

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
REGION 1 – NORTHERN REGION
619 2nd Street
Eureka, CA 95501



LAKE OR STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. EPIMS-HUM-40364-R1C
Unnamed Tributary to the Eel River and the Pacific Ocean
Candace Starr
Starr On Stream Pond Water Diversion Project (Project)
1 Encroachment

This Lake or Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Candace Starr (Permittee).

RECITALS

*KALIFORNIA GREEN ACRES
APPS 11682*

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on May 12, 2023, 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 Eel River watershed, approximately 1/2 mile southeast of the town of Alderpoint, County of Humboldt, State of California. The Project is located in Assessor's Parcel Number **216-271-013**, latitude 40.1707 N and longitude 123.6070 W at the point of diversion (POD).

PROJECT DESCRIPTION

The Project is limited to one encroachment. The encroachment is for water diversion from an onstream pond located within a wetland complex, which outlets to an unnamed tributary to the Eel River. Water is diverted for domestic use and irrigation. Work for the water diversion will include use and maintenance of the water diversion infrastructure.

Table 1. Project Encroachments with Description

ID	Latitude/Longitude	Description
POD-1	40.1713, -123.6065	Water diversion from an onstream pond within a wetland complex at the top of a Class III stream, an unnamed tributary to the Eel River, for irrigation use. Modify and maintain water diversion structure consistent with the Agreement.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include Southern Torrent Salamander (*Rhyacotriton variegatus*), Coastal Giant Salamander (*Dicamptodon tenebrosus*), Foothill Yellow-legged Frog (*Rana boylei*), Coastal Tailed Frog (*Ascaphus truei*), Northwest Pond Turtle (*Actinemys 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; and
- 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; and
- 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 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 that bypass flows and diversion rates 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.
- 1.4 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.
- 1.5 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.
- 1.6 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.
- 1.7 Agreement Compliance. The proposed work shall comply with all measures included in this Agreement. **Failure to comply with these measures may 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 the Permittee Notification received on May 12, 2023, together with all maps, BMP's, photographs, drawings, and other supporting documents submitted with the Notification.

- 2.2 Incidental Take. This Agreement does not allow for the "take," or "incidental take" of any federal or State listed threatened or endangered listed species.

Project Timing

- 2.3 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.
- 2.4 Work Completion. The proposed work **shall be completed prior to the expiration of this Agreement's term**. 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.
- 2.5 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.**
- 2.6 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.

Vegetation Management

- 2.7 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.

Water Diversion

- 2.8 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed **five (5) gallons per minute (gpm)** at any time.
- 2.9 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.

- 2.10 Seasonal Diversion Forbearance – Cannabis Irrigation. No water shall be diverted during the low flow season from **April 1 to November 15** of each year.
- 2.11 Seasonal Diversion Minimization. To minimize adverse impacts to adjacent wetland surrounding the pond during the diversion season from November 1 to March 31, the Permittee shall not draw down the pond more than 1 foot on depth. 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 maximum drawdown. If the pond level decreases greater than one foot, the Permittee shall cease diverting until adequate rain has fallen to meet the maximum drawdown criteria.
- 2.12 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:
- 2.12.1 The amount (in gallons) of water diverted from the stream per week.
Separate the amount of water diverted by use (e.g., domestic, irrigation, fire protection, etc.). Record the date/time period the diversion occurred (e.g., January 1, 2023 – January 7, 2023).
- 2.12.1 Photographs of each measuring device at the end of each month, showing the device serial number and flow reading. Photographs should be labeled with the date the photo was taken, the water use period (e.g., January 1 - January 31), the water use type (e.g., domestic), and the associated POD (e.g., POD-1).
- 2.12.2 At CDFW's request, Permittee shall make available for review any diversion records required by the State Water Resources Control Board.
- 2.13 Water Management Plan. The Permittee shall submit a Water Management Plan (WMP) no later than **sixty days** from the time this Agreement is made final that describes how compliance will be achieved under this Agreement. The WMP 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 WMP shall include a brief narrative describing water use on the property, include photographs to support the narrative, and site map (drawn to scale) that includes all water infrastructure components (e.g., location of water lines, POD(s), flow totalizer(s), water storage facilities, etc.).

