the nomograph provided in Figure 23 of Cafferata et al. (2017).
- 2.56.7 Stream crossing spillway fill slopes shall be armored from roadbed to the natural channel in a manner sufficient to prevent significant scour or removal of armor during high flows. Scour is expected through road surface rock cap.
- 2.56.8 Fords shall only be used when the fording surface is dry.
- 2.56.9 Project Inspection. The Project shall be inspected by a licensed professional to ensure that the stream crossings were installed as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 CDFW Notification of Work Initiation. The Permittee shall contact CDFW within the seven-day period **preceding the beginning of work** permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date.
- 3.2 Work Completion. The proposed work shall be completed by no later than **October 15, 2021**. **Notification of completion will include photographs of the completed work, erosion control measures, waste containment and disposal, and a summary of any CNDDDB submissions** and shall be submitted to CDFW, LSA program at 619 Second Street, Eureka, CA 95501 **within seven (7) days** of project completion.

- 3.3 **Project Inspection.** The Project shall be inspected by a licensed professional to ensure that the stream crossings were installed as designed and/or the stream restoration was implemented as designed. A copy of the inspection report, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project. The Permittee shall submit the **Project Inspection Report** to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501.
- 3.4 **Measurement of Diverted Flow.** Copies of the **Water Diversion Records** shall be submitted to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501 no later than **March 31** of each year beginning in **2020**.
- 3.5 **Water Management Plan.** The Permittee shall submit a **Water Management Plan** within **60 days** from the effective date of this Agreement. The Water Management Plan shall be submitted to CDFW, LSA Program at 619 Second Street, Eureka, CA 95501.
- 3.6 **Diversion Infrastructure Plan.** The Permittee shall submit **Diversion Infrastructure Plan** within **60 days** from the effective date of this Agreement. Permittee shall **allow 60 days for CDFW review and approval** after submittal of a Diversion Infrastructure Plan. This document shall be submitted to CDFW at the 619 Second Street, Eureka, CA 95501.
- 3.7 **Site Management Plan and Related Technical Reports.** The Permittee shall submit to CDFW the project's current draft of the Site Management Plan and related technical reports if it was not included in the Notification. If the Site Management Plan and/or related technical reports are still in preparation, Permittee shall submit it and all subsequent revisions and updates within 30 days of submittal to the SWRCB.
- 3.8 **Invasive Species Management for Reservoirs.** The Permittee shall submit all required documents described in the Invasive Species Management for Reservoirs, **Bullfrog Management Plan** (Exhibit A) no later than **December 31** of each year. The Bullfrog Management Plan shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501.
- 3.9 **Water Quality and Habitat Maintenance of On-Stream Ponds.** In accordance with Water Quality and Habitat Maintenance of On-Stream Ponds Measure, the Permittee shall submit all required information for Water Quality and Habitat Maintenance of Ponds no later than December 31, 2020.
- 3.10 **Pond Inspection.** The Permittee shall submit to CDFW an **inspection report for ponds within 120 days** from the effective date of this agreement. The report shall be prepared by a qualified geologist or engineer licensed in the State of California and include recommendations regarding stability and erosion potential minimizations.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Danny Ballard
P.O. Box 997
Garberville, CA 95542
707-502-7853
starlightstudioglass@gmail.com

To CDFW:

Department of Fish and Wildlife
Northern Region
619 Second Street
Eureka, California 95501
Attn: Lake and Streambed Alteration Program – Greg O'Connell
Notification #1600-2019-0183-R1

LIABILITY

Permittee shall be solely liable for any violation of the Agreement, whether committed by the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require the Permittee to proceed with the project. The decision to proceed with the project is the Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety this Agreement if it determines that the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide the Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide the

Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to the Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against the Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or obtaining any other permits or authorizations that might be required under, other federal, state, or local laws or regulations before beginning the project or an activity related to it. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 5948 (obstruction of stream).

Nothing in the Agreement authorizes the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

The Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and the Permittee. To request an

amendment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by the Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605, subdivision (b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements under CEQA; and 3) after payment of the applicable FGC section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

TERM

This Agreement shall **expire five (5) years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any

provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605, subdivision (a)(2) requires.

EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

Exhibit A. Bullfrog Monitoring and Management Plan

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

RECEIVED

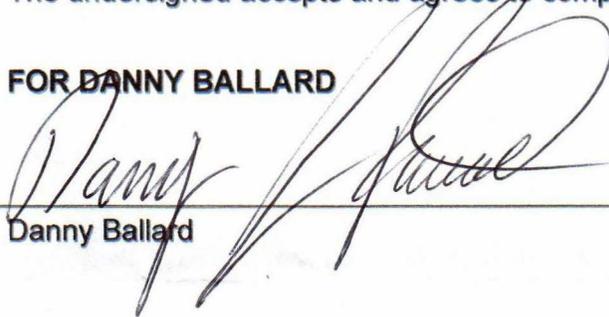
FEB 10 2020

CDFW-NR
EUREKA LICENSE

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

FOR DANNY BALLARD



Danny Ballard

02/04/2020
Date

FOR DEPARTMENT OF FISH AND WILDLIFE



Cheri Sanville
Senior Environmental Scientist Supervisor

2/13/2020
Date