Water Diversion Structure and Placement

- 2.14 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.
- 2.15 Intake Screening. The Permittee shall regularly inspect, clean, and maintain screens in good condition.
- 2.15.1 A water intake screen with round openings shall not exceed 1/8 (0.125) inch diameter; a screen with square openings shall not exceed 1/8 (0.125) 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.
- 2.15.2 The screen shall be designed to distribute the flow uniformly over the entire screen area.
- 2.15.3 The water intake screens shall be securely fitted and attached (e.g., threaded or clamped) to the intake line.
- 2.15.4 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.
- 2.16 Avoid Impeding 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.
- 2.17 Avoid Entry, Impingement, and Entrapment. The water diversion structure(s) shall be designed, constructed, and maintained such that they do not result in impingement, entry, or entrapment of aquatic life or other wildlife.
- 2.18 Water Line Placement. Except for the purpose of connecting to the point of diversion, all water lines shall be placed outside of the stream channel. Any water line located in the stream channel shall be designed, constructed, and maintained to minimize damage and displacement of materials downstream.
- 2.19 Seasonal Diversion Disconnection. Permittee shall disconnect or shut off (with valve) 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.
- 2.20 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.

Diversion to Storage

- 2.21 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.
- 2.22 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.
- 2.23 Reservoirs/Ponds. Shall be appropriately designed, sized, and managed to contain any diverted water in addition to precipitation and storm water runoff, without overtopping.
- 2.24 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.
- 2.25 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.26 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.

Reservoirs

- 2.27 No Stocking. Stocking of fish, wildlife, or plant of any kind, in any stream, lake or wetland (i.e., Waters of the State), shall be prohibited without written permission from CDFW pursuant to section 6400 of the FGC.
- 2.28 Invasive Species Management for Reservoirs. Permittee shall implement an Invasive Species Management Plan (ISMP) prepared by a qualified Biologist for any existing or proposed reservoir. The plan shall include, at a minimum, annual seasonally appropriate surveys of invasive aquatic species (i.e., baseline surveys), focused on American bullfrog (*Lithobates catesbeianus*) and Centrarchid fish. The baseline surveys will form the basis to measure success of the ISMP. The

qualified Biologist shall coordinate with CDFW to develop eradication measures appropriate for the identified invasive aquatic species based on site specific conditions. An annual monitoring report shall be prepared and submitted to CDFW.

2.28.1 Bullfrog Management Plan. If American bullfrogs are observed, they shall be appropriately controlled, with the goal of population eradication, including but not limited to, annual multi-effort direct removal of all life stages, using various techniques (e.g., air rifle, gigging, trapping, seining, and draining of reservoirs) to break reproduction. The bullfrog management plan must be site specific, and the goal shall be eradication of the population. If at any time additional invasive aquatic species are detected, Permittee shall submit an updated ISMP for Reservoirs to CDFW for review and approval.

3. Reporting Measures

Permittee shall meet each reporting requirement described below. All reports shall be submitted by e-mail to CDFW at EPIMS.R1C@wildlife.ca.gov.

- 3.1 Measurement of Diverted Flow. The Permittee shall submit records of diverted water to CDFW no later than March 31 of each year (measure 2.12).
- 3.2 Water Management Plan. The Permittee shall submit a **Water Management Plan** (measure 2.13) within **60 days** from the effective date of this agreement.
- 3.3 Invasive Species Management for Reservoirs. The Permittee shall submit all required documents described in the Invasive Species Management for Reservoirs (measure 2.28) including subsection 2.28.1, **Bullfrog Management Plan** no later than **December 31** of each year.

CONTACT INFORMATION

Written communication the Permittee or CDFW submits to the other shall be delivered to the address below unless the Permittee or CDFW specifies otherwise.

To Permittee:

Candace Starr
16060 Ventura Blvd., Suite 110 #196
Encino, California 91436
310-733-0705
candacestarr@gmail.com

To CDFW:

Department of Fish and Wildlife
Northern Region
619 2nd Street
Eureka, California 95501
EPIMS.R1C@wildlife.ca.gov
Attn: Lake and Streambed Alteration Program
Notification No. EPIMS-HUM-35444-R1C

LIABILITY

The 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 the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from 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.

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 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(b), the 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, the 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 1605(b) through (e).

If the Permittee fails to submit a request to extend the Agreement prior to its expiration, the Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(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 the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall **expire five 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(a)(2) requires.

EXHIBIT

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

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of the Permittee, the signatory hereby acknowledges that he or she is doing so on the

Permittee's behalf and represents and warrants that he or she has the authority to legally bind the Permittee to the provisions herein.

AUTHORIZATION

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

CONCURRENCE

Through the electronic signature by the permittee or permittee's representative as evidenced by the attached concurrence from CDFW's Environmental Permit Information Management System (EPIMS), the permittee accepts and agrees to comply with all provisions contained herein.

The EPIMS concurrence page containing electronic signatures must be attached to this agreement to be valid